

A review of the non-differentiation of B2B and B2C transactions in the South African electronic services VAT regime

N Bhudai

 **orcid.org/0000-0002-3678-9360**

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Supervisor: Mrs CE Meiring

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Student number: 21682178

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ABSTRACT

Rapid technological advancement has resulted in a significant increase in the volume of e-commerce transactions where goods and services are supplied to South African consumers through an electronic medium. Local and foreign suppliers of e-commerce were not competing on a level playing field, therefore the Value-Added Tax Act (89 of 1991) (VAT Act) was amended to compel non-resident suppliers of electronic services to South African residents to comply with South African VAT regulations.

The main objective of the research is to consider the South African VAT legislation, specific to foreign e-commerce transactions pertaining to the non-differentiation between B2B and B2C transactions in its current form and perform a comparison with the legislation in New Zealand and the OECD guidelines, in order to identify possible shortcomings.

It was found that B2B transactions have a minimal impact on the South African tax base and that due consideration should be given to updating the current VAT legislation to ensure that it remains relevant within a rapidly developing online market place. A broadening of the current legislation may be required to differentiate between B2B and B2C transactions in order to advance seamless trade activity of foreign businesses with South Africa, which in turn could aid in boosting the economy.

KEYWORDS

e-commerce, electronic services, Value-Added Tax (VAT), Goods and Services Tax (GST), South African Revenue Service (SARS), New Zealand (NZ), Organisation of Economic Co-operation and Development (OECD).

APPROACH OF STUDY

The reader is reminded of the following:

The North-West University (General Academic Rules) states that the masters programmes should consist of an element of research, as this platform allows for researchers to contribute to the development of knowledge pertaining to the area of study at an advanced level. The research can be written and submitted in either the “traditional book format” or in an “article format”. This dissertation is written in an article format as the author of the study is of the opinion that the study has a magnitude of practical value for reader of the study.

Chapter 1 of the study is the introduction, Chapter 2 the article and Chapter 3 provides a summary and conclusion to the study. To present the article in a systematic, logical and cohesive manner, it was necessary to re-iterate key information that is also presented in Chapters 1 and 3.

The scope of this study is limited and streamlined, as this is a mini-dissertation in partial fulfilment of the requirements for this Masters’ Degree. As the result of a single mainstream focus, this justifies a article.

ABBREVIATIONS

B2B	Business-to-Business
B2C	Business-to-Consumer
DIRCO	Department: International Relations and Cooperations
E Business	Electronic Business
e-commerce	Electronic Commerce
EDI	Electronic Data Interchange
EM	Effective Measure
EU	European Union
GST	Goods and Services Tax
GST Act of 1985)	New Zealand Goods and Services Act (141
IR	Inland Revenue Teri Taake New Zealand
IT	Information Technology
NZ	New Zealand
OECD	Organisation of Economic Co-operation and Development
SA	South Africa
SARS	South African Revenue Service
The Amended Regulations	Regulations prescribing services for the purposes of reviewing B2B and B2C supplies
The Regulations	The Electronic Services Regulations
UN	United Nations
UNCITRAL	The United Nations Commission on International Trade Law
VAT	Value added tax
VAT Act	Value-Added Tax Act (89 of 1991)

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CHAPTER 1: RESEARCH BACKGROUND

1.1. Introduction

1.1.1. Background

Electronic commerce (e-commerce) has evolved and revolutionised the way in which business is being conducted around the globe. When conducting business via an e-commerce platform, neither physical presence nor physical delivery of goods and services is required (Agrawal & Agrawal, 2014:99).

As a result of an evolving globalisation compounded by an enhanced dominion presence of the internet, traditional international tax mechanisms have become ineffective. Bardopoulos (2015:1) is of the opinion that the flow of e-commerce requires a remodelling of the traditional tax regime.

The Davis Tax Committee (2014:2) indicated in its interim report “Addressing Base Erosion and Profit Shifting in South Africa” that opportunities have been created for tax avoidance due to the difficulties created by the anonymous nature of e-commerce. Due to the nature of e-commerce, challenges are created in the identification and location of taxpayers, in the identification and verification of taxable transactions and the ability to establish a link between taxpayers and their taxable transactions, thus creating opportunities for tax avoidance (Davis Tax Committee, 2014:2).

In the future it is anticipated that there will be a vast online shopping presence in South Africa with approximately 80% of the online shoppers being cross-border shoppers (SARS, 2016).

Moyo (2016) has indicated that as a result of a weakening economy, it becomes critical that the South African government continuously endeavours to protect its tax base by limiting the scope for tax leakages and avoidance.

In a concerted effort to close and tighten loopholes in technology regulations and cyber related laws, the South African National Treasury in collaboration with the South African Revenue Service (SARS) imposed a different approach to value-added tax (VAT) on online digital products supplied by sources from export countries. The Electronic Service Regulations (the Regulations) (National Treasury, 2014) came into operation on 1 June 2014 as the date prescribed by the former Minister of Finance, Pravin Gordhan, by proclamation in the Government Gazette, which published the regulations prescribing electronic services for purposes of the definition of ‘Electronic services’ in section 1 of the Value-Added Tax Act (89 of 1991) (VAT Act) (Mukwende, 2015).

The Minister of Finance, in the 2019 Budget Review, then announced that further amendments would be made to the electronic services regulations to address certain oversights (National Treasury, 2019).

During March 2019, the revised final regulations were published in the Government Gazette prescribing what constitutes 'electronic services' as contemplated in the VAT Act. The amended regulations came into effect on 1 April 2019 (National Treasury, 2019). The scope of the Regulations has been widened quite significantly and now includes "any service provided by means of an electronic agent", with a few exclusions (National Treasury, 2019).

1.1.2. Motivation

The ease of use of the e-commerce platform has resulted in a reduced physical presence in countries that are transacting with each other. The e-commerce platform is utilised as a platform for continued accelerating growth of the digital economy, which has had a significant adverse impact on traditional VAT collection methods (Deloitte, 2015).

Schneider (2016) argued that South Africa introduced measures in its VAT system to cater for e-commerce a few years ago which were not sufficient for covering all the gaps - there was still work that needed to be undertaken before the measures could be construed as holistic. It has been conceded that VAT systems have recently evolved in an attempt to close the tax revenue gaps that have emanated from e-commerce transactions. Schneider (2016) was furthermore of the opinion that although South Africa's VAT system has been in existence for 25 years and with many *ad hoc* amendments having been implemented, a comprehensive review and restructuring of the VAT Act should be undertaken, especially with regards to cross-border transactions. Due to the pace at which the digital economy is being consumed, the VAT treatment of the supply of cross-border intangibles and services needs to be versatile enough to move at that pace, with changes.

As mentioned above, on 1 April 2019 revised VAT regulations came into effect that re-configured the definition of electronic services as prescribed in the VAT Act (National Treasury, 2019).

The impact of the amendment is significant as it broadened the scope of electronic services to include all foreign services that are supplied by electronic means. This inclusive approach that was adopted has widened the net of electronic services, including for example cloud computing, computer software and any online service (Badenhorst & Moodaley, 2018).

The scope of the definition of electronic services was further elaborated on by Grimm and Kruger (2018), who highlighted that the challenge with the broadened scope was the attempt to utilise a “rigid approach to regulate a fluid issue.”

The lack of differentiation between Business-to-Business (B2B) and Business-to-Consumer (B2C) supplies presents a stark contrast from international norms and may potentially create difficulties for SARS trying to enforce legislation of cross-border transactions (Grimm & Kruger, 2018).

A B2B transaction is constituted when a business transacts with another business by selling a product or a particular service, while a B2C transaction arises when a business transacts directly with the consumer by selling goods or a particular service (OECD, 2014:25).

It does not make sense to impose VAT on B2B transactions where the relevant jurisdiction has a reverse charge mechanism. This is because any VAT imposed on B2B transactions where the recipient would not be entitled to a full input VAT deduction, would be subjected to a reverse charge mechanism (Grimm & Kruger, 2018). The OECD (2017b:17) aptly defines the reverse charge mechanism as a practice that moves the tax liability from the supplier to the customer. The recipient of the service will therefore declare and submit a return and payment of the output tax to SARS.

In a report released on 7 July 2015 by the Davis Tax Committee (DTC VAT Report), one of the recommendations was that no distinction should be drawn between B2B and B2C supplies, with an overall recommendation that there should be more flexible legislation to ensure that it remains relevant (Vanmali & Grimm, 2017).

In South Africa, due to the turbulent economic position coupled with deteriorating revenue collection and downward projected trend of growth, projections have significantly eroded the country's fiscal standing. It is therefore key that South Africa's e-commerce legislation is kept abreast with continuous developments within the e-commerce environment (Vanmali & Grimm, 2017).

Badenhorst (2019) has highlighted the difficulty in the compliance that is instilled in the Regulations taking into consideration that the foreign supplier will have to register for VAT with SARS, coupled with further having to collect and pay over the VAT to SARS. Furthermore, this transaction will be on a voluntary basis, hence these types of transactions will have an inherent risk of the foreign supplier collecting the VAT and not handing it over to SARS. Moreover, local businesses are entitled to deduct VAT that has been paid on electronic services, or if they are not entitled to a deduction, VAT must be

paid. Hence this does not create an additional revenue stream for the government, but rather creates an unnecessary barrier to trade with South Africa (Badenhorst, 2019).

New Zealand has the earliest of the so-called “New World” VAT regimes. The New Zealand Goods and Services Tax (GST) is seen as relatively simple and comprehensive. The GST applies to the supply of most goods and services inside New Zealand and most goods imported into New Zealand as well as to specified imported services. Remote services include the online supply of software and digital content as well as other services. Legislation affecting imported intangibles was introduced in 2015 and became law in 2016. It was applicable from 1 October 2016 (KPMG, 2015).

This legislation in New Zealand is focused on taxing consumption in New Zealand of services supplied remotely to consumers directly. These services include any services supplied digitally or remotely, including electronic services and remotely provided traditional services like accounting, legal and consultancy work. This ensures that the playing field is level and remote service suppliers are treated equally, which is not the case with South African legislation specific to the VAT on e-commerce transactions. It is for this reason that New Zealand legislation has been selected to compare with that of South Africa, since the former is considered to be a leader in this area (Foreman, 2014).

According to a report released by the Organisation of Economic Development (OECD) (2017b:3) reviewing the international VAT guidelines, it was highlighted that due to the ease with which international transactions can be done, cross-border activities are popular and many purchases of goods and services are made between foreign countries’ residents. The challenge lies with how the countries in which the trading takes place, implement different tax systems. The OECD is an organisation that has 35 member countries across the globe from North America and South America to Europe and Asia-Pacific. The OECD is successful in “developing practical solutions to international tax issues” (OECD, 2003a:3). There are, however, many countries which are not members of the OECD, like South Africa (DIRCO, 2004). This means that these countries are not obliged to adhere to the rules of the OECD, which makes trading more difficult as there are no uniform rules in place. Although South Africa is not a member of the OECD, it does endeavour to follow the OECD principles (OECD, 2018a).

The OECD is involved in establishing a framework for the taxation of e-commerce transactions, and consequently the OECD framework and guidance have been selected for review and for comparison with the current VAT legislation South Africa has in place relating to the tax treatment of B2B and B2C supplies of services. New Zealand and the OECD will therefore be used as a basis to compare to the current VAT regulations in South Africa relating to B2B and B2C transactions.

Due to the expansion of the tax shortfall expectations in the current year coupled with a weakening economy, it is key that all barriers to trade are removed to allow foreign investment into South Africa to grow (Brown, 2019).

1.2. Problem statement

The definition of foreign electronic services in terms of the South African VAT legislation is limited in its operationality as it does not include a differentiation between B2B and B2C supplies and the treatment thereof.

The research question that this paper aims to address is whether the South African VAT legislation specific to foreign e-commerce transactions pertaining to the lack of clarification of B2B and B2C supplies is a possible shortcoming of the legislation.

1.3. Objectives

1.3.1. Main objective

The main objective of the research is to consider the South African VAT legislation, specific to foreign e-commerce transactions pertaining to the non-differentiation between B2B and B2C transactions in its current form and perform a comparison with the legislation in New Zealand and the OECD guidelines, in order to identify possible shortcomings.

1.3.2. Secondary objectives

The main objective is addressed by responding to the following secondary objectives:

- i. To analyse the VAT legislation of South Africa for foreign e-commerce transactions relating to the treatment of B2B transactions and B2C transactions. This objective is addressed in Chapter 2 in order to gain a thorough understanding of the current system.
- ii. To analyse the VAT legislation in New Zealand to obtain an understanding of the treatment of B2B transactions and B2C transactions as well as the guidelines in the OECD framework and compare to that of South Africa. This objective is addressed in Chapter 2.
- iii. To establish the treatment of the VAT legislation of foreign e-commerce transactions relating to the non-differentiation of B2B transactions and B2C transactions, identify shortcomings and provide recommendations for the South African VAT legislation on foreign e-commerce transactions. This objective is addressed in Chapter 2 and Chapter 3.

1.4. Research design/method

1.4.1. Literature review

When performing a literature review, the core focus is to expand and enhance information in a constructive manner to improve the credibility of a focus of study. The determination of specific objectives should aid in exploring further areas of study (Neuman, 2006).

Relating to the present study, the focal point of the literature review is to decipher whether it is necessary to differentiate between B2B and B2C transactions in the definition of electronic services.

Sources that will be accessed during the review include:

- South African Tax legislation;
- International legislation/regulations;
- Organisation for Economic Co-operation and Development reports and action plans;
- Taxation summaries and comment of reputable professional firms including Deloitte, PwC, EY and KPMG;
- Published academic papers;
- Taxation articles;
- Electronic journals; and
- Books and publications.

1.4.2. Critical analysis methodology

This study reviews the definition of electronic services with regards to the non-differentiation between B2B and B2C supplies. A comparison is made with New Zealand and the OECD specific to e-commerce regulations. Qualitative research is conducted in order to obtain deeper knowledge of B2B and B2C supplies with regards to e-commerce transactions and to attempt to identify gaps in the South African legislation (Oxford, 2015).

1.4.3. Paradigmatic assumptions and perspectives

Patel (2015) explained that a uniform set of beliefs and opinions shared amongst subject matter experts with regards to how matters should be understood and addressed is called a research paradigm.

Research paradigms can be characterised through the medium of 3 platforms:

- Ontology;
- Epistemology; and

- Methodology (Patel, 2015).

1.4.3.1 Ontological assumptions

An ontological assumption refers concisely to the manner in which reality is viewed. It is known that there can be many alternatives and views on any particular subject matter. Truth is a terminology that is construed as having a certain level of ambiguity so that truth may vary in meanings and methods of justification; it is a merely a view to one's reality (Rorty, 1990:35).

The relativist view concludes that there is no one absolute truth, but that there are varied opinions of the nature of the world and therefore the aim is to obtain a "true understanding" (Whitton, 2007:48).

Utilising the ontological assumption to the research, it should be noted that the taxation laws of countries differ, and regulations have been tailored to a specific country.

1.4.3.2 Epistemological assumptions

Crotty (2003:3) explains epistemology as a way of understanding and explaining how a person knows what they know and essentially this assumption refers to the manner in which reality is viewed.

The proposed knowledge gained consists of multiple assumptions and specific limitations and should be seen as a deeper understanding of the limitation of the scope of the definition of electronic services.

1.4.3.3 Methodological assumptions

Qualitative research is conducted in an interpretivist paradigm. Interpretivism aims to provide some clarity on the social reality. It involves subjective interpretations made by the researcher. Qualitative research does not claim to prove or disprove a hypothesis, but rather to gain answers and a better understanding of the problem (McKerchar, 2008:15).

The methodological assumptions include:

- I. The legislation of New Zealand and the OECD framework guidance are comparable to the status quo in South Africa; and
- II. The scope of the definition of electronic services in South Africa is limited.

1.5. Overview

Chapter 1: Research background

This chapter introduces the topic and provide the background to the proposed research. The objective of this chapter is to determine the research question, the research objectives and outline the research methodology adopted in this article.

Chapter 2: (Article) A review of the non-differentiation of B2B and B2C transactions in the South African electronic services VAT regime

This chapter addresses the secondary objectives as identified in par 1.3.2(i), (ii) and (iii) and in the article. The objective of this chapter is to analyse the VAT legislation of South Africa for foreign e-commerce transactions relating to the differentiation of B2B and B2C transactions. A comparison is drawn between the VAT treatment of e-commerce transactions in New Zealand and the framework prescribed by the OECD to South Africa. This chapter also focuses on identifying shortcomings and providing recommendations for the treatment of the VAT legislation on foreign e-commerce B2B and B2C transactions.

Chapter 3: Conclusion

This chapter outlines a summary of the research findings and the research problem is answered. Further considerations are suggested relating to possible amendments of the VAT legislation on foreign e-commerce transactions relating to the differentiation of B2B and B2C transactions. This chapter addresses the secondary objective as identified in par 1.3.2(iii).

CHAPTER 2: RESEARCH ARTICLE

A review of the non-differentiation of B2B and B2C transactions in the South African electronic services VAT regime

Abstract

It is imperative that the VAT treatment of the supply of cross-border electronic services in South Africa is aligned to the constantly changing pace of the digital economy. The growth of cross-border e-commerce can result in negative tax implications for the fiscus, but may also be unfair on traditional businesses as they have to pay VAT on goods and services.

South Africa has amended the VAT regulations on electronically supplied services in order to protect local suppliers, address VAT leakage and to adequately and efficiently tax consumption in South Africa, in the form of an amendment to the VAT Act in April 2019. The regulation does not however differentiate between B2B and B2C transactions.

The non-differentiation of the VAT treatment of B2B and B2C transactions raises concerns as this same treatment of B2B transactions places increased administrative pressure on SARS and the foreign supplier with regards to the VAT registration process as well as the submission, processing and policing of VAT returns, with no additional revenue for the fiscus. This inconvenience may act as a deterrent to foreign suppliers to transact with South Africa, which may in turn have a detrimental impact on the economy.

2.1 Introduction

Due to the rapid pace at which e-transactions and digitisation of commerce have been evolving over the past two decades, there has been a migration to the creation of a new digitised economy that has made traditional industries and business methodologies obsolete (Schneider, 2016:1). This is mainly due to the reduced need for physical presence to carry on a business in a particular jurisdiction (OECD, 2014:43).

The Organisation of Economic Co-operation and Development (OECD) report “Measuring the Information Economy” (2002:1) defines an electronic commerce (e-commerce) transaction as one that includes the buying or selling of goods or services, conducted through the medium of online networks utilising a platform designed for the purpose of receiving or placing orders. The OECD (2002:1) furthermore highlights that these goods may be purchased electronically utilising various specifically designed platforms. However, the payment and delivery does not have to be conducted via an online platform. To be classified as an e-commerce transaction the orders should be made utilising an electronic medium such as the web, extranet or electronic data interchange.

The South African Value-Added Tax Act (Act 89 of 1991) (VAT Act) requires the person that is conducting an enterprise in South Africa to register as a value-added tax (VAT) vendor, if the VAT registration requirements are met. Therefore if goods and services are supplied locally, VAT is levied according to the terms of section 7(1)(a) of the VAT Act, by the supplier, if required to register as a vendor. The problem has arisen with transactions entered into via an e-commerce platform to acquire goods and services from foreign suppliers that are not required to register as vendors in South Africa. The importation of goods is dealt with in terms of section 7(1)(b) of the VAT Act which has the effect that VAT would be levied at customs when the goods physically enter South Africa from an export country. Therefore, the collection of VAT on the physical goods does not present a problem. The main problem is with the importation of services (Dendy, 2012:5-8).

On 30 January 2014 the then Minister of Finance published draft regulations clarifying what exactly constitutes ‘electronic services’ as referred to in section 1 of the VAT Act. The amendments to the VAT Act in April 2014 added to the definition of an enterprise in section 1 of the VAT Act by demarcating it as the rendering of electronic services by a person from an export country to a person with an address in the Republic. The Electronic Services Regulations (the Regulations) (National Treasury, 2014) prescribed for the purpose of the definition of electronic services in section 1 of the VAT Act, effective from June 2014, was published to include educational services, games and gambling, information system services, internet-based auction service facilities, maintenance services (in relation to, for example, a website or blog), subscription services (e.g. online newspapers and magazines) and the supply of e-books, films and music (Borec, 2015:1).

Badenhorst and Moodaley (2018) describe the VAT system in South Africa as not having any specific tax rules that are able to determine the jurisdiction of taxing rights relating to where the supply takes place, specifically relating to foreign suppliers to South African customers. On 1 June 2014, the regulation was implemented specific to e-commerce, enforcing the premise that foreign suppliers will be required to register as VAT vendors.

This registration requirement was based on foreign suppliers of e-services that were deemed to be carrying on an enterprise where two of the below three requirements were adhered to:

- the consumer of the service is a South African resident;
- the payment for services rendered to the South African resident emanates from a bank account in South Africa; or
- the South African resident has an address located in South Africa (business, residential, or postal address) (Badenhorst & Moodaley, 2018).

Therefore, in terms of the Regulations, foreign suppliers of e-services were obliged to register as VAT vendors in South Africa to the extent that taxable supplies of electronic services made to South African residents were in excess of the VAT registration threshold of R50 000 (Badenhorst & Moodaley, 2019). De Wet (2015), Head of Indirect Tax for PwC Africa, stated that the inclusion of foreign suppliers of electronic services as vendors was imperative to create a balance between local and foreign industry in terms of competitiveness. He is of the opinion that there should be continuous efforts to ensure effective implementation and collection of consumption taxes and while South Africa has made significant strides by expanding the scope of VAT to cover certain electronic supplies made by foreign suppliers, there are other opportunities to further broaden the tax base and protect local industry. De Wet (2015) indicated that as a result of rapid technological developments, legislation could quickly become outdated.

The OECD's Committee of Fiscal Affairs has proposed 15 key action items to address concerns relating to Base Erosion and Profit Shifting (BEPS), subsequent to the finding of the Ottawa Taxation Framework report. Action Plan 1 was imperative as it discussed the challenges of the digital economy (OECD, 2013). SARS has amended the regulations for the purpose of altering the definition of electronic services in section 1(1) of the VAT Act (SARS, 2019). The Regulations have been amended to state that foreign suppliers of electronic services are defined as those who have provided more than R1 million of sales over the preceding 12 months, and will be obliged to register for VAT in South Africa. For the consumer making use of these electronic services in South Africa, this could mean an additional cost of 15%, therefore aligning the foreign suppliers to the local suppliers.

According to Badenhorst (2019), South Africa has not differentiated between Business-to-Business (B2B) and Business-to-Consumer (B2C) supplies in the Regulations. South African businesses, whether or not entitled to a deduction on electronic services will pay VAT anyway, hence this does not create an additional stream of revenue for government but instead creates an unnecessary barrier which makes SARS enforcement and compliance difficult (Badenhorst, 2019). Badenhorst went further to articulate that with private consumers (B2C) there is an obligation to pay VAT on these transactions. However, B2B transactions should be excluded and the legislation should be refined as such with an aim of reducing unnecessary administrative processes that add negligible value (Badenhorst, 2019).

SARS has made a pronouncement on its position in terms of the non-differentiation between B2B and B2C transactions in the Explanatory Memorandum (National Treasury, 2019), by emphasising that the distinction between B2B and B2C transactions was an intentional stance and was done in the interest of fairness and equity, in order to ensure that both foreign and domestic suppliers have no cash flow advantages and are transacting at the same level.

Mphela (2019) has indicated that the promulgation of the Regulations has shifted responsibility from the consumer receiving the services to the foreign supplier, whereas the old regulations placed the burden on the consumer of the supplies, if the supplier was not required to register previously.

Countries around the globe have undertaken co-operative efforts to align foreign e-commerce VAT guidelines to deal with complex tax implications arising from the burgeoning digital economy. To evaluate the progress of the co-operative efforts on an international level, this article critically analyses the exclusion of a differentiation between B2B and B2C transactions from the definition of electronic services in the VAT Act in South Africa, and a comparison will be performed with the legislation in New Zealand and the OECD framework.

New Zealand was selected for the comparison as it has been described as an implementor of the 'New World' VAT regime, with the introduction of the comprehensive Goods and Services Tax (GST). This tax framework is seen to be simple and comprehensive (Walpole & Stiglingh, 2016:11).

Although South Africa is not an OECD member country, the Ottawa Taxation Framework and the OECD framework relating to developing conditions for e-commerce were drawn in co-operation with non-member countries which included South Africa (Walpole & Stiglingh, 2016:2-3) and therefore it was also selected for comparison.

2.2 Problem statement, research question and objectives

Foreign electronic services in terms of the South African VAT legislation do not include a differentiation between B2B and B2C transactions, which renders compliance to South African VAT legislation very difficult, as SARS has noted this created an unfair cash flow advantage for foreign suppliers (SARS, 2019).

The research question that this paper aims to address is whether the South African VAT legislation specific to foreign e-commerce transactions pertaining to the non-differentiation between B2B supplies and B2C transactions pose a possible shortcoming of the legislation.

The main objective of the research is to consider the South African VAT legislation, specific to foreign e-commerce transactions pertaining to the non-differentiation between B2B and B2C transactions in its current form and perform a comparison with the legislation in New Zealand and the OECD guidelines in order to identify possible shortcomings.

The article is structured as follows:

Section 2.3 of the article considers the background of e-commerce from a South African perspective, reviews the definition of electronic services and the supply of B2B and B2C transactions. The VAT legislation of South Africa specific to foreign e-commerce transactions relating to the supply of B2B and B2C transactions is analysed in section 2.4. The GST legislation pertaining to the supply of B2B and B2C for e-commerce transactions in New Zealand is analysed in section 2.5 and the guidelines of the OECD framework are explored in section 2.6 and then compared to the South African VAT legislation in section 2.7. Section 2.8. concludes with an objective view of the South African VAT legislation specific to B2B and B2C transactions to identify shortcomings and provide recommendations with the intention of answering the research question.

A qualitative research study within an interpretivist paradigm is conducted in order to obtain deeper knowledge of the VAT treatment of B2B and B2C transactions, to identify shortcomings and provide recommendations with regards to the South African taxation legislation. A qualitative research in conjunction with a comparison is conducted to gain an understanding of the VAT/GST treatment of B2B and B2C transactions in South Africa.

2.3 Background, literature study and definitions

2.3.1 E-commerce

During the 1960s e-commerce platforms came into use and businesses began sharing documents with other companies through the medium of an Electronic Data Interchange (EDI). The universal standard of electronic document sharing was developed by American National Standards in 1979. During the 1980s a greater number of documents was shared amongst people via electronic networks, with this articulating in the 1990s to the rise of giant companies such as eBay and Amazon. Through these companies consumers can now purchase endless amounts of items online (Rouse, 2016:1).

Smith (2017:1) has summarised e-commerce as the transacting of purchases and sales of goods and services, the transmission of funds and the sharing of data, over an electronic network. The definition was further explained by Professor Hinneken (1998:1), as a business that utilises Information Technology Communication (ITC) for exchanging services and money within a business, between businesses or for communication and trading between a business and actual or potential customers.

According to the New Zealand Inland Revenue Teri Take Taari (2019a), total global e-commerce has been estimated to be thriving at approximately US\$7.7 trillion in 2018, which is inclusive of both B2B and B2C transactions.

The retail e-commerce market (which excludes B2B transactions) was estimated to be worth US\$2.3 trillion, with a projected rise to nearly US\$4.5 trillion by 2021. B2B e-commerce sales are estimated to be worth 2.3 times of total retail sales. This would produce a total estimated e-commerce market of nearly US\$10.5 trillion in 2021. Inland Revenue Te Teri Taake (2019) has further highlighted that in the EU, between the years 2008 and 2016, the revenue of the top five e-commerce retailers grew by 32% a year on average, while during the same period revenue in the entire EU traditional retail sector grew by only 1% a year on average.

In 2016, 43% of adults in South Africa conducted cross-border shopping. Tucker (2017:1) explains that it is important to recognise that South Africa is one of the most significant e-commerce contributors on the African continent and is likely to take the lead in next-level e-commerce adoption with sales expected to increase by around 40% over the next 10 years as consumers continue to shift their purchasing behaviour to increasingly favour the convenience of online platforms. According to Smith (2017:1) online shopping has been slow to take off in South Africa, but in recent years has picked up steam. In 2017, research indicated that 58% of adults in South Africa shopped online, amounting to an estimated total spend of R37.1bn. South African online spending had grown to R55bn

in 2020 with 32.6 million online shoppers at a 54.9% user penetration (Statista, 2020). It is estimated that it will grow to R71.485bn by 2024 with a user penetration of 62.7% (Statista, 2020).

It can therefore be concluded that e-commerce is evolving into an active platform of transacting in the retail markets in South Africa and the world at large.

2.3.2 B2B and B2C supplies

E-commerce, or electronic commerce, is the process of buying and selling various products and services by businesses through the internet. The two business models that use the e-commerce platform are B2B and B2C supplies (Rouse, 2019).

Markus (2016) explained that the online e-commerce platform of business that is referred to as B2B focuses on transactions that involve sales or purchases of products, services and information between two businesses. This type of a business model relates to transactions that predominantly take place between a manufacturer and a wholesaler, or a wholesaler and a retailer.

The online B2C e-commerce platform is simply defined as when a business trades with the consumer directly. The consumers are generally individuals that are the end users of the product and will therefore be consuming the product. The business model is very similar to that of the traditional retail model, with the exception that the platform is online, as opposed to physical (DeMatas, 2019). According to Eyerys (2019), the B2B model is the largest e-commerce model that is based on revenue which involves trillions of dollars.

As per the International Trade Administration (2019), South Africans purchased 27% from the United States, and 14% from Europe. The third most visited e-commerce website accessed from South Africa is the United States version of Amazon.com. The South African online growth rate suggests that by 2021 the rate will increase to 15% whilst the current internet user penetration is at 47% and expected to reach 60% by 2021 and growing (International Trade Administration, 2019).

Based on the above statistics, it can be concluded that South Africans are active participants on the digitised platform of retail, and utilise both the B2B and B2C models.

2.4 VAT in South Africa

2.4.1. Background

In an effort to boost the European economy, the first nation to impose an elementary VAT system after World War II, was the French (Schenk & Oldman, 2007:17). In 1986 New Zealand adopted a broad-based consumer tax system, the GST, against the backdrop of the European VAT style. According to Go, Kearney, Robinson & Theirfelder (2004:2), initially South Africa commenced with the introduction of the GST system, which was later replaced by VAT in the year 1991. South Africa utilised the New Zealand VAT system as a backdrop, but adapted and modified the VAT protocol to address key issues in South Africa (Schenk & Oldman, 2007:18).

Aligned to the implementation stages of VAT as described above, it can be stated that the South African VAT system is essentially built from the foundation laid in the New Zealand Goods and Services Act (141 of 1985) (the GST Act) (Bardopoulos, 2015:205). Bardopoulos (2015:205) comments that, in the absence of any precedents made in South Africa, the New Zealand GST Act, commentary, case law and interpretation notes regarding specific matters are referred to.

The South African Revenue Service (SARS) (2017a; 2017b) explains that VAT in South Africa is regulated by the VAT Act. VAT is a tax that is imposed on value that has been added and is administered by the SARS Commissioner. South African VAT is based on a worldwide VAT system and it applies a destination principle to cross-border transactions. This means that the tax is levied in the country where the goods are consumed. VAT is calculated at two rates, namely the standard rate and a zero rate. Both of these rates are levied on supplies known as taxable supplies. Exempt supplies are not subject to VAT.

Mukwende (2015:27) elaborated on the principle of VAT in the South African context, detailed in section 7 of the VAT Act, as an “indirect tax” charged, based on the supply of goods and services by a VAT vendor in the course or furtherance of any enterprise. The mechanism of VAT is categorised in a two pronged approach, output and input VAT. Output VAT is charged and collected by vendors for taxable supplies of goods and services from the end users in terms of section 7(1)(a) of the VAT Act, whilst input VAT can be claimed for supplies acquired or imported from other suppliers subject to exceptions in section 17 of the VAT Act.

VAT is a tax that should be applied at all progressive stages of the commercial chain to the value that is added by suppliers in that process, with the accountability of payment being attributed to the consumer. Therefore VAT is adequately classified as a “consumption tax”, as at every juncture of the supply chain, tax is paid on the increased value (Millar, 2007:137).

2.4.2. South African VAT regulations relating to B2B and B2C transactions

Section 7(1)(a) of the VAT Act, as mentioned above, determines that VAT shall be levied in respect of the supply by a vendor of goods and services in the course of any enterprise carried on by that vendor. Section 23 of the VAT Act states that any person is deemed to be carrying on an enterprise if the compulsory registration threshold for registration as a vendor has been exceeded. An enterprise is an “activity which is carried on continuously or regularly by any person in the Republic of South Africa or partly in the Republic of South Africa and in the course or furtherance of which goods or services are supplied to any other person for a consideration” (Botha & Louw, 2014:1).

Where a foreign supplier is not a VAT vendor, section 7(1)(c) of the VAT Act provides for VAT to be levied on imported services. Imported services are defined in section 1 of the Vat Act as a supply of services that is made by a supplier who is not a resident of South Africa or carries on business outside the Republic of South Africa. The recipient of the imported service is a resident of the Republic of South Africa who receives the imported service not for the making of taxable supplies. The term ‘recipient’ includes private individuals resident in South Africa, businesses with a South African VAT registration and any company that conducts an ‘enterprise’ in South Africa (Badenhorst, 2019).

As a consequence, such foreign persons or businesses could become liable to register as a vendor in terms of section 23 of the VAT Act and to account for VAT in terms of section 7(1)(a) of the VAT Act on the supply of electronic services to South African residents. To the extent that VAT is levied on the supply of electronic services in terms of section 7(1)(a), the transaction will be excluded from also attracting VAT under section 7(1)(c). If the foreign supplier does not have to register for VAT in South Africa, a reverse charge mechanism is applied in a B2C context as a second step (Walpole & Stiglingh, 2016:7).

The reverse charged mechanism was explained by Musgrove (2019) as a tax that reverses the role of responsibility for tax from the supplier back to the consumer, and inevitably the consumer will be liable to pay the VAT over to the government, as opposed to the foreign supplier.

Electronic services for the purposes of the VAT Act, are services that are supplied by means of any electronic agent, electronic communication or the internet for consideration, are listed as follows:

- “Educational services including distance and web-based learning, where the supplier of the educational services is not regulated by an educational authority in the export country;
- internet based gaming, including interactive and multiplayer role-player gaming;
- certain electronic betting and wagering;
- information system services which includes the provision of connections, operation of facilities

- for information systems, provision of access to information systems, the transmission or routing of data messages between or among points, and the processing and storage of data;
- maintenance services including the administration, maintenance and technical support of databases, websites and information systems;
 - miscellaneous services including the supply of e-books, films, images, music and software; and
 - subscription services including blogs, databases, journals, magazines, newspapers, editorials, web-apps, and social networking services” (Thabit, 2018:5)

The Regulations were amended and published in 2019 as SARS has attempted to create a platform for a streamlined VAT registration and administrative process with an aim of reducing the compliance burden on businesses, e.g. the provision of electronic services between companies that are within the same group of companies are excluded from the Regulations (SARS, 2019).

As per the explanatory memo issued by National Treasury (2019) the definition of electronic services was broadened to apply to all “services” as defined in the VAT Act that are provided by means of an electronic agent, electronic communication or the internet for any consideration, in an effort to ensure that South Africa harmonises with OECD guidelines and mechanisms to address base erosion and profit shifting, to address tax revenue losses.

VAT registration is compulsory when the foreign supplier of electronic services complies with the following requirements:

1. The supply of electronic services is from a person in a foreign country (export country);
2. There is an enterprise that is being conducted in the Republic according to the prescripts of the VAT Act (at least two of the below statements should be affirmed):
 - a) The electronic service is received by a recipient that is a South African resident,
 - b) Payment that is made to the supplier in the export country should originate from a bank registered in South Africa, or
 - c) The service that is received by the South African recipient, is a recipient that has a physical address in the Republic via a business, residential or a postal address.

From 1 April 2019, foreign suppliers that provide taxable supplies to a recipient in the Republic which exceeds R1 million within a consecutive 12 months as per Section 23(1A) of the VAT Act, will be obliged to register for VAT in the Republic.

The three exclusions from the definition of electronic services, are educational services,

telecommunication services and certain supplies within a group of companies (National Treasury, 2019).

The VAT Act does not make any distinction between B2B and B2C transactions. SARS (2019) explained that the introduction of a differentiation for non-resident suppliers would create an unfair advantage for the non-resident suppliers when compared to domestic suppliers from a cash flow perspective, as non-resident suppliers will not be liable for VAT as compared to domestic suppliers (National Treasury, 2019).

SARS (2019) has further explained that the purpose of the amendment is to reduce the risk of distortions in trade between foreign suppliers and domestic suppliers where VAT is one of the reasons for such distortions, and to ensure a level playing field with no VAT benefit for any parties.

As described in the Regulations, the South African VAT legislation continues to predominantly focus on who the supplier is and what the supply is. The VAT implications usually flow from that rather than from who the recipient is (i.e. business or consumer) (Davis Tax Committee, 2014).

McKenzie (2018) noted that foreign businesses that supply services to South African businesses, who in turn supply services to the South African end users, has been brought into the invisible VAT net. South African businesses would be entitled to claim VAT charged by the foreign supplier through an input tax, hence it can be deduced that the inclusion of foreign businesses into the VAT net, creates an administrative burden for SARS with no benefit for the fiscus. McKenzie (2018) has acknowledged that while some South African businesses may not transact with non-taxable supplies, the question remains unanswered as to the reason that National Treasury has not adopted the B2C approach for foreign businesses supplying South African end users with electronic services, as they would be the final consumers of these services in the VAT chain.

2.5 GST regulations in New Zealand relating to B2B and B2C transactions

Copenhagen Economics (2013:113-126) indicated that the European Union (EU) VAT system is often compared with the 'modern' GST systems in Australia and New Zealand as the New Zealand GST system is considered to be relatively superior to the European VAT system.

According to the Inland Te Teri Taake (2019), it has been pronounced that the functionality of GST in New Zealand is solely to raise tax revenue in a manner that attracts the lowest possible costs to businesses, with the focus being to tax only the final consumer.

As a result of the rapid pace of globalisation, there is a significant increase in the ease at which cross-

border transactions take place. New Zealand therefore had introduced a "Netflix Tax" to be able to include these transactions in the GST Act, which became effective on 1 October 2016 (RSM, 2017).

Inland Revenue Teri Tari Taake (IR, 2019) states that GST is New Zealand's consumption tax. It is a 15% tax added to the price of most goods and services supplied in New Zealand, including imported goods and services.

Inland Revenue Teri Tari Taake (New Zealand, 2015) has highlighted that the VAT approach on cross-border e-commerce supplies varies in different jurisdictions. In essence it was discussed that GST in New Zealand is collected as services flow through the supply chain (New Zealand, 2015).

The GST Act clearly summarises the treatment of B2B supplies, stating that goods and services are being treated as being supplied in New Zealand if any of the following requirements are in the affirmative:

- The supply of goods takes place in New Zealand; or
- The supply of services is physically performed in New Zealand; or
- The supply of remote services is supplied to a resident of New Zealand.

The GST Act further determines that if the non-resident supplier, supplied goods and services to a registered person and the supply of the goods or service take place in New Zealand, the goods and service are treated as being supplied outside of New Zealand, unless the supplier would prefer to be registered.

The regulation is very concise in explaining that foreign suppliers of digital services to New Zealand should register for GST unless the supply is below the revenue threshold, which is currently NZ\$ 60 000 for a 12-month period (RSM, 2018).

New Zealand does differentiate between B2B and B2C according to GST registration types. Where supplies exceed the revenue threshold for B2C transactions, there is a GST registration requirement, whereas if supplies are made to solely B2B customers there is no GST registration required. If the supplier is obliged to register for GST, the supplier can opt to zero rate B2B supplies and claim back GST input tax incurred on any B2B services supplied. It is imperative that for all services that have been supplied by non-resident suppliers to consumers in New Zealand, if a valid GST registration number has not been provided, services should be treated as B2C (RSM, 2018).

The Inland Revenue Department (IRD) is accommodating in its approach to B2B supplies, due to the

fact that if any non-resident's GST status is not verified, however the authority understands that the supplier is providing a B2B supply and is therefore in business with New Zealand, three factors will be taken into consideration as typical supplies to business customers, which may result in the supplier not having to register for New Zealand GST. The three factors that will be explored is the nature of the supplies, value of the supplies and the terms and conditions of the services.

The key reason for the adoption of this approach was elaborated on by Du Buisson and Pahwa (2016), stating that the decision to differentiate the tax treatment of B2B and B2C supplies, is predominantly constructed to ensure compliance costs are minimised with an aim of broadening the New Zealand GST customer base.

2.6 OECD Framework on VAT regulations relating to B2B and B2C transactions

The OECD was formed in 1961, with a current membership of 36 member states (OECD, 2017a). South Africa is not a member of the OECD, although it does have observer status and actively participates in the enhanced OECD's engagement programmes (OECD, 2018a).

The rapid pace of the globalisation of international trade has directly impacted the consumption tax treatments in individual countries. The OECD has performed a pivotal role in the development of guidelines, the alignment of policies and the facilitation of discussions amongst tax administrators, with the aim of ensuring coherent policies, thereby reducing any disincentives of international trade in an effort to achieve higher sustainable economic positions globally (OECD, 2003b:11).

The OECD's drive to combat tax evasion and heightened aggressive tax planning has resulted in the formulation of VAT guidelines which are part of its global base erosion and profit shifting initiatives. The OECD indicates that VAT is indeed a subgroup in the evasion of income taxes (Davie, 2019).

The OECD has clearly indicated the successful functionality of consumption tax is directly influenced by the measures taken by business to ensure the proper claiming and remittance of revenue. It is therefore highlighted that standards set should be relatively simple and straightforward and this will aid in enhanced compliance standards. Tax administrators need to be aware that complex compliance burdens imposed on businesses will directly result in reduced compliance with a ripple impact on the collection of revenue (OECD, 2017c:20-30).

The OECD guidelines are utilised as a platform in the re-configuration of national VAT/GST frameworks, by merely influencing guidelines to jurisdictions. It is virtually impossible to enforce proposals and recommendations of the OECD in the the absence of penalties or sanctions against non-compliant jurisdictions (Charlet, 2010:22).

De Swardt and Oberholzer (2006:16) stated that despite South Africa not forming part of the membership of the OECD, the country still performs a pivotal role in it, and further highlighted the importance of utilising the OECD principles on e-commerce as backdrop when reviewing the South African VAT legislation.

In 1998, the Ottawa Taxation Framework Conditions were accepted by countries around the world. The generally accepted principles of tax policy are as follows:

- Neutrality: Taxation should be neutral and equitable between electronic commerce and the traditional commerce practices.
- Efficiency: Compliance and administration costs for businesses should be minimised
- Certainty and simplicity: The tax rules should be clear and precise.
- Effectiveness and fairness: Taxation should produce the right amount of tax at the right time.
- Flexibility: The system for taxation should be flexible and dynamic to ensure it maintains the pace of technological and commercial developments (OECD, 2001:10).

The OECD has indicated that a uniform place of supply rule in each jurisdiction was key to avoiding double taxation. The standardised practice by member and non-member countries will allow transactions to be taxed only in the jurisdiction of the recipient of the service. The OECD has conceded to the fact that the pure consumption principle as applied in South Africa is difficult for suppliers and tax administrators to determine where exactly the services had been consumed (Mahlunge, 2014:21).

There is a substantial difference with B2B and B2C supplies, as there are different objectives of the two supplies, hence the VAT system used to implement the destination principle and the collections should be varied accordingly. The key distinction between the two types of supplies is attributable to the taxation of B2C supplies involving the imposition of a final tax burden, while taxation of B2B supplies is merely a means of achieving the ultimate objective of the tax, which is to tax final consumption (OECD, 2017b:40).

The premise of the place of supply rules is to facilitate the imposition of the tax burden to the end user whilst ensuring that neutrality is maintained. The place of taxation rules for B2B supplies should therefore focus not only on where the business customer will use its purchases to create the goods, services or intangibles that final consumers will acquire, but also on facilitating the flow-through of the tax burden to the final consumer while maintaining neutrality within the VAT system. The overriding objective of place of taxation rules for B2C supplies, on the other hand, is to predict, subject to practical constraints, the place where the final consumer is likely to consume the services or intangibles supplied (OECD, 2017b:43).

As a guideline in terms of a collection mechanism of B2B and B2C transactions, the OECD has recommended the place of supply rules. The reverse charge mechanism is recommended for B2B supplies as the preferred collection method. The OECD has highlighted that the recommended reverse charge mechanism allows tax authorities to enforce compliance and minimise the compliance burden for the foreign supplier (OECD, 2017b:50).

2.7 Comparison of the treatment of B2B and B2C transactions specific to electronic services for New Zealand, the OECD and South Africa

Table 1: Table below compares the VAT treatment of the B2B and B2C transactions:

	New Zealand	OECD	South Africa
Local name for VAT	GST	VAT/GST	VAT
Rate	15%(New Zealand, 2019b)	19.2% (OECD, 2018b) ¹	15% (PWC, 2019)
Mandatory requirement: Registration	NZ\$60 000 in a 12-month period(New Zealand, 2019b)		R1 million for any 12-month period(PWC, 2019)
Local name for electronic services	Remote Services/Netflix Tax	E-services	Electronic Services
Date effective	1 October 2016(New Zealand, 2019b)		1 July 2014 with a revision 1 April 2019(PWC, 2019)

¹ The rate of VAT/GST in each OECD member and non-member country varies, however the OECD average VAT/GST rate is 19.2%.

<p>Definition / Guideline: Electronic Services</p>	<p>There is a broad definition of remote services. A remote service is defined as one in which there is no necessary connection between the physical location of the recipient and the place where the services are performed. An intangible service supplied remotely may be captured by this definition. Examples include downloadable movies, music or e-books, as well as remotely provided 'traditional services' like insurance, accounting, legal or consultancy services.</p> <p>Broad definition which is very inclusive (New Zealand, 2020).</p>	<p>Generally Accepted Framework of Tax Policy to VAT: The Ottawa Taxation Framework:</p> <ul style="list-style-type: none"> - Neutrality - Efficiency - Simplicity - Effectiveness and Fairness - Flexibility <p>Broad definition which is very inclusive(OECD, 2001:10).</p>	<p>The revised regulations now define 'electronic services' to encompass 'any services supplied by means of an electronic agent, electronic communication or the internet for any consideration' with the only exclusions being educational services, telecommunication services and certain supplies to wholly owned group companies.</p> <p>Broad definition which is very inclusive (National Treasury, 2019).</p>
<p>Treatment of B2B and B2C transactions</p>	<p>There is a clear distinction between B2B and B2C supplies with foreign suppliers of B2B supplies not being required to register for GST (RSM, 2018).</p>	<p>It is recommended that the (business) customer be liable to account for any VAT due to its local tax administration under the reverse charge mechanism (OECD, 2017b:50).</p>	<p>Foreign e-services (B2B and B2C) suppliers to South African customers will be required to register for VAT in South Africa if their customers are located in South Africa (National Treasury, 2019).</p>

The discussion of the three frameworks reveals that there are similarities between the tax systems of the OECD and New Zealand, whilst they have varied approaches to taxing electronic services. It is noted that there is a differentiation of B2B and B2B transactions in New Zealand and the OECD, but these transactions are not differentiated in South Africa. The OECD is clear in the VAT/GST guidelines,

that jurisdictions should provide clear and realistic guidance for suppliers on the tax treatment of commodities (De Wet, 2015:6).

2.8 Conclusion

Whilst similarities were identified between New Zealand, the OECD and South Africa, it has been established that the VAT treatment of B2B and B2C transactions is not the same as it cannot be intertwined in these three jurisdictions.

The approach of New Zealand to non-differentiation between B2B and B2C supplies, took into full consideration the widening of their tax base with the resultant ease of trade and economical impact. The GST system that has been adopted in New Zealand is recognised for its simplicity and efficiency. The NZ GST is considered to be an agile system that is responsive as it meets the needs of the modern age, without a rewrite of the GST Act (PWC, 2016:2). New Zealand therefore does differentiate between B2B and B2C transactions requiring only suppliers to register for B2C transactions.

The OECD Report (2015:9) titled International Vat/GST guidelines, highlighted that in the context of a global environment it is important that there is uniformity as this will aid businesses in understanding their tax responsibilities and enhance their fiscal citizenship. The consistent application of the recommended approaches amongst jurisdictions will ensure a level playing field between domestic and foreign suppliers.

Terblanche (2018) discussed that from a South African perspective, the non-differentiation between B2B and B2C transactions may place a considerable amount of undue administrative and compliance burden on foreign suppliers of electronic services, and SARS with relatively no tax impact as the customer business would be registered as a VAT vendor and would be entitled to claim the VAT incurred in the purchase, as an input tax.

Terblanche (2018) has further indicated that almost all global tax authorities have opted to utilise the e-commerce regime as proposed by the OECD with a clear view of ensuring coherence of sound tax policies.

National Treasury should therefore consider a further review of the electronic services regulations and in doing so, streamline the treatment of B2B and B2C transactions. This will aid in ensuring that the SARS is able to conduct its operation in a streamlined manner, with an attributable yield to compliance

inputs. The introduction of a differentiation of B2B and B2C transactions in the Regulations will promote foreign business with South Africa, which could in turn not only assist in growing the South African economy but reduce administrative burden.

REFERENCE LIST (ARTICLE)

Acts **see** South Africa

Acts **see** New Zealand

Badenhorst, G. 2019. VAT on electronic services could be difficult to enforce.

<https://www.cover.co.za/vat-on-electronic-services-could-be-difficult-to-enforce> (Date of access: 15 Sept. 2019).

Badenhorst, G. & Moodaley, V. 2019. New electronic service regulation widening the invisible VAT net. <https://www.cliffedekkerhofmeyr.com/export/sites/cdh/en/news/publications/2018/Tax/Downloads/Tax-Exchange-Control-Alert-2-November-2018.pdf>

(Date of access: 16 Sept. 2019).

Bardopoulos, A. M. 2015. ECommerce and the effects of technology on taxation: Could VAT be the etax solution? Switzerland: Springer.

Borec, T. 2015. South African take on VAT taxation of e-services, digital products, and digital services. <http://ebiz.tax/south-africa-vat-taxation-eservices-digital-products-services/> (Date of access: 25 Sept. 2019).

Botha, D. & Louw, H. 2014. Value-added tax on electronic services supplied by persons outside South Africa. <http://www.thesait.org.za/news/168149/Value-added-Tax-on-electronic-services-supplied-by-persons-outside-South-Africa.htm> (Date of access: 7 Sept. 2017).

Charlet, A. 2010. VAT focus: Draft OECD VAT/GST Guidelines.

<http://www.oecd.org/tax/consumptiontax/45274124.pdf> (Date of access: 4 Nov. 2017).

Copenhagen Economics. 2013. VAT in the public sector and exemptions in the public interest.

http://ec.europa.eu/taxation_customs/resources/documents/common/publications/studies/vat_public_sector_exemptions_en.pdf (Date of access: 12 Oct. 2017).

Crotty, M. 2003. The foundations of social research: Meaning and perspective in the research process. London: Sage.

Davie, J. 2019. New VAT rules lead global tax reform. <https://mg.co.za/article/2019-04-26-00-new-vat-rules-lead-global-tax-reform>. Date of access: 21 Oct. 2019.

Davis Tax Committee. 2014. Addressing base erosion and profit shifting in South Africa: Davis Tax Committee Interim Report.

https://www.taxcom.org.za/docs/New_Folder/2%20DTC%20BEPS%20Interim%20Report%20on%20Action%20Plan%201%20-%20Digital%20Economy,%202014%20deliverable.pdf (Date of access: 25 Sept. 2019).

DeMatas, D. 2019. Five types of Ecommerce models that work right now.

<https://www.ecommerceceo.com/types-of-ecommerce-business-models/> (Date of access: 25 Sept. 2019).

- Dendy, M. 2012. VAT Treatment of imported services: The zero-rating under the VALUE-ADDED TAX ACT 89 of 1991 of services performed outside South Africa by foreign non-vendors. Cape Town: Siber Ink CC.
- Department: International Relations and Cooperations (DIRCO). 2004. Organisation for Economic Cooperation and Development (OECD).
<http://www.dirco.gov.za/foreign/Multilateral/inter/oecd.htm>. (Date of Access: 10 Mar. 2020).
- De Swardt, R.D. & Oberholzer. 2006. Digitised Products: how compliant is South African value-added tax?. *Meditari Accountancy research*. 14(1):15-28.
<https://repository.up.ac.za/handle/2263/14463/browse?value=oberholzer%2C+Ruanda&type=author> (Date of access: 21 Oct. 2017).
- De Wet, C. 2015. Comments on OECD Guidelines on the place of taxation for Business-to-Consumer Supplies of Services and Intangibles. <https://www.pwc.com/gx/en/tax/tax-policy-administration/beps/assets/pwc-africa-oecd-place-of-taxation-comments-feb15.pdf> [letter]., 20 Feb 2015., Cape Town. (Date of access: 12 Nov. 2019).
- Du Buisson, J. & Pahwa, D. 2016. GST on remote services. <https://www2.deloitte.com/nz/en/pages/tax-alerts/articles/gst-on-remote-services.html> (Date of access: 31 Oct. 2017).
- Eyerys. 2019. Types of e-commerce models. <https://www.eyerys.com/articles/types-e-commerce-models> (Date of access: 25 Apr. 2019).
- Go. D.S., Kearney. M., Robinson. S. & Theirfelder. K. 2004. An analysis of South Africa's Value Added Tax. <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.571.9569&rep=rep1&type=pdf> (Date of access: 14 Nov. 2019).
- Grimm, W. & Kruger, D. 2018. The changing face of VAT and e commerce in South Africa, <https://www.rnews.co.za/article/21315/the-changing-face-of-vat-and-e-commerce-in-south-africa> (Date of Access 16 Sept. 2019).
- Hinneken, L. 1998. The Challenges of Applying Vat and Income Tax Territorial Concepts and Rules to International E Commerce. *Kluwer Law International*. 26(2): 52-70.
<http://heinonline.org/HOL/LandingPage?handle=hein.kluwer/intrtax0026&div=13&id=&page>
 Date of access: 19 Sept. 2017.
- International Trade Administration. 2019. South Africa- E Commerce.
<https://www.export.gov/article?id=South-Africa-ecommerce> (Date of access: 25 Sept. 2019).
- Mahlunge, A.N. 2014. The new dispensation governing the collection of Value Added Tax on electronic commerce supplies in South Africa. Cape Town: University of Cape Town. (Master's thesis).
- Markus, J. 2016. What is B2B Ecommerce. <https://www.oberlo.com/ecommerce-wiki/b2b> (Date of

access : 25 Sept. 2019).

McKenzie, B. 2018. The Broadening of the VAT Base for E Commerce.

<https://www.bakermckenzie.com/en/insight/publications/2018/03/broadening-of-the-vat-base-for-electronic> (Date of access: 25 Sept. 2019).

McKerchar, M. 2008. Philosophical Paradigms, Inquiry Strategies and Knowledge Claims: Applying the Principles of Research Design and Conduct to Taxation. *eJournal of Tax Research*, 6(22). <http://classic.austlii.edu.au/au/journals/eJITaxR/2008/1.html> (Date of access: 7 Sept. 2017).

Millar, R. 2007. Time is of the essence: supplies, grouping schemes and cancelled transactions.

Journal of Australian Taxation, 7(2).

http://www.google.co.za/url?sa=t&source=web&rct=j&url=http://jausttax.com.au/Articles_Free/JAT%2520Volume%252007,%2520Issue%25202%2520-%2520Millar.pdf&ved=0ahUKEwimql2M0KHfVQCHsQFggjMAE&usq=AOvVaw2eDUfmD87R2qo044ehzAoT (Date of access: 20 Oct. 2017).

Mphela, M. 2019. New regulations imposing VAT on electronic services in South Africa.

<https://www.rsm.global/southafrica/news/new-regulations-imposing-vat-electronic-services-south-africa> (Date of access: 24 Sept. 2019).

Mukwende, B. 2015. New e-commerce VAT directives. <http://www.derebus.org.za/new-e-commerce-vat-directives/>

(Date of access: 6 Oct. 2019).

Musgrove, A. 2019. How does the reverse charge mechanism work?. <https://quaderno.io/blog/how-does-the-reverse-charge-mechanism-work/> (Date of access: 5 Oct. 2019).

National Treasury. 2014. Press release final electronic services regulation.

http://www.treasury.gov.za/comm_media/press/2014/2014032801%20-%20Press%20Release%20-%20Electronic%20Services%20Regulations.pdf (Date of access: 21 Oct. 2017).

National Treasury. 2019. Regulation prescribing electronic services for the purposes of the definition of “electronic services” in Section 1(1) of the Value Added Tax Act, 1991.

<http://www.treasury.gov.za/publications/other/Explanatory%20Memorandum-Regulations%20prescribing%20electronic%20services%20-%202018%20March%202019.pdf> (Date of access: 16 Sept. 2019).

Neuman, W.L. 2006. *Social Research Method: Qualitative and Quantitative Approaches*. 6 Edition
Boston: Pearson

New Zealand. Inland Revenue Teri Take Taari. 2015. GST: Cross Border services, intangibles and goods. <https://taxpolicy.ird.govt.nz/sites/default/files/2015-dd-gst-cross-border.pdf>. (Date of access: 10 March 2020).

- New Zealand. 2016. The Goods and Services Tax Act 1985 No 141.
- New Zealand . 2017. The Goods and Services Tax Act 1985 No 141.
- New Zealand. New Zealand Law Commission. 1998. Electronic commerce: Part One: A guide for the legal and business community. (Date of access: 15 Oct. 2019).
- New Zealand. Inland Revenue Teri Take Taari. 2019a. Appendix 1 - Size and importance of the digital economy. <http://taxpolicy.ird.govt.nz/publications/2019-dd-digital-economy/appendix-1>. (Date of access: 6 Oct. 2019).
- New Zealand. Inland Revenue Teri Take Taari. 2019b. GST Guide Working with GST. <https://www.ird.govt.nz/-/media/Project/IR/PDF/IR375.pdf>. (Date of access: 10 Mar. 2020).
- New Zealand. Inland Revenue Teri Take Taari. 2020. Supplying of Remote Services to New Zealand. <https://www.ird.govt.nz/gst/gst-for-overseas-businesses/supplying-remote-services-into-new-zealand>. (Date of access: 10 Mar. 2020).
- OECD. 2001. Taxation and electronic commerce: Implementating the Ottawa Taxation Framework Conditions. <http://www.oecd.org>tax>consumption> (Date of access: 12 Sept. 2019).
- OECD. 2002. Measuring the information economy: Annex 4 The OECD definitions of Internet and ecommerce transactions. <https://www.oecd.org/internet/ieconomy/2771174.pdf> (Date of access: 24 Sept. 2019).
- OECD. 2003a. Implementation of the Ottawa taxation framework conditions: The 2003 report. [Online] Available from: <http://www.oecd.org/dataoecd/45/19/20499630.pdf> (Date of access: 1 Sept. 2017).
- OECD. 2003b. Implementation issues for Taxation of Electronic Commerce. <http://www.oecd.org/tax/consumption/5594899.pdf> (Date of access: 20 Oct. 2017).
- OECD. 2013. Action Plan on Base Erosion and Profit Shifting. <https://www.oecd.org/ctp/BEPSActionPlan.pdf>. (Date of access 10 Mar. 2020).
- OECD. 2014. Addressing the tax challenges of the digital economy: 43. <https://www.oecd.org/ctp/tax-challenges-digital-economy-discussion-draft-march-2014.pdf> (Date of access: 24 Sept. 2019).
- OECD. 2015. OECD 2015 International VAT/GST Guidelines. <https://www.oecd.org/tax/consumption/international-vat-gst-guidelines.pdf>. Date of access: (24 Sept. 2019).
- OECD. 2017a. Membership and partners. <http://www.oecd.org/about/membersandpartners/> (Date of access: 20 Oct. 2017).
- OECD. 2017b. International VAT/GST guidelines. Paris: OECD Publishing.
- OECD. 2017c. Mechanism for the effective Collection of VAT/GST when the supplier is not located in the jurisdiction of taxation © OECD 2017. <http://www.oecd.org/tax/tax->

- [policy/mechanisms-for-the-effective-collection-of-VAT-GST.pdf](#) (Date of access: 12 Nov. 2019).
- OECD. 2018a. South Africa and the OECD. <https://www.oecd.org/southafrica/south-africa-and-oecd.htm> (Date of access: 18 Sept. 2019).
- OECD. 2018b. Consumption Tax Trends 2018. <https://www.oecd.org/tax/consumption-tax-trends-19990979.htm> (Date of access: 10 Mar. 2020).
- Patel, S. 2015. The research paradigm – methodology, epistemology and ontology – explained in simple language. <http://salmapatel.co.uk/academia/the-research-paradigm-methodology-epistemology-and-ontology-explained-in-simple-language> (Date of access: 24 Jul. 2017).
- PWC. 2016. GST Direct: Bringing you the latest GST and Customs developments. <https://www.google.co.za/url?sa=t&source=web&rct=j&url=https://www.pwc.co.nz/pdfs/GST-Direct-September-2016.pdf&ved=0ahUkewi01LCprk3XahuhshQKHSMEB584chAWCCeWAA&uqs=AOvVaw34i029hs9UYxzt42Ma-c6> (Date of access: 7 Nov. 2017).
- PWC. 2019. VAT on the supply of electronic services: release of regulations. <https://www.pwc.co.za/en/assets/pdf/taxalert/vat-alert-ess-regulations.pdf> (Date of access: 10 Mar. 2020).
- RSM. 2017. GST and cross border services. <https://www.rsm.global/newzealand/news/gst-and-cross-border-services> (Date of access: 6 Oct. 2019).
- RSM. 2018. New Zealand's GST for electronically supplied services. <https://rsmus.com/what-we-do/services/tax/indirect-tax/global-indirect-tax/digital-services/new-zealand-digital-services-gst.html> (Date of access: 6 Oct. 2019).
- Rouse, M. 2016. e-commerce (electronic commerce or EC). <http://searchcio.techtarget.com/definition/e-commerce> Date of access: 20 Sept. 2017.
- Rouse, M. 2019. E-commerce (electronic commerce). <https://searchcio.techtarget.com/definition/e-commerce> (Date of access: 25 Sept. 2019).
- Schenk, A. & Oldman, O. 2007. Value Added Tax (a Comparative Approach). London: Cambridge University Press. https://books.google.co.za/books?hl=en&lr=&id=u-YIBgAAQBAJ&oi=fnd&pg=PR21&dq=info:hUeMcNxVMaEJ:scholar.google.com&ots=w_i6PcUQtX&sig=oNOPTESBCEftgPyZXZ1mmondKhl&redir_esc=y#v=onepage&q&f=false (Date of access: 25 Sept. 2019).
- Schneider, F. 2016. Taxation and the Exponential Growth in E-commerce. <https://www.bdo.co.za/en-za/insights/2016/tax/taxation-and-the-exponential-growth-in-e-commerce> (Date of access: 6 Oct. 2019).
- Smith, C. 2017. SA e-commerce growing by leaps and bounds. <https://www.fin24.com/Companies/Retail/sa-e-commerce-growing-by-leaps-and-bounds-20170222>. (Date of access: 18 Sept. 2017).

- South Africa. 1991. South African Value Added Tax Act 89 of 1991.
- South Africa. South African Revenue Service (SARS). 2016. SARS Strategic Plan 2016/17 – 2020/21. Pretoria.
- South Africa. South African Revenue Service (SARS). 2017b. VAT. Pretoria.
- South Africa. South African Revenue Services (SARS). 2019. External Guide Foreign Supplier of Electronic Services. <https://www.sars.gov.za/AllDocs/OpsDocs/Guides/VAT-REG-02-G02%20-%20Foreign%20Suppliers%20of%20Electronic%20Services%20-%20External%20Guide.pdf>. (Date of access: 10 Mar. 2020).
- Statista. 2020. eCommerce - South Africa: Statista Market Forecast <https://www.statista.com/outlook/243/112/e-commerce/south-africa> (Date of access: 10 Mar. 2020).
- Thabit, S. 2018. An evaluation on the South African Value Added Tax on electronic goods and services. Pretoria: UP. (Thesis - Masters).
- Terblanche, V. 2018. Annexure C Proposal for Budget 2019:Value- Added Tax. https://cdn.ymaws.com/www.thesait.org.za/resource/resmgr/2018_submissions/2018_annex_c/SAIT_2019_Annex_C_-_Value_Ad.pdf. (Date of access: 28 Oct. 2019).
- Tucker, K. 2017. E-commerce trends to hit SA in 2017. <https://www.itnewsafrika.com/2017/01/e-commerce-trends-to-hit-sa-in-2017/> (Date of access: 19 Sept. 2017).
- Walpole, M. & Stiglingh, M. 2016. Untangling the World Wide VAT Web on digital supplies. www.up.ac.za/Files/2016/Papers. (Date of access: 6 Oct. 2017).

CHAPTER 3: CONCLUSION

3.1 Introduction

The main objective of the research was to consider the South African VAT legislation, specific to foreign e-commerce transactions pertaining to the non-differentiation between B2B and B2C in its current form and perform a comparison with the legislation in New Zealand and the OECD guidelines, in order to identify possible shortcomings. The sections below provide a summary of the key findings of the study and how these findings address the research question formulated in Chapter 1.

3.2 Research findings

3.2.1 Objective 1

To analyse the VAT legislation of South Africa for foreign e-commerce transactions relating to the non-differentiation of B2B and B2C transactions.

The regulations of the VAT Act pertaining to electronic services as prescribed by the Minister in the Regulations, has been re-configured with an aim to reduce distortions in the trade between foreign and local suppliers, where especially VAT plays a role in creating the disparity. The VAT Act subsequent to the recent amendment does not make any distinction between B2B and B2C domestic supplies, as National Treasury has indicated that the differentiation will create an “unfair cash-flow advantage for the non-resident suppliers which domestic suppliers would not be in a position to benefit from”, hence disadvantaging local suppliers (National Treasury, 2019), with local suppliers having the burden to pay VAT, while foreign suppliers don't.

3.2.2 Objective 2

To analyse the VAT/GST legislation in terms of the non-differentiation of B2B and B2C transactions in New Zealand and the guidelines in the OECD framework and compare it to that in South Africa.

On 1 October 2016 New Zealand joined a host of nations in applying GST to a broad range of remote services. The tax is designed to tax cross-border provisions of goods and services which are supplied remotely by non-resident businesses with no physical presence in New Zealand. Fortune Manning Lawyers (2017) has concluded that there is a significant shift in the manner in which GST legislation has been traditionally applied but it was a necessary evolution of the legislation. In this shift, GST is a tax on private/domestic consumption in New Zealand. However, as GST is collected as goods and services move through the supply chain, an input tax credit system operates to limit any snow-balling effect.

RSM (2018) has very clearly highlighted that New Zealand does distinguish between the VAT treatment of B2B and B2C transactions, and that there is no registration required where supplies are solely made to B2B customers, while registration is required where the extent of supplies exceed the threshold for B2C supplies.

If supplied from outside New Zealand, the reverse charge will not be a concern if the recipient uses the services in making taxable supplies to the requisite extent (the percentage intended use and, thereafter, the percentage of actual use must be 95% or more).

RSM (2017) very conclusively denoted that the legislation in New Zealand has been drafted in a manner to deal with cross-border remote services with a purpose of bridging the GST gap. A streamlined approach has been adopted by New Zealand to ensure that passable tax revenues are generated, achieving neutrality by taxing electronic services uniformly, aligning to the concept that GST should be charged where the service is consumed.

The OECD's International VAT/GST Guidelines is an internationally agreed guideline that denotes the recommendations to address the challenges of collecting VAT on cross-border sales of digital products OECD/G20 Project on Base Erosion and Profit Shifting (BEPS). These guidelines endorse the destination principle as the international norm, and recommend taxing B2B and B2C transactions in the country in which the customer resides. The guidelines further recommend that, for B2C services, the non-resident vendor should register for and charge VAT in the country in which the consumer is located. For B2B services, the guidelines suggest that the business recipient should self-assess VAT through a reverse charge or similar mechanism (KPMG, 2019).

As seen above, the South African stance of non-differentiation between B2B and B2C transactions is contrary to that of New Zealand and the OECD, which both clearly differentiate B2B and B2C transactions and the levying of the indirect tax on these respective transactions.

3.3 Conclusion

The recommendation by the OECD strongly suggests that for B2B transactions the recipient (business) should be held liable to account for any VAT due to the tax authorities through the platform of a reverse charge mechanism. The proposition by the OECD has been adopted by most tax authorities globally, where B2B transactions have been excluded, with this adoption having been carried out with a clear view of ensuring the tax policies are harmonised (Terblanche, 2018).

Mahlunge (2014) very aptly indicates that as a result of a lack of uniformity in VAT liability rules

internationally, suppliers may be placed in a precarious position due to a level of uncertainty with regards to tax liability and the planning thereof. A considerable amount of confusion may arise where jurisdiction applies these principles differently.

The OECD (2019: 22) has further stated that the varied platforms of the mechanism of VAT may impact the capability to effectively comply with specific tax obligations. The core intention is not to adopt a one size fits all scenario, although key principles should be uniformly applied. The application of coherent adopted principles will result in greater levels of compliance and lowering of compliance costs for revenue authorities globally. The harmonisation of policies will enhance enforcement capabilities by facilitating international administrative co-operation. This point has been elaborated on by the DTC, which has cautioned that a deviation from the core OECD principles may result in a heightened difficulty experienced with regards to administrative enforcement of the VAT regulations. The DTC went further to propose that the treatment of e-services should be aligned with international treatment and in particular, the OECD principles (Badenhorst & Moodaley, 2018).

Temkin (2018) has very aptly acknowledged the significance of the lack of distinction between B2B and B2C transactions. Globally this clear distinction ultimately results in a lower level of compliance burden on foreign businesses. Temkin (2018) has further concluded that by excluding B2B transactions, the resultant outcome will be significant for National Treasury and South Africa, there will be a reduced compliance burden for SARS as auditing, collecting and enforcing VAT requirements for cross-border transactions is a difficult, timely and costly exercise for Revenue Authorities with inevitably no ultimate revenue gain.

The study therefore suggests that it is imperative that South Africa adopts a broad approach to the the treatment of B2B transactions, by clearly defining the treatment of B2B and B2C transactions specifically. This can be perceived as a shortcoming in the VAT legislation specific to e-commerce transactions, and it is therefore recommended that National Treasury review and consider amending the Regulation by including a differentiation between B2B and B2C transactions. The adoption of this policy could ensure that the administrative burden is less cumbersome as well as that foreign businesses could be encouraged to invest in South Africa, which may in turn lead to a growth in the economy.

Further research can be conducted to determine effective measures that could be instilled in the current legislation to monitor and track compliance of the foreign suppliers to the South African VAT Act. The resultant outcome could not only lead to an elimination of unfair competition to local suppliers but may prevent a loss of income to the fiscus.

REFERENCE LIST

Acts **see** South Africa

Acts **see** New Zealand

Agrawal, K & Agrawal, N. 2014. Impact of e-commerce on taxation. *International Journal of Information and Computation Technology*, 4(1): 99-106.

http://ripublication.com/irph/ijict_spl/ijictv4n1spl_16.pdf (Date of access: 7 Sept. 2017).

Bardopoulos, A. M. 2015. ECommerce and the effects of technology on taxation: Could VAT be the eTax aolution? Switzerland: Springer.

Badenhorst, G. 2019. VAT on electronic services could be difficult to enforce.

<https://www.cover.co.za/vat-on-electronic-services-could-be-difficult-to-enforce> (Date of access: 15 Sept. 2019).

Badenhorst, G. & Moodaley, V. 2018. New Electronic Service Regulation widening the invisible Vat net.

<https://www.cliffedekkerhofmeyr.com/export/sites/cdh/en/news/publications/2018/Tax/Downloads/Tax-Exchange-Control-Alert-2-November-2018.pdf> (Date of access: 16 Sept. 2019).

Borec, T. 2015. South African take on VAT taxation of e-services, digital products, and digital services. <http://ebiz.tax/south-africa-vat-taxation-eservices-digital-products-services/> (Date of access: 11 Oct. 2017).

Botha, D. & Louw, H. 2014. Value-added Tax on electronic services supplied by persons outside South Africa. <http://www.thesait.org.za/news/168149/Value-added-Tax-on-electronic-services-supplied-by-persons-outside-South-Africa.htm> (Date of access: 7 Sept. 2017).

Brown. J. 2019. SARS is set to be R215 billion short by the end of this tax year – here are six ways that will make you poorer. <https://www.businessinsider.co.za/sars-tax-revenue-shortfall-projection-impact-on-personal-finances-2019-10>. (Date of access: 21 Oct. 2019).

Charlet. A. 2010. VAT Focus: Draft OECD VAT/GST Guidelines.

<http://www.oecd.org/tax/consumptiontax/45274124.pdf> (Date of access: 4 Nov. 2017).

Copenhagen Economics. 2013. VAT in the public sector and exemptions in the public interest.

http://ec.europa.eu/taxation_customs/resources/documents/common/publications/studies/vat_public_sector_exemptions_en.pdf (Date of access: 12 Oct. 2017).

Crotty, M. 2003. The foundations of social research: Meaning and perspective in the research process. London: Sage.

Davie, J. 2019. New VAT rules lead global tax reform. <https://mg.co.za/article/2019-04-26-00-new-vat-rules-lead-global-tax-reform>. Date of access: 21 Oct. 2019.

Davis Tax Committee. 2014.

Addressing Base Erosion and Profit Shifting in South Africa- Davis Tax Committee Interim Report.

http://www.taxcom.org.za/docs/New_Folder/1%20DTC%20BEPS%20Interim%20Report%20-%20The%20Introductory%20Report.pdf (Date of access: 6 Oct. 2019).

Deloitte. 2015. Vat in the digital economy. <https://www2.deloitte.com/.../tax/articles/vat-in-digital-economy.html> (Date of access: 6 Oct. 2019).

Dendy, M. 2012. VAT Treatment of Imported Services: The zero-rating under the Value- Added Tax Act 89 of 1991 of Services performed outside South Africa by Foreign Non Vendors. Cape Town: Siber Ink CC.

DeMatas, D. 2019. Five types of Ecommerce models that work right now.

<https://www.ecommercedeo.com/types-of-ecommerce-business-models/> (Date of access: 25 Sept. 2019).

Department: International Relations and Cooperations (DIRCO). 2004. Organisation for Economic Cooperation and Development (OECD).

<http://www.dirco.gov.za/foreign/Multilateral/inter/oecd.htm>. (Date of Access: 10 Mar. 2020).

De Swardt, R.D. & Oberholzer. 2006. Digitised Products: how compliant is South African value-added tax?. *Meditari Accountancy research*. 14(1):15-28.

<https://repository.up.ac.za/handle/2263/14463/browse?value=oberholzer%2C+Ruanda&type=author> (Date of access: 21 Oct. 2017).

De Wet, C. 2015. Comments on OECD Guidelines on the place of taxation for Business-to-Consumer Supplies of Services and Intangibles. <https://www.pwc.com/gx/en/tax/tax-policy-administration/beps/assets/pwc-africa-oecd-place-of-taxation-comments-feb15.pdf> [letter], 20 Feb 2015., Cape Town. (Date of access: 12 Nov. 2019).

Du Buisson, J. & Pahwa, D. 2016. GST on remote services. <https://www2.deloitte.com/nz/en/pages/tax-alerts/articles/gst-on-remote-services.html>

(Date of access: 31 Oct. 2017).

Eyerys. 2019. Types of e-commerce models. <https://www.eyerys.com/articles/types-e-commerce-models> (Date of access: 25 Apr. 2019).

Foreman, N. 2014. NZ tax system rated No 2 in world. <http://www.stuff.co.nz/business/better-business/10598747/NZ-tax-system-rated-No-2-in-world> (Date of access: 7 Sept. 2017).

Fortune Manning Lawyers. 2017. GST – Provision of Online Goods and Services.

<http://fortunemanning.co.nz/publications/tax-law/gst-provision-of-online-goods-and-services/> (Date of access: 5 Nov. 2017).

Go. D.S., Kearney. M., Robinson. S. & Theirfelder. K. 2004. An analysis of South Africa's Value

Added Tax.

<http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.571.9569&rep=rep1&type=pdf>

(Date of access: 14 Nov. 2019).

Grimm, W. & Kruger, D. 2018. The changing face of VAT and e commerce in South Africa,

<https://www.rnews.co.za/article/21315/the-changing-face-of-vat-and-e-commerce-in-south-africa> (Date of Access 16 Sept. 2019).

Hinneken, L. 1998. The Challenges of Applying Vat and Income Tax Territorial Concepts and Rules to International E Commerce. *Kluwer Law International*. 26(2): 52-70.

<http://heinonline.org/HOL/LandingPage?handle=hein.kluwer/intrtax0026&div=13&id=&page>

Date of access: 19 Sept. 2017.

International Trade Administration. 2019.

South Africa- E Commerce. <https://www.export.gov/article?id=South-Africa-ecommerce>

(Date of access: 25 Sept. 2019).

KPMG. 2015. Inside Indirect Tax Global Updates from a U.S. Perspective.

http://www.kpmginfo.com/iit/526448_NSS_InsideIndirectTaxDec2015_v3.html (Date of access: 30 Aug. 2017).

KPMG. 2019. VAT Challenges for the Digital Economy.

<https://home.kpmg/xx/en/home/insights/2019/01/vat-challenges-for-the-digital-economy.html>

(Date of access: 21 Oct. 2019).

Mahlunge, A. N. 2014. The New Dispensation Governing the Collection of Value Added Tax on Electronic Commerce Supplies in South Africa. Cape Town: University of Cape Town.

(Master's thesis).

Markus, J. 2016. What is B2B Ecommerce. <https://www.oberlo.com/ecommerce-wiki/b2b> (Date of

access : 25 Sept. 2019).

McKenzie, B. 2018. The Broadening of the VAT Base for E Commerce.

<https://www.bakermckenzie.com/en/insight/publications/2018/03/broadening-of-the-vat-base-for-electronic> (Date of access: 25 Sept. 2019).

McKerchar, M. 2008. Philosophical Paradigms, Inquiry Strategies and Knowledge Claims: Applying the Principles of Research Design and Conduct to Taxation. *eJournal of Tax Research*,

6(22). <http://classic.austlii.edu.au/au/journals/eJITaxR/2008/1.html> (Date of access: 7 Sept. 2017).

Millar, R. 2007. Time is of the essence:supplies, grouping schemes and cancelled transactions.

Journal of Australian Taxation, 7(2).

http://www.google.co.za/url?sa=t&source=web&rct=j&url=http://jausttax.com.au/Articles_Fre_e/JAT%2520Volume%252007,%2520Issue%25202%2520-%2520Millar.pdf&ved=0ahUKEwimql2M0KHfVQCHsQFggjMAE&usq=AOvVaw2eDUfmD87

R2qo044ehzAoT (Date of access: 20 Oct. 2017).

Moyo, A. 2016. SA faces tighter cross-border transaction controls.

http://www.itweb.co.za/index.php?option=com_content&view=article&id=149780 (Date of access: 1 Oct. 2019).

Mphela, M. 2019. New regulations imposing VAT on electronic services in South Africa.

<https://www.rsm.global/southafrica/news/new-regulations-imposing-vat-electronic-services-south-africa> (Date of access: 24 Sept. 2019).

Mukwende, B. 2015. New e-commerce VAT directives.

<https://www.derebus.org.za/new-e-commerce-vat-directives/> (Date of access: 18 Oct. 2017).

Musgrove, A. 2019. How does the reverse charge mechanism work?. <https://quaderno.io/blog/how-does-the-reverse-charge-mechanism-work/> (Date of access: 5 Oct. 2019).

National Treasury. 2014. Press Release Final Electronic Service Regulation Published.

http://www.treasury.gov.za/comm_media/press/2014/2014032801%20-%20Press%20Release%20-%20Electronic%20Services%20Regulations.pdf (Date of access: 21 Oct. 2017).

National Treasury. 2019. Regulations Prescribing Electronic Services for the Purposes of the

Regulations prescribing electronic services for the purpose of the definition of “electronic services” in section(1) of the value-added tax act, 199. (Date of access: 16 Sept. 2019).

Neuman, W.L. 2006. Social Research Method: Qualitative and Quantitative Approaches. 6 Edition
Boston: Pearson

New Zealand. Inland Revenue Teri Take Taari. 2015. GST: Cross Border services, intangibles and goods. <https://taxpolicy.ird.govt.nz/sites/default/files/2015-dd-gst-cross-border.pdf>. (Date of access: 10 March 2020).

New Zealand. 2016. The Goods and Services Tax Act 1985 No 141.

New Zealand. 2017. The Goods and Services Tax Act 1985 No 141.

New Zealand. New Zealand Law Commission. 1998. Electronic commerce: Part One: A guide for the legal and business community. (Date of access: 15 Oct. 2019).

New Zealand. Inland Revenue Teri Take Taari, 2019a, Appendix 1 - Size and importance of the digital economy. <http://taxpolicy.ird.govt.nz/publications/2019-dd-digital-economy/appendix-1>. (Date of access: 6 Oct 2019).

New Zealand. Inland Revenue Teri Take Taari. 2019b. GST Guide Working with GST.

<https://www.ird.govt.nz/-/media/Project/IR/PDF/IR375.pdf>. (Date of access: 10 Mar. 2020).

New Zealand. Inland Revenue Teri Take Taari. 2020. Supplying of Remote Services to New

Zealand. <https://www.ird.govt.nz/gst/gst-for-overseas-businesses/supplying-remote-services-into-new-zealand> (Date of access: 10 Mar. 2020).

- OECD. 2001. Taxation and Electronic Commerce. Implementating the Ottawa Taxation Framework Conditions.
<https://www.oecd.org/tax/consumption/Taxation%20and%20eCommerce%202001.pdf> (Date of access: 12 Sept. 2019).
- OECD. 2002. Measuring the information economy: Annex 4 The OECD definitions of Internet and ecommerce transactions. <https://www.oecd.org/internet/ieconomy/2771174.pdf> (Date of access: 25 Sept. 2019).
- OECD. 2003a. Implementation of the Ottawa taxation framework conditions: the 2003 report. [Online] Available from:
<http://www.oecd.org/tax/consumption/Taxation%20and%20eCommerce%202001.pdf> (Date of access: 1 Sept. 2019).
- OECD. 2003b. Implementation issues for Taxation of Electronic Commerce.
<http://www.oecd.org/tax/consumption/5594899.pdf>. (Date of access: 20 Oct. 2019).
- OECD. 2013. Action Plan on Base Erosion and Profit Shifting.
<https://www.oecd.org/ctp/BEPSActionPlan.pdf>. (Date of access 10 Mar. 2020).
- OECD. 2014. Addressing the tax challenges of the digital economy. <https://www.oecd.org/ctp/tax-challenges-digital-economy-discussion-draft-march-2014.pdf> (Date of access: 24 Sept. 2019).
- OECD. 2015. OECD 2015 International VAT/GST Guidelines.
<https://www.oecd.org/tax/consumption/international-vat-gst-guidelines.pdf> (Date of access: 24 Sept. 2019).
- OECD. 2017a. Membership and Partners. <https://www.oecd.org/about/members-and-partners/> (Date of access: 20 Oct. 2019).
- OECD. 2017b. International VAT/GST Guidelines. Paris: OECD Publishing.
- OECD. 2017c. Mechanism for the effective collection of VAT/GST when the supplier is not located in the jurisdiction of Taxation © OECD 2017. <http://www.oecd.org/tax/tax-policy/mechanisms-for-the-effective-collection-of-VAT-GST.pdf> (Date of access: 12 Nov. 2019).
- OECD. 2018a. South Africa and the OECD. <https://www.oecd.org/southafrica/south-africa-and-oecd.htm> (Date of access 18 Sept. 2019).
- OECD. 2018b. Consumption Tax Trends 2018. <https://www.oecd.org/tax/consumption-tax-trends-19990979.htm> (Date of access: 10 Mar. 2020).
- OECD. 2019. Role of digital platforms in the collection of Vat/Gst on online sales as presented for consideration at the fifth meeting of the Global Forum on VAT.
<http://www.oecd.org/tax/consumption/the-role-of-digital-platforms-in-the-collection-of-vat-gst-on-online-sales.pdf> (Date of access: 21 Oct. 2019).

OXFORD. 2015. Oxford Reference.

<http://www.oxfordreference.com/view/10.1093/acref/9780199568758.001.0001/acref-9780199568758-e-2215> (Date of access: 7 Sept. 2017).

Patel, S. 2015. The research paradigm – methodology, epistemology and ontology – explained in simple language. <http://salmapatel.co.uk/academia/the-research-paradigm-methodology-epistemology-and-ontology-explained-in-simple-language> (Date of access: 24 Jul. 2017).

PWC. 2016. GST Direct: Bringing you the latest GST and Customs developments. <https://www.google.co.za/url?sa=t&source=web&rct=j&url=https://www.pwc.co.nz/pdfs/GST-Direct-September-2016.pdf&ved=0ahUkewi01LCprk3XahuhsQKHSMEB584chAWCCEwAA&uqs=AOvVaw34j029hs9UYxzt42Ma-c6> (Date of access: 7 Nov. 2017).

PWC. 2019. VAT on the supply of electronic services: release of regulations. <https://www.pwc.co.za/en/assets/pdf/taxalert/vat-alert-ess-regulations.pdf> (Date of access: 10 Mar. 2020).

Rorty, R. 1990. Objectivity, relativism, and truth: Philosophical Papers (Philosophical Papers(Cambridge)) (Volume 1), United Kingdom: Cambridge University Press.

Rouse, M. 2016. e-commerce (electronic commerce or EC). <http://searchcio.techtarget.com/definition/e-commerce> Date of access: 20 Sept. 2019.

Rouse, M. 2019. E-commerce (electronic commerce). <https://searchcio.techtarget.com/definition/e-commerce> (Date of access: 25 Sept. 2019).

RSM. 2017. GST and Cross Border Services. <https://www.rsm.global/newzealand/news/gst-and-cross-border-services> (Date of access: 12 Nov. 2019).

RSM. 2018. New Zealand's GST for electronically supplied services. <https://rsmus.com/what-we-do/services/tax/indirect-tax/global-indirect-tax/digital-services/new-zealand-digital-services-gst.html> (Date of access: 12 Nov. 2019).

Schenk, A. & Oldman, O. 2007. Value Added Tax (a Comparative Approach). London, Ldn: Cambridge University Press. <https://www.scribd.com/document/44380191/Value-Added-Tax-and-a-Comparative-Approach-2007-Alan-Schenk-Oliver-Oldman> (Date of access: 15 Oct. 2016).

Schneider, F. 2016. Taxation and the Exponential Growth in E-commerce. <https://www.bdo.co.za/en-za/insights/2016/tax/taxation-and-the-exponential-growth-in-e-commerce> (Date of access: 6 Oct. 2019).

Smith, C. 2017. SA e-commerce growing by leaps and bounds. <http://searchcio.techtarget.com/definition/e-commerce> (Date of access: 18 Sept. 2017).

Sonnenberg, EN. 2006. Value-added Tax 1471. Imported services December 2006 – Issue 88. https://www.saica.co.za/integritax/2006/1471_Imported_services.htm (Date of access: 11 Oct. 2017).

- South Africa. 1991. South African Value-Added Tax Act 89 of 1991.
- South Africa. South African Revenue Service (SARS). 2016. SARS Strategic Plan 2016/17 – 2020/21. Pretoria.
- South Africa. South African Revenue Service (SARS). 2017a. VAT. Pretoria.
- South Africa. South African Revenue Service (SARS). 2017b. VAT. <http://www.sars.gov.za/TaxTypes/VAT/Pages/default.aspx> (Date of access: 5 Oct. 2017).
- South Africa. South African Revenue Services (SARS), 2019. External Guide Foreign Supplier of Electronic Services. <https://www.sars.gov.za/AllDocs/OpsDocs/Guides/VAT-REG-02-G02%20-%20Foreign%20Suppliers%20of%20Electronic%20Services%20-%20External%20Guide.pdf> (Date of access: 10 Mar. 2020).
- Statista. 2020. eCommerce - South Africa: Statista Market Forecast <https://www.statista.com/outlook/243/112/ecommerce/south-africa> (Date of access: 10 Mar. 2020).
- Temkin, S. 2018. Extensive Reform for Suppliers of Electronic Services. <https://www.pwc.co.za/en/press-room/extensive-reform-for-suppliers-of-electronic-services--0.html> (Date of access: 12 Nov. 2019).
- Thabit, S. 2018. An evaluation on the South African Value Added Tax on electronic goods and services. Pretoria: UP. (Thesis - Masters).
- Terblanche, V. 2018. RE: Annexure C Proposals for Budget 2018: Value- Added Tax. https://cdn.ymaws.com/www.thesait.org.za/resource/resmgr/2017AnnexC/SAIT_2018_Annex_C_-_5_-_Valu.pdf (Date of access: 21 Oct. 2019).
- Tucker, K. 2017. E-commerce trends to hit SA in 2017. <https://www.itnewsafrika.com/2017/01/e-commerce-trends-to-hit-sa-in-2017/> (Date of access: 19 Sept. 2017).
- Vanmali, C. & Grimm, W. 2017, Vat and e commerce, SA falls behind ;stays behind <https://www.itweb.co.za/content/WKBpdg7pX617LEew> (Date of access: 15 Sept. 2019).
- Walpole, M. & Stiglingh, M. 2016. Untangling the World Wide VAT Web on digital supplies. www.up.ac.za/Files/2016/Papers (Date of access: 6 Oct. 2017).
- Whitton, N.J. 2007. An investigation into the potential of collaborative computer game-based learning in Higher Education. Napier University (Doctoral thesis).