

– Final mini-dissertation –

ARE TAX PENALTIES EFFECTIVE IN COMBATTING TAX AVOIDANCE?

by

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ABSTRACT

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Background: Tax avoidance is a prevalent issue that perplexes many governments, policy makers and revenue collection authorities across the globe. Tax avoidance is the legal exploitation of loopholes in tax laws and the abuse of tax benefits intended for other purposes. Excessive and impermissible tax avoidance constrains a government's capacity to deliver public goods, services and programmes to the broader public.

Various measures have been implemented over time to curb this unwanted behaviour. Examples of these measures include tax reforms and the introduction of general and specific anti-avoidance rules and penalties. This study focusses on the effectiveness of the use of penalties as a measure to combat tax avoidance, firstly at a global level and then centred on South Africa.

Main purpose of study: This study aims to provide a systematic review on the opinion of academic literature globally regarding the effectiveness of tax penalties in combatting tax avoidance and to make recommendations on the implementation of penalties in South Africa.

Method: Relevant literature was identified from high quality sources and analysed according to predetermined criteria. A brief overview of the literature was performed and findings were presented and discussed. Conclusions regarding the effectiveness of tax penalties were drawn and, where applicable, recommendations were made for the implementation of penalties in South Africa

Results: The opinion in academic literature regarding the effective use of penalties to combat tax avoidance is varied. Penalties by themselves are rarely regarded as an effective measure to reduce tax avoidance. In this regard, various factors exist that influence the ability of a penalty to affect real change in taxpayer behaviour and reduce unwanted tax avoidance.

Conclusions: South Africa has implemented tax penalties, in accordance with global norms, to combat unwanted tax avoidance. By focussing on other factors that, in combination with tax penalties, make these tax penalties more effective, greater change in taxpayer behaviour can be achieved. The existing penalties would therefore not need to be changed to be more effective but additional measures should also be taken to change taxpayer behaviour.

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KEY TERMS

Table 1: Key terms used in the study

<u>Key term</u>	<u>Description</u>
Tax planning	The legal use of provisions in the tax system to one's own advantage to minimise the liability of tax due in accordance with these laws (Frecknall-Hughes & Kirchler, 2015).
Tax avoidance	Exploiting loopholes in a tax system and abusing incentives imposed by tax laws for other than the intended purpose (Christians, 2014).
Tax evasion	Not disclosing all of one's income and ignoring the tax liability due on this income (Holderness, 2017).
Tax compliance	The punctual reporting of income and other related information, the correct calculation of tax liability due and the timely settlement of this liability (Doran, 2009).
Taxpayer behaviour	The conduct of a person or entity that is liable to pay tax in relation to its perception and attitude towards the relevant tax system (Gemmel & Ratto, 2018).

LIST OF ABBREVIATIONS AND ACRONYMS

Table 2: Abbreviations and acronyms used in the study

<u>Abbreviation/Acronym</u>	<u>Meaning</u>
ATO	Australian Tax Office
IRS	Internal Revenue Service
ITA	Income Tax Act, No. 58 of 1962
OECD	Organization for Economic Co-operation and Development
SARS	South African Revenue Service
TAA	Tax Administration Act, No. 28 of 2011

CHAPTER 1

Introduction and project overview

1 CHAPTER 1 – INTRODUCTION AND PROJECT OVERVIEW

1.1 RATIONALE / MOTIVATION FOR THE RESEARCH

Taxes have been imposed since the first civilisations started to emerge (Wilner, Profeta & Hettich, 2013). Avoidance of these taxes is similarly a practice that has been pursued in early civilisations, as can be seen in Jesus’s conversation with the Pharisees in Matthew 22:17-21 (Bible, 1995). The following three terms are normally used to categorise tax avoidance. *Tax planning* is described as the legal use of provisions in the tax system to one’s own advantage to minimise the liability of tax due in accordance with these laws (Frecknall-Hughes & Kirchler, 2015). *Tax avoidance* is described as the exploitation of loopholes in a tax system and abuse of the incentives imposed by tax laws for other than the intended purpose (Christians, 2014). *Tax evasion* is described as not disclosing all of one’s income and ignoring the tax liability due on this income (Holderness, 2017).

In a landmark case, *Inland Revenue Commissioners v. Duke of Westminster*, 1936 (1) A.C. 1 (19 TC 490), Lord Tomlin, however, provided additional factors to consider when dealing with tax avoidance:

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

This statement was viewed favourably by those seeking to avoid tax legally (Duff, 2009). More recently, tax avoidance by corporates can be seen as a way to increase shareholder value by reducing costs (Huysenov & Klamm, 2012). Non-corporates on the other hand attempt to reduce their tax liability to increase their disposable income (Slemrod & Yitzhaki,

2002). The negative effect of this tax avoidance is that it reduces a government's capacity to perform on its mandate of delivering goods, services and programmes to the public (Huysenov & Klamm, 2012).

Shortfall in public revenue collection due to tax avoidance is a global issue and South Africa is not excluded from this phenomenon. During the 2018 Budget Speech, delivered by the South African Minister of Finance, it was noted that personal income taxes collected amounted to twenty-one billion rand less than what was budgeted for in 2017 (National Treasury, 2018). National Treasury (2018) attributed some of this shortfall to tax avoidance in response to previously enacted tax increases.

In an attempt to reduce these shortfalls, governments impose various measures to reduce tax avoidance and ensure that sufficient tax is collected in order to deliver on their required mandate (National Treasury, 2018). Some of these measures include the use of general and specific anti-avoidance rules. South Africa, like its international counterparts, uses a General Anti-Avoidance Rule (GAAR) to combat tax avoidance, as well as various specific anti-avoidance rules. Previously the GAAR was contained in section 103(1) of the Income Tax Act, 1962 (Act No. 58 of 1962) (ITA). This rule, however, contained inherent weaknesses (Kujinga, 2014) and as a result of its amendment is now contained in sections 80A to 80L of the ITA.

Even after its amendment, the GAAR still did not prove to be effective in combatting tax avoidance (Kujinga, 2014), and policymakers investigated further methods to aid in this regard. One such measure was the introduction of the Tax Administration Act, 2011 (Act No. 28 of 2011) (TAA) that was promulgated a year prior to its implementation on 1 October 2012. The TAA introduced the imposition of administrative non-compliance penalties and understatement penalties (SARS, 2011). These penalties are triggered by behaviours ranging from once-off understatements to obstructive or repeated cases of intentional tax evasion (SARS, 2018). The penalties are imposed to increase the cost of non-compliance and to scare taxpayers from opportunistically avoiding taxes with no consequences other than receiving an adjusted assessment.

For tax penalties to have an impact on taxpayer behaviour they should be effective (Coder, 2012). Tax penalties may be ineffective if they are too complex, are circumvented easily or are not severe enough to change taxpayer behaviour. For penalties to be effective, it is vital that they adhere to the following international best practices (SARS, 2018):

- Easily understood: taxpayers must be able to easily understand and apply penalties.
- Certainty: the possibility of being discovered and penalised must be a consideration for the taxpayer.
- Discretionary judgement: judgement must only be required where non-compliance is due to negligence or intent.

The measures imposed by government, whether anti-avoidance rules or penalties, have not always been as effective as planned (Liptak, 2016). This phenomenon is not only seen in South Africa but occurs across the globe. It is such a prevalent problem that the Organisation for Economic Co-operation and Development (OECD) launched a multilateral instrument known as Base Erosion and Profit Shifting that came into force in July 2018 to curb tax avoidance at an international level (OECD, 2019).

In spite of this, the frustrations experienced by governments with regard to the ineffectiveness of tax penalties are increasing. The impact of behavioural economics on the improvement of tax policies is therefore increasingly researched in academic literature (Doran, 2009; Phillips, 2014; Slemrod, 2018; Lederman, 2018). The potential for behavioural research to aid in better tax collection has not been studied to the same extent (Walsh, 2012; Devos 2012; Thomas 2015). Little research has been done relating to tax penalties and their effectiveness in combatting tax avoidance in South Africa, particularly from the perspective of behavioural economics.

This study aims to determine the effectiveness of tax penalties in changing taxpayer behaviour and combatting tax avoidance. Through a systematic review, the findings of academic literature will be analysed to ascertain the effectiveness of tax penalties globally. These global experiences may be useful for consideration in the South African context, in order to determine the effectiveness of the use of penalties in combatting tax avoidance.

1.2 PROBLEM STATEMENT

Tax penalties have been the subject of various studies globally and across various disciplines (Devos, 2009; Field, 2017; Frecknall-Hughes & Kirchler, 2017; Raskolnikov, 2009; Thomas, 2015). The opinion relating to the effectiveness of tax penalties is particularly important, especially in an environment like South Africa where tax penalties have only been implemented since 2011 (SARS, 2011).

An argument can be made that an effective threat of punishment, i.e. tax penalties, should prevent unwanted behaviour, i.e. tax avoidance and non-compliance (Doran, 2009; SARS, 2018). Alternative arguments, however, indicate that penalties are not an effective method to change taxpayer behaviour and combat tax avoidance (Devos, 2012) and that other factors have a larger impact on these behaviours (Thomas, 2016).

The problem is that recently there has been an increase in South Africa's tax shortfall (National Treasury, 2018). In addition to this, there are multiple underperforming state-owned enterprises with high levels of debt and plagued by corruption that require government support, which places a large demand on the government's revenue (Van Zyl, 2019). The South African government therefore needs to collect all the revenue it is entitled to in order to keep up with these demands and avoid a further downgrade of its current credit rating (Khumalo, 2017). Using the arguments from literature, the study will contribute to the existing corpus of knowledge by researching if the use of penalties is effective in combatting tax avoidance and what other factors should be considered for ensuring the effectiveness of tax penalties.

1.3 RESEARCH QUESTION

The non-empirical meta-analytical research question investigated in this study can be stated as follows: "Are tax penalties effective in combatting tax avoidance?"

1.4 RESEARCH OBJECTIVES

To address the research problem and answer the question above, the research activities in this study will be directed by the following objectives:

- to identify, record and systematically analyse the academic literature related to tax penalties and the impact they have on tax avoidance and taxpayer behaviour;
- to assess the quality of journals in which the academic articles are published by using the list of the Australian Business Deans Council (ABDC) and the lists of accredited journals published by the Department of Higher Education and Training (DHET) as criteria for this assessment;
- to discuss and present the results from the previous studies and to draw conclusions based on this review; and
- to make recommendations regarding the effective implementation of tax penalties in South Africa (if any).

1.5 STRUCTURE OF MINI-DISSERTATION

The outcomes of this study are presented in the format of a mini-dissertation. The structure of the dissertation is described below.

1.5.1 Chapter 1: Introduction and project overview

The first chapter provides a meticulous summary of the background of the research topic. This is followed by a clarification of the purpose of the study, identifying the knowledge gap and the objectives that will be achieved through this study. In addition, the chapter expands on the theory behind the research design and methodology.

1.5.2 Chapter 2: Method for conducting the systematic review

Chapter 2 explains the theory behind each research element and applies it to the current study. A motivation for the use of a systematic review as a methodology follows and a discussion as to why it is appropriate for the current study is provided. The chapter further

expands on the process undertaken to identify and record the academic literature for purposes of this systematic review. The inclusion and exclusion criteria, keywords used, and databases accessed during the study are clearly articulated.

1.5.3 Chapter 3: Literature review

Chapter 3 contains a concise synthesis of the literature reviewed in this study. Conclusions are drawn from the literature reviewed as part of this systematised review to ensure that the research question is answered.

1.5.4 Chapter 4: Analysis of data & findings

In chapter 4, the identified literature is systematically analysed according to various elements. The quality of the journals where this literature was sourced, is also assessed. The preliminary findings of the systematic analysis are summarised, and the ethical principles applied during this study are addressed.

1.5.5 Chapter 5: Conclusion

The last chapter concludes the study by reflecting on how the research question was answered and the predetermined objectives were met. It identifies the limitations experienced during the study and sets out recommendations for possible further research.

CHAPTER 2

Method for conducting the systematic review

2 CHAPTER 2 – METHOD FOR CONDUCTING THE SYSTEMATIC REVIEW

2.1 INTRODUCTION

This chapter clarifies the research design and methodology adopted to achieve the research objectives. The individual research design elements are explained and applied to the methodological approach as adopted in this study, whilst also providing a motivation for the use of a systematic review. Lastly, the process used to identify and record the academic literature used in this study is explained.

2.2 RESEARCH DESIGN ELEMENTS

Research design is the overall strategy used to integrate the various components of the study in a logical and comprehensible way to ensure that the research objectives are effectively met (De Vaus, 2001). The research strategy employed in this study is that of a systematic review. A systematic review strategy is one that attempts to answer a question by systematically examining literature selected using predetermined criteria (Gough *et al.*, 2017). The four key activities for a systematic review as set out by Gough *et al.* (2017) are discussed, namely: defining the research question (refer to 1.3 above), classifying the identified literature in accordance with design elements, synthesising the findings of the research, and applying the evidence reviewed to the research question.

In light of the above, it is necessary to understand the elements relating to research design that will aid in the classification of the literature selected. These elements include: the philosophical stance, the nature of the study, the method of reasoning, the time horizon, the unit of analysis and the nature of the data. Each of these elements are explained below and will be applied to the literature reviewed in chapter 3.

2.2.1 Philosophical stance

The philosophical question asked is whether research can be conducted accurately when human perceptions and feelings are involved in the research process (Saunders, 2015). Sekaran and Bougie (2016) describe the four most important broad categories with regard to philosophical stance. Each of these is discussed below.

2.2.1.1 Theory of research design element

Positivism is the belief that there is an objective truth that can be measured objectively, independent of human influence (Miller & Brewer, 2003). Data is collected by scientific observation without the influence of human intervention (Patton, 2015). Positivists generalise findings after searching for the cause and effect of relationships (Sekaran & Bougie, 2016).

Realism is the belief that there is an objective truth, but that it cannot be measured objectively as observations are subject to interpretation (Patton 2015). Data is believed to be objective, but the collection thereof is imperfect as it is subjected to human bias and emotions (Miller & Brewer, 2003). Realists strive to progress towards the truth but believe it impossible to be reached (Sekaran & Bougie, 2016).

Interpretivism or *constructionism* is the belief that there is a subjective truth that cannot be measured objectively but rather through social constructs (Sekaran & Bougie, 2016). Data is obtained by interpreting people's experiences and views of particular circumstances (Patton, 2015). Interpretivists usually do in-depth studies on smaller data samples to gain a better understanding of the human element in the research (Sekaran & Bougie, 2016).

Pragmatism is the belief that good research results can be obtained from both objective observation and subjective interpretation, depending on the research question (Miller & Brewer, 2003). The result of a pragmatic study is believed to be provisional – it may change as time moves on (Patton, 2015). Pragmatists focus on practical relevance to solve problems (Sekaran & Bougie, 2016).

2.2.1.2 *Research design element as applicable to this study*

The current research study relates to the effectiveness of tax penalties in combatting tax avoidance. Tax avoidance is an unwanted human behaviour that lawmakers may try to reduce by implementing various tax penalties (Liptak, 2016). This study can therefore not be performed from a philosophical stance of positivism or realism as there is a significant element of human behaviour relevant to the findings. On the other hand, the research is not based purely on people's subjective experiences and views and therefore interpretivism is not an appropriate philosophical stance for this study either. Since the current study analyses previous research and draws relevant conclusions on the findings, the philosophical stance adopted will be one of pragmatism.

2.2.2 **Nature of the study**

A causal study, a descriptive study and an exploratory study are the three subdivisions with regard to classifying the nature of a study. Each of these is described in brief below.

2.2.2.1 *Theory of research design element*

Causal studies focus on analysing the relationship of variables that are causing the problem (Datt, 2016). This type of study is usually done in two phases: a literature review is done to determine the cause, followed by a quantitative study to determine the effect (Sekaran & Bougie, 2016).

Descriptive studies focus on describing the characteristics of existing subjects, events or situations (Datt, 2016). This type of study requires an understanding of the characteristics of the phenomenon, a systematic description of the observations and suggestions for future research (Sekaran & Bougie, 2016).

Exploratory studies focus on investigating new phenomena or doing exploratory research where not much information is available on the phenomena (Datt, 2016). This type of study aims to gain an understanding of the missing data by obtaining preliminary research that

has already been done on the phenomena, followed by qualitative research to develop a theory or a model (Sekaran & Bougie, 2016).

2.2.2.2 Research design element as applicable to this study

Tax penalties are not a new phenomenon in the global environment, although they have been reformed and enhanced over time (Kujinga, 2014). An exploratory study would therefore not be appropriate in this case. The current study analyses factors that influence the effectiveness of tax penalties and could therefore include some elements of a causal study. However, the main objective of the study is to determine if tax penalties are an effective means to combat tax avoidance. Therefore, this study may be classified as descriptive in nature as characteristics of tax penalties, an already researched subject, will be described.

2.2.3 Method of reasoning

The method of reasoning refers to the approach used to set out explanations and draw conclusions in a study. Sekaran and Bougie (2016) expanded on the three different methods used in contemporary research. Each of these is explained in brief below.

2.2.3.1 Theory of research design element

Inductive reasoning is applied when generating a new theory (Msweli, 2011). A conceptual framework is used to observe a phenomenon after which a theory can be generated from the findings of the research (Patton, 2015). Specific observations are made to draw a general conclusion (Sekaran & Bougie, 2016).

Deductive reasoning is applied when testing an existing theory (Msweli, 2011). A theoretical framework is formulated and applied empirically to prove or disprove a hypothesis (Msweli, 2011). The researcher starts with a general concept and aims to refine it to a specific concept (Sekaran & Bougie, 2016).

Abductive reasoning is a combination of the two previously mentioned methods (Msweli, 2011). A new theory is generated to explain why a certain phenomenon exists (Sekaran & Bougie, 2016). This theory is then tested, and a conclusion is reached from research findings (Sekaran & Bougie, 2016).

2.2.3.2 *Research design element as applicable to this study*

In this study, academic literature is analysed to determine if tax penalties are effective in combatting tax avoidance and what factors should be considered for purposes of ensuring the effectiveness of tax penalties. Deductive reasoning would therefore be an appropriate method of reasoning for this study.

The theory of whether tax penalties are effective in combatting tax avoidance is not new. Therefore, inductive reasoning would not be an appropriate method for this study. Neither is a new theory being generated and tested, and therefore abductive reasoning would not be applicable in this study.

2.2.4 **Time horison**

The time horison of research relates to the period over which the data is collected for a specific study (Saunders, 2015). There are two different methods of collecting data, as set out by Sekaran and Bougie (2016), which will be discussed below.

2.2.4.1 *Theory of research design element*

A *cross-sectional study* observes a particular phenomenon at a particular point in time (Booth *et al.*, 2016). Data is collected at this specific once off point in time (Sekaran & Bougie, 2016), which facilitates the comparison of other variables since the research time frame remains constant. (Sekaran & Bougie, 2016).

A *longitudinal study* observes a particular phenomenon over a period of time (Booth *et al.*, 2016). Data is collected at various points during this period. Time is therefore a variable in this type of study (Sekaran & Bougie, 2016).

2.2.4.2 Research design element as applicable to this study

While the period for inclusion of literature in this study spans the years 2009–2019, the objective of the study is to gain an understanding of the current opinion in available literature. The data was not collected over the last decade; therefore the time horizon is not considered to be longitudinal.

The data was rather collected at a specific point in time in order to gain an understanding of the current opinion in literature. Time is therefore not a variable that is considered to have an impact on the effectiveness of tax penalties. Even though the identified literature has been selected from the last decade, this study takes place at a specific point in time. Therefore, the time horizon for this study is cross-sectional.

2.2.5 Unit of analysis

The unit of analysis refers to the “who” or “what” that is being researched. The research question drives the level of aggregation of data required and therefore determines the unit of analysis. Thus the research question will determine at which level of detail data must be collected to ensure the question is answered at the appropriate level (Sekaran & Bougie, 2016).

2.2.5.1 Theory of research design element

The unit of analysis will vary from study to study. Any of the following could constitute the unit of analysis in a study: individuals, groups, literature (for example articles or reports), spatial units (for example cities, provinces or countries), or social observations (for example how people interact with each other or react to certain occurrences) (Patton, 2015).

2.2.5.2 Research design element as applicable to this study

The unit of analysis is driven by the research question and is aggregated at the appropriate level to address the research objectives. The unit of analysis refers to the major entity that

is analysed in a study. Therefore, academic literature relating to the effectiveness of tax penalties is the unit of analysis in this study.

2.2.6 Nature of the data

The nature of the data comprises the source and the type of data. The source refers to the source from where the data was obtained, while the type of data can be differentiated into numerical data and narrative data. Each of these is discussed in brief below.

2.2.6.1 Theory of research design element

Primary sources of data are original sources documenting data gathered first-hand from an actual occurrence or event. Such data has not been collected previously (Patton, 2015). Examples of these sources include surveys, observations, interviews and experiments (Sekaran & Bougie, 2016). *Secondary sources* of data are used when data is gathered from existing sources of information (Patton, 2015). Examples of these include research articles, library records and online data (Sekaran & Bougie, 2016).

Quantitative data refers to numerical, structured data that may be analysed statistically (Patton, 2015). *Qualitative data* refers to non-numerical, unstructured data (including words and pictures) obtained from, for example, observations and interviews (Sekaran & Bougie, 2016).

2.2.6.2 Research design element as applicable to this study

The purpose of this study is not to generate new data by testing the effectiveness of tax penalties in South Africa, but rather to present the findings of relevant, existing academic literature. Therefore, only secondary data, in the form of academic literature, was included in this study and conclusions were drawn from these. Further, the findings of this study are considered qualitative as they will not be presented numerically for the purposes of statistical analysis.

2.3 SYSTEMATIC REVIEW

The research methodology adopted in this study is that of a systematic review. The objective is to provide an exhaustive summary of the reviewed literature by following a set of procedures. Firstly, the research question is clearly defined. Secondly, a set of pre-determined criteria is used to search for data that is relevant to the field of study that is under review. Thirdly, the identified data is assessed for quality and credibility. Lastly, the data is synthesised in an orderly and understandable manner in order to draw conclusions.

2.3.1 Motivation

A systematic review as a research methodology has become increasingly popular (Gough *et al.*, 2017) and is “...one of the most widely used types of review” (Samnani *et al.*, 2017). Grant & Booth (2009) describes a systematic review as “the best-known type of review”.

This study aims to gain an understanding of the current state of academic literature relating to the effectiveness of tax penalties in combatting tax avoidance. The more literature that can be included in the study, the more comprehensive the knowledge and insight will be. Should a single study be analysed in isolation, it would not be possible to obtain a comprehensive overview of current research relevant to a specific topic and therefore findings would not be appropriate and unbiased (Ten Ham-Baloyi & Jordan, 2016). A systematic review is therefore ideal to appraise and synthesise the vast amount of literature by systematically analysing sources and presenting conclusions based on this process.

By following this rigorous process of critical and systematic evaluation of the identified literature, inconsistencies can be identified and recommendations for future research can be made to close any knowledge gaps that might exist in the literature (Petticrew & Roberts, 2008).

2.3.2 Explanation

A systematic review is an evaluation and combination of research evidence using a clearly documented methodology (Booth *et al.*, 2016). The transparency of the process and

decisions allow for the review to be reperformed and reduce bias in the findings (Gough *et al.*, 2017). Grant & Booth (2009) have identified that the strengths and weaknesses of a systematic review include the following:

Strengths:

- A large volume of knowledge on a specific topic or research area is summarised.
- The quality of the research data is assessed to ensure the relevance and credibility of conclusions drawn.
- The research problem is approached in an orderly and systematic way that is easy to follow and reperform.

Weaknesses:

- Even though literature is selected based on predetermined criteria, excluding literature for relevance is subjective and therefore this method contains selection bias.
- As no new data is generated, the unknown remains uncertain and no conclusions about it can be drawn.
- Using only a single method in a study could be restrictive to the overall scope of the research.

In addition to the above, the characteristics of a systematic review have been summarised by Higgins & Green (2008). A systematic review is:

- a clearly stated set of objectives with pre-defined eligibility criteria for studies;
- an explicit, reproducible methodology;
- a systematic search that attempts to identify all studies that would meet the eligibility criteria;
- an assessment of the validity of the findings of the included studies; and
- a systematic presentation and synthesis of the characteristics and findings of the included studies.

These characteristics are present throughout the current study. The research question is provided in section 1.3 and the research objectives are presented in section 1.4. The process of identifying and recording the academic literature, based on predetermined

criteria, is included in section 2.4. Section 4.3 sets out the credibility and quality assessment performed on the reviewed literature. Chapter 5 presents the synthesis of the literature and the conclusions drawn based on the objectives of this study.

2.4 IDENTIFICATION AND RECORDING OF ACADEMIC LITERATURE

Given the nature of the study and the ever-changing tax climate, it is important to be specific about the process that was followed in identifying and recording the academic literature to be researched. This section aims to set out the systematic review process used to identify and record academic research articles relevant to the effectiveness of tax penalties in combatting tax avoidance. It further aims to describe the sources, criteria and keywords used to ensure that only relevant and topical literature is used in this review.

2.4.1 Databases and information sources

Only academic research articles were considered for inclusion in this systematic review. This was done to ensure that the literature included is of the highest quality. A two-step process was followed to perform this review. Firstly, a search was performed using Google Scholar, accessed via the Department of Library Services of the University of Pretoria. This search was conducted by using key word searches (discussed in section 2.4.3 below). Secondly, where access to the identified article could not be gained through Google Scholar the search was conducted on the EBSCOhost and ProQuest databases to obtain access.

- EBSCOhost is an intuitive online research platform with quality databases and search features (EBSCOhost Platform, 2019).
- ProQuest provides a single source of journals, reports, papers and books. Renowned tools make this information easily navigable and simplify management of research (ProQuest, 2019).

Google Scholar, EBSCOhost and ProQuest are well recognised sources of academic literature that were relied upon to ensure that sources and related findings are credible and of a high quality.

2.4.2 Inclusion and exclusion criteria

In order to ensure that the most relevant academic literature was included in this systematic review, only literature published over the last decade (2009–2019) were considered for selection. After selecting literature from this decade, keywords were used to identify the most suitable literature for consideration, and, following the keyword search, a three-step method was employed to select literature most relevant to this review. Firstly, the *title* was used to determine the relevancy via the use of keywords. Secondly, an analysis of the abstract was performed to ascertain the purpose, strategy and conclusion of the identified literature. Lastly, the introduction was analysed to identify the research objective or the problem statement of the literature.

To ensure that accurate and high-quality literature was considered for this review, only peer reviewed, academic articles were used. Peer-reviewed articles are critiqued by experts in the relevant field of study and the inclusion of these articles enhances the credibility of the study. The quality of the articles was measured using the ABDC and Scopus lists. Preference was given to articles published in higher rated journals or articles that appear on these lists.

The criteria described above are summarised in table 3 below:

Table 3: Inclusion and exclusion criteria

Criteria	Description
Databases	Literature contained in Google Scholar, EBSCOhost and ProQuest.
Keywords	“tax penalties”, “tax avoidance”, “taxpayer behaviour” and “tax compliance”.
Time of publication	Literature published between 2009 and 2019.
Quality	Only articles listed on the ABDC list or the lists accredited by the Department of Higher Education were considered.
Peer-reviewed literature	Only literature that was peer reviewed was included.
Title	Only literature of which the titles were indicative of relevance to the topic of this systematic review was included.

Abstract	Only literature of which the abstracts showed a purpose and strategy considered to fall within the scope of this systematic review was included
Introduction	Only literature of which the research objective, problem statement or research question were relevant to the scope of this systematic review was considered.

2.4.3 Keywords

Keywords were used to identify articles to be used in the current research. The use of keywords is an effective method to identify literature relevant to the review and to exclude unnecessary data (Walden University, 2018). The keywords were defined by their relevance to the research question of this review. The search results were analysed to determine the effectiveness of the use of the keywords. The keywords were subsequently refined and amended where necessary after each search.

Table 4 below sets out the results returned when searches were performed using various combinations of keywords as well as the time of publication criterion:

Table 4: Results of keyword searches

Keywords	Results
“tax penalties” (penalty)	5 100 (5 540)
“tax penalties” (penalty) & “tax compliance”	1 230 (704)
“tax penalties” (penalty) & “tax avoidance”	867 (728)
“tax penalties” & “taxpayer behavior” (behaviour)	172 (68)
“tax penalties” & “taxpayer behavior” (behaviour) & “tax avoidance”	95 (51)

2.4.4 Recording of identified academic literature

Academic articles were identified using the above-mentioned databases, criteria and keywords. All articles were then assessed for quality by using the ABDC list and the lists of journals accredited by the Department of Higher Education and Training. Lastly, the

remaining articles were filtered by scrutinising the title, abstract and introduction. Based on this filtering, any article that was not relevant to the topic of this research was excluded from use.

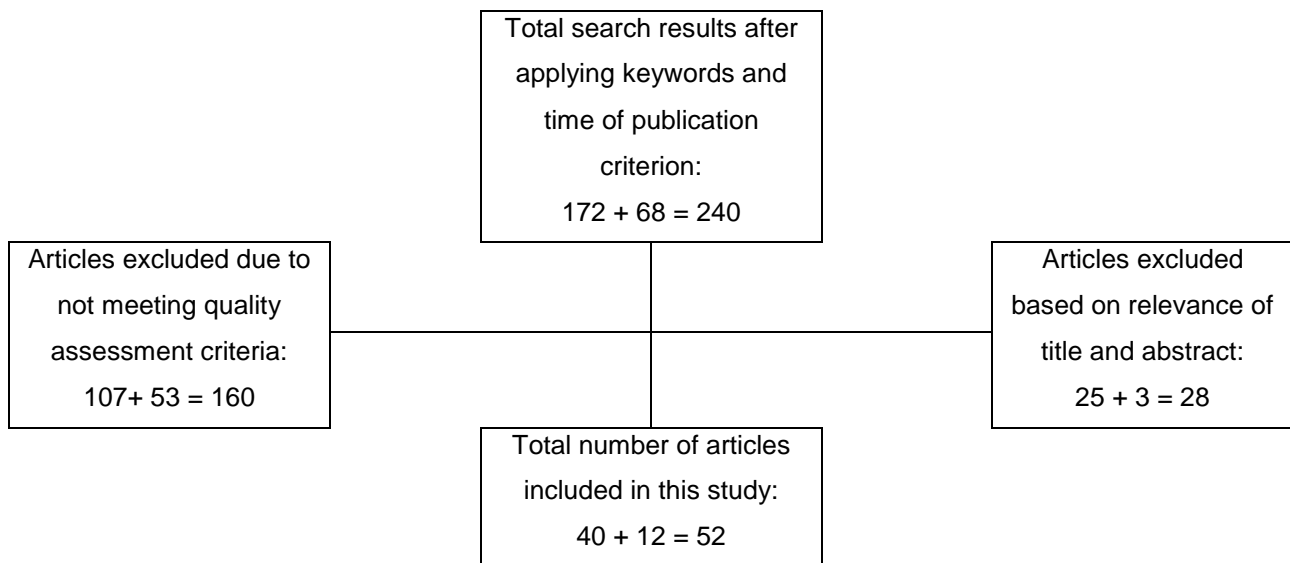
The selected articles were downloaded and imported into Qiqqa for further analysis. Qiqqa is a research and reference management tool for analysis purposes (PAT Research, 2019). Qiqqa assists in organising large volumes of articles for effective analysis (PAT Research, 2019). It picks up similar themes and annotations across these articles and builds a list of references for all articles under review (PAT Research, 2019).

Using the BibTex Sniffer functionality of Qiqqa, the correct reference details were obtained using a Google Scholar query and these were recorded on all imported items. Items were then tagged for the various elements, using Qiqqa's tagging functionality. Tags included stakeholder and country perspective, year of publication, etc. Tags could then be viewed on the "Annotation report" and articles could be navigated and grouped on the basis of these tags. Qiqqa allowed for the identification of duplicate articles that ensured that no article was included more than once.

The inclusion of "tax avoidance" as a keyword when searching for articles reduced the search results to such an extent that there were not sufficient articles available for selection after all criteria had been applied to this search. Therefore, only "tax penalties" and "taxpayer behaviour" (or "taxpayer behavior") were used as keywords to search for articles.

Figure 1 below shows how the articles were selected from the initial search results up to the decision on the final number of articles included in this systematic review:

Figure 1: Identification of literature: summary of results



2.5 CONCLUSION

In this chapter, the research design elements were explained and applied to this study. The current study adopts a philosophical stance of pragmatism. The nature of the study may be classified as descriptive as the research will be described in detail. Deductive reasoning has been adopted throughout the study. Academic literature, as the unit of analysis in this study, was identified at a specific point in time, resulting in a cross-sectional view of the effectiveness of tax penalties. Secondary data was used in this study to present findings qualitatively.

Further in this chapter, a systematic review was identified as the most appropriate research methodology for the purposes of this study. The steps of identifying and recording the academic literature was discussed in detail. The databases selected from, the inclusion and exclusion criteria used, and the keywords searched were clarified. Lastly, the process of recording the identified literature was expanded on.

In the following chapters the literature selected for use in this study will be summarised and conclusions will be drawn. The literature will be analysed to ensure the conclusions drawn are appropriate and relevant to the objective of the study. The quality of literature will be assessed to ensure the credibility of these conclusions.

CHAPTER 3

Literature review

3 CHAPTER 3 – LITERATURE REVIEW

3.1 INTRODUCTION

The literature reviewed in this study was analysed to determine if tax penalties are effective in combatting tax avoidance. The process of identifying and recording the literature was discussed in section 2.4 above. This chapter provides an overview and a discussion of the identified literature followed by conclusions drawn.

3.2 SUMMARY AND BRIEF DISCUSSION OF REVIEWED LITERATURE

Taxation is the main source of funding for government to provide public goods and services and manage the economy (Whait, 2014). Improving tax compliance, or the inverse, namely reducing tax avoidance and tax evasion, is therefore a significant ambition for any government (Devos, 2013; Whait, 2014). This ambition is transferred down to policy makers and tax authorities, as they are responsible for setting up the laws governing taxes that need to be collected, and enforcing compliance with these laws (Pui Yee, Moorthy & Choo Keng Soon, 2017).

In order to achieve the objective of collecting taxes, it is of great importance for any revenue collection authority to determine why taxpayers avoid their tax obligations (Devos, 2009). This determination is becoming increasingly more pertinent as an increasing tax gap (the difference between tax owed as prescribed in tax laws and the amount actually paid by taxpayers) is becoming a common phenomenon occurring globally (Doran, 2009). Understanding why taxpayers are paying less tax than prescribed by the law is essential when designing tax policies that effectively curb avoidance of tax obligations and increase a government's revenue (Goumagias, Hristu-Varsakelis & Assael, 2018; Devos, 2012).

A historical method used to reduce unwanted behaviours such as tax avoidance is encapsulated in the standard deterrence model (Doran, 2009). This model determines that taxpayers will comply with their tax obligations when legal sanctions, for example penalties and imprisonment, outweigh the cost of compliance (Doran, 2009). Several authors have found that enforcement methods such as audits and penalties fall within the ambit of the standard deterrence model (Coder, 2018; Lederman, 2018; Wait, 2014). These enforcement methods are most frequently used by governments to combat avoidance of tax obligations (Coder, 2012; Lederman, 2018; Whait, 2014).

Findings on the effectiveness of penalties have been mixed (Iyer *et al.*, 2010). Some studies accept that tax penalties do combat tax avoidance (Beckham, 2018; Mason, 2012; Millane & Stewart, 2018; Moldenhauer, 2012). The more complex problem, however, is not whether penalties combat tax avoidance but rather how penalties should be designed to enhance this effect (Doran, 2009). Other studies have found that tax penalties do not deter tax avoidance and evasion (Datt, 2014; Gemmell & Ratto, 2018; Lederman, 2018; Osofsky, 2012). Further studies suggest that tax compliance is driven by multiple factors over and above the standard economic model (Devos, 2013).

Three common opinions were noted across the publications. These are discussed in sections 3.2.1, 3.2.2 and 3.2.3 respectively below. Section 3.2.3 also expands on the factors that influence the effectiveness of tax penalties.

3.2.1 Tax penalties are effective in combatting tax avoidance

As indicated above, some research suggests that tax penalties are effective at combatting tax avoidance. Various components have been identified to substantiate these findings. These include the definitional function of penalties, the cost of tax penalties and the influence on taxpayer behaviour, all of which are discussed below.

The definitional function of penalties

Doran (2009) is of the opinion that tax penalties “serve the instrumental function of promoting tax compliance”. He goes on to say that tax penalties do not only have the function of deterring non-compliance but have a further function of defining tax compliance. This implies

that one must first consider the level of required conduct before structuring penalties to deter unwanted behaviour (Doran, 2009).

In light of the above, penalties often define taxpayer behaviour more clearly than the tax laws themselves. In this regard, Osofsky (2012) states that tax penalties are the first line of defence in combatting non-compliance with tax laws. This view is reiterated by many others, including Afield (2014), Moldenhauers (2012) and Smailes & McDermott (2012).

The cost of tax penalties

Gemmell and Ratto (2018) use a basic cost-benefit model to predict the effectiveness of tax penalties in combatting tax avoidance. This model formulates that when the rate of penalties applied to evaded tax is increased, tax compliance also increases, whereby tax avoidance is combatted more effectively. The model can further be enhanced by discounting the rate of penalties by the probability of being detected, thus arriving at an expected value of the penalty (Lawsky, 2013). Even when this more complex model of expected values is used, the conclusion reached stays the same (Lawsky, 2013).

The cost of penalties is, however, not limited to a monetary cost. Blank (2013) found that, even though monetary tax penalties were effective in deterring unwanted behaviour, “collateral tax penalties can promote voluntary tax compliance even more effectively”. Collateral penalties refer to not renewing licences or permits (i.e. not being able to obtain government assistance for the renewals) if tax obligations are not settled correctly and timeously (Blank, 2013). Even though tax penalties are a cost to the taxpayer they have an additional advantage over other measures (Devos, 2013) by:

- being a low-cost option to implement,
- ensuring additional revenue when collected, and
- punishing the offender, thereby deterring unwanted behaviour.

Influence on taxpayer behaviour

Several studies found that when penalties were introduced or increased, taxpayers became more compliant to the enacted tax laws, as they were generally averse to the risk of incurring sanctions or penalties (Holmes, 2010; Lederman, 2018; Phillips, 2014; Slemrod, 2018).

Shin-Li (2009) found that the consistent application of tax penalties drives taxpayers away from unwanted behaviour and creates the perception of a fair and effective tax penalty system.

Meiselman (2018) investigated the most efficient way to improve tax compliance through a communication campaign from the government. He found that the inclusion in the communication message of a threat to incur a penalty is the most effective measure to change taxpayer behaviour. In Meiselman's study the inclusion of the threat of an incurred penalty tripled the response rate in respondents and significantly increased the number of returns being filed.

In light of the above, it can be concluded that various studies focussing on different components of tax penalties are of the opinion that tax penalties are effective in combatting tax avoidance.

3.2.2 Tax penalties are not effective in combatting tax avoidance

Contrary to the above, some existing research suggests that tax penalties are not effective at combatting tax avoidance. Various components, including the public's view of penalties, the current risk of detection and the deterrent effect of penalties, were identified to substantiate these findings. These components are discussed below.

The public's view of penalties

Tax compliance is a complex subject influenced by many factors, including culture, perceptions of benefit and punishment. Some studies found that tax penalties have an insignificant influence on taxpayer behaviour (Smalles and McDermott, 2012). In a study relating to penalties for non-compliance of tax laws, Devos (2012) found that the general view of tax penalties influencing compliance to tax laws was that they are ineffective in achieving this goal. Another study found that taxpayers did not frequently consider tax penalties when making their compliance decision and the impact of penalties was therefore found wanting (Devos, 2014).

The current risk of detection

As discussed in section 3.2.1, taxpayers discount the cost of penalties by the probability of being detected for non-compliance. Blank (2013) argues that currently the detection rates of non-compliance are so low that monetary tax penalties on their own are a poor deterrent against tax avoidance for most taxpayers. If the detection rate is low, the discounted cost of the penalty is also very low, making it weak in combatting tax avoidance Blank (2013).

Looking at the other variable, the actual cost of the penalty, Lederman (2018) established that the cost of penalties is too low to combat tax avoidance. Lederman (2018) quantified that even if all tax audits detected non-compliance and imposed penalties on the non-compliance, the penalties are probably too low for taxpayers to include this consideration in their decision to maximise their wealth. She further found that “some scholars (Kahan, D.M., in Lederman, 2018) argue that enforcement could have the perverse effect of reducing voluntary tax compliance.” It was noted that an increase in audits and penalties led to a decrease in the inherent motivation to be tax compliant (Lederman, 2018). It is therefore important for governments to realise that penalties can only be increased to a certain extent before the measure loses its effectiveness (Lederman, 2018).

The deterrent effect of penalties

According to Devos (2013), penalties are very basic policy instruments as they increase the after-tax cost of the behaviour but does not have a sufficient preventative impact. It is therefore very difficult to conclude that there is a positive relationship between tax penalties and taxpayer compliance (Devos, 2013). Similarly, Doran (2009) concludes that “it is not immediately obvious that the imposition of a tax penalty – in effect, a second tax – will cause a taxpayer to pay both the tax and the penalty”. In obtaining evidence from lab experiments and country case-studies, Gemmell and Ratto (2018) found that penalties are a weak deterrent and have limited effects on tax avoidance. In addition to this, Devos (2013) suggests that tax penalties, as a punishment, are not effective as they do not have a rehabilitating effect on taxpayers who were found not to be complying with their tax obligations.

Due to the factors considered above (the public’s view of penalties, the current risk of detection and the deterrent effect of penalties), it could be concluded that tax penalties by

themselves may not be effective in combatting tax avoidance and may not influence taxpayer behaviour significantly.

3.2.3 Tax penalties in combination with various factors are effective in combatting tax avoidance

The two polarised views on tax penalties (as discussed in 3.2.1 and 3.2.2 above) are not the only views expressed on this issue. Some existing research suggests that various factors influence the effectiveness of tax penalties in combatting tax avoidance. An overview of research in this regard is presented below, with a subsequent detailed discussion of each individual factor.

Overview

Devos (2014) indicates that tax compliance literature identifies many factors – economic, social, psychological and demographic – that influence taxpayers' behaviour. Drawing on behavioural science research, Thomas (2016) found that there are a myriad of factors that impact a taxpayer's decision-making process when considering tax compliance. Doran (2009), also within the context of behavioural science, states that policymakers cannot structure a tax penalty system that has an effective impact on taxpayer behaviour before gaining an understanding of what motivates taxpayers to comply with their tax obligations.

In this regard, Doran (2009) suggests that governments should supplement tax penalties with other measures to correct taxpayer behaviour (for example, strengthening social norms around paying taxes and publicising the penalties imposed on non-compliant taxpayers). The further discussion of these measures will follow in the sections below. In creating a tax compliance strategy, Devos (2013) suggests that the application of tax penalties should be seen as one piece of the puzzle in an overall balanced strategy used by government to enhance tax compliance.

Firstly, when taxpayers make a decision regarding tax compliance, they balance the cost and the benefit of compliance against being a good citizen and being ethically responsible

(Iyer *et al.*, 2010). Existing literature also adds risk perception and sanction visibility as factors affecting this decision (Iyer *et al.*, 2010).

Strict liability refers to being guilty of an offense, irrespective of whether this offense was due to negligence or done with intent (Drennan, 2009). This principle could also have an impact on the effectiveness of tax penalties Doran (2009). Using the standard deterrence model (explained in the introduction of section 3.2), Doran further explains that for penalties to have an impact on taxpayer behaviour, they have to be of a high monetary value (Doran, 2009). This is especially true when a taxpayer enters into a transaction where the tax treatment of the said transaction contains a high level of uncertainty (Doran, 2009).

Another factor influencing taxpayer behaviour, according to Blank (2013), is whether the taxpayer is in a social setting where it is generally accepted to comply with tax requirements and it is seen as a civic duty to pay taxes. The publication of imposed tax penalties would have a significant influence on the effectiveness of penalties in this setting (Blank, 2013) (refer sections 3.2.3.6 and 3.2.3.8 below).

Furthermore, Lawsky (2013) proposes three models to determine how a combination of penalties and other factors affect taxpayer behaviour. Each of these models grows in complexity by adding more factors to the equation of cost versus benefit. The first model proposes that taxpayers compare the cost of paying tax against the monetary value of not paying tax (tax owed plus penalties applied). The second model proposes that taxpayers compare the cost of paying tax against the monetary value of not paying tax but discounts this value against the probability of being caught not complying with tax laws. The third model proposes that taxpayers compare the benefits received when paying taxes to the benefits that are lost when taxes are not paid, discounted by the probability of being detected (Lawsky, 2013).

In light of the above, it is clear that various factors influence the effectiveness of tax penalties in combatting tax avoidance. For purposes of this study these factors will be grouped into the following nine categories: detection and enforcement, awareness and visibility, tax knowledge and education, fairness and equity, simplicity and certainty, tax morals and

responsibility, governance, social norms and rewards. The further discussion of these nine categories follows below.

3.2.3.1 *Detection and enforcement*

The expected value model discussed previously formulates that the cost of the penalty is discounted by the risk of detection. Enhancing the perceived risk of detection and probability of enforcement will increase the effectiveness of penalties (Devos, 2009). This finding is confirmed by multiple studies (Frecknall-Hughes & Kirchler, 2015; Iyer *et al.*, 2010; Lederman, 2018; Pui Yee *et al.*, 2017). Thomas (2013) expands on this principle by calculating the cost of avoidance by discounting the nominal penalty with the probability of discovery. The cost of avoidance can therefore be increased by raising the possibility of an audit without raising the amount payable through penalties (Thomas, 2013).

Iyer *et al.* (2010) further found that even a slight enhancement in the perceived risk of detection significantly influences the behaviour of taxpayers. He submits that most taxpayers are risk averse and therefore the higher the risk, the bigger the deterrent effect (Iyer *et al.*, 2010). Therefore, the risk of detection and the probability of enforcement of penalties have a significant influence on the effectiveness of tax penalties to combat tax avoidance.

Morse (2011) adds a third factor. He suggests that the possibility of “similar options” for avoiding tax plays a role, and that penalties will not be as effective when taxpayers choose options of tax avoidance without incurring a penalty (Morse, 2011). An example of similar options is netting off tax evasion with regular tax obligations to hide the evasion and to avoid penalties. The absence of other opportunities to avoid taxes increases the risk of detection and enforcement of tax penalties, thereby increasing the effectiveness of the penalties (Morse, 2011). Morse (2011) further found that where the risk of detection and the probability of enforcement is high, an increase in penalty rates will be highly effective. Similar conclusions were made by Lawsky (2013) and Phillips (2014).

Within this context, in an experiment relating to compliance with VAT the Chilean tax authority sent communications to 102 000 randomly selected companies stating: ““Your firm has been selected for analysis. In the event that any irregularities are detected, you could

be summoned for an audit and penalties could be incurred.” The effect was an immediate increase in returns and the amounts reported in these returns (Lederman, 2018). This further points to the fact that increasing the risk of detection reduces tax avoidance.

In another study relating to the impact of tax forgiveness programmes on taxpayers’ perception of the risk of being detected, Shevlin *et al.* (2017) found that these programmes reduced a taxpayer’s perception of the risk of detection by authorities. Recurring or multiple forgiveness programmes could signal weak enforcement, causing taxpayers to take more aggressive tax positions in their returns (Shevlin *et al.*, 2017). In the South African context, SARS implemented a permanent Voluntary Disclosure Programme, administered under the TAA in 2012, giving taxpayers the opportunity to disclose tax evasion and suffer reduced consequences. Similarly, another example of a tax forgiveness programme would be the Special Voluntary Disclosure Programme of 2017 which enable taxpayers to disclose previously concealed foreign assets and income and apply for relief. It is unclear if SARS has considered the impact of this VDP on taxpayer perception in South Africa, but research suggests that it may lead to more aggressive taxpayer behaviour among South African taxpayers (Shevlin *et al.*, 2017).

Meiselman (2018) concurred that when comparing various models of tax compliance, the risk of detection and the extent of the penalties go hand in hand. Pui Yee *et al.* (2017) warned, though, that large increases in the enforcement of tax compliance could lead to taxpayers perceiving the system as unjust. It should be understood that taxpayers are highly sensitive towards audits and prosecution, and a significant increase in enforcement could have a negative impact on taxpayers’ attitude toward the tax system (Pui Yee *et al.*, 2017).

It can therefore be concluded that many studies are of the opinion that the effectiveness of tax penalties are largely influenced by the risk of detection of non-compliance and the enforcement of sanctions.

3.2.3.2 *Awareness and visibility*

Research suggests that increasing a taxpayer’s awareness of penalties incurred when taxes are avoided will motivate the taxpayer to be more compliant with tax laws (Iyer *et al.*, 2010).

For example, the ATO uses media releases and publicity campaigns on tax penalties to deter taxpayers from avoiding taxes and committing tax fraud (Devos, 2013). In Sweden, administrative tax penalties are highly publicised in the media to influence taxpayer behaviour (Kallunki *et al.*, 2016).

Devos (2012) found that balancing tax penalties with visibility within a society and with media advertising significantly increases the effectiveness of the penalties. Iyer *et al.* (2010) concurs that there is a positive relationship between visibility and tax compliance. Iyer *et al.* (2010) further found that visibility and communication is particularly effective with regard to business taxpayers' compliance. This was noticeable in businesses with declining revenues but not in businesses whose revenues increased (Iyer *et al.*, 2010). Another form of visibility of taxes is third party reporting. Third party reporting refers to institutions that report the tax obligations of their clients, based on services provided to them, directly to the tax authority. Countries that adopt third party reporting has reported an increase in tax compliance (Phillips, 2014). SARS also recently implemented this system in South Africa.

In addition to this, Devos (2013) found that publicly exposing prominent tax evaders increases the societal perception of tax fraud as well as tax compliance. Therefore, when society is made aware of cases where tax evaders are apprehended, an environment of enhanced compliance is created as the perceived risk of detection is increased. Whait (2014) further found that communicating the penalties imposed on these evaders would further enhance the effectiveness of penalties applicable to all taxpayers. A convincing explanation for this finding is that government officials deliberately use tax enforcement publicity to influence individual taxpayers' perceptions and knowledge of audit probability and tax penalties (Blank, 2010). Keeping government's tax enforcement efficacy in mind while taxpayers are preparing their annual individual tax returns has a positive effect on tax compliance (Blank, 2010). In this regard, Blank (2010) noted that tax enforcement statistics are publicised more often in the period before individuals have to submit their tax returns than in any other period during the year.

Blank performed multiple studies on tax privacy and publicising tax enforcement. In his first study, Blank (2010) demonstrated that making information about tax enforcement visible significantly influenced the amount of income reported by individual taxpayers. Blank (2010)

further found that whether this information was communicated by the government or the media did not make a difference to the effect it had. Blank (2010) stated that communicating tax penalties to the public could cause taxpayers to overestimate the impact of these sanctions. This could increase the effectiveness of penalties without actually increasing or amending the penalties.

Further studies by Blank (2016) suggest that complete transparent disclosure of certain tax return information would enhance the ability of advisors and other third parties to reverse engineer the IRS's detection strategies, impairing its deterrence and enforcement efforts. It is therefore important that authorities only disclose information that would deter tax avoidance and evasion (Blank, 2016). Publicising statistics regarding low audit rates or the amount payable through penalties waived would have an adverse effect (Blank, 2016).

In another study, Blank (2011) found that the IRS's public announcements and media reports pointing out criminal sanctions and high civil tax penalties will have a greater influence on the perception of penalties than the actual severity of these penalties. The conclusion is that the publication of relatable examples of imposed penalties and imprisonment influences taxpayer behaviour greatly (Blank 2011). Even though tax penalty regimes may contain penalties that apply in different circumstances and to varying degrees, publicising significant penalties and criminal sanctions may cause taxpayers to overestimate penalties that may be imposed on non-compliance (Blank, 2011). In light of these studies it may be concluded that if the perceived impact of penalties is greater than the actual impact, they will be more effective as a deterrent measure. It can therefore be concluded that studies found a strong relationship between the effectiveness of tax penalties and the visibility of the penalties or the public's awareness of them.

3.2.3.3 Tax knowledge and education

Tax penalties were found to be the most effective in groups or participants that were highly educated (Devos, 2012). The tax reporting behaviour of participants in a study conducted by Devos (2013) were noticeably affected by the level of tax knowledge that the participants possessed. Educational programmes provided by the tax authorities enhance the knowledge of taxpayers and increase trust in the authorities, which ultimately leads to

enhanced compliance (Devos, 2014). Devos (2014) concluded that tax penalties should be reinforced by pro-active measures such as tax education and similar programmes.

Liu (2014) determined that education with regard to penalties significantly influenced the social norm of tax compliance in a community. Similarly, Pui Yee *et al.* (2017) found a correlation between tax knowledge and tax morality. Their conclusion was that tax knowledge influenced taxpayers' attitude towards tax penalties positively. As educated taxpayers understand the objective of tax penalties, they have a positive attitude towards penalties, which causes the penalties to have a bigger deterrent effect on tax avoidance (Pui Yee *et al.*, 2017).

Due to a lack of tax knowledge, taxpayers make use of tax practitioners. The use of a tax practitioner will increase the effectiveness of penalties as long as the practitioner acts ethically and responsibly (Ventry & Borden, 2014). Ventry and Borden (2014) noted that taxpayers would go to various tax practitioners until they received the most favourable advice. It is therefore important that penalties should not prevent tax practitioners from suggesting the most advantageous position. Penalties would only affect ethical practitioners negatively as aggressive practitioners would not be deterred by them.

It is clear from this review that knowledge of penalties and tax education have a significant influence on the effectiveness of tax penalties, and various studies have concluded that an increase in tax knowledge and tax education will increase the effectiveness of penalties.

3.2.3.4 *Fairness*

Various studies noted that perceived fairness and equity of tax laws and accompanying penalties have a significant influence on tax compliance (Blank, 2013; Holderness, 2017; Ventry & Borden, 2014). Devos (2009) found that the perception of tax being fair did have a significant influence on taxpayer behaviour. He further stated that when taxpayers feel that the benefits from government are of equal value to the tax they pay, tax compliance increases (Devos, 2009). The fairness of tax penalties is thus another important factor to consider when studying the effectiveness of penalties in combatting tax avoidance. According to Pui Yee *et al.* (2017), taxpayers justify non-compliance with tax laws when

these laws and relating penalties are seen as inequitable and unfair. By enhancing the perception of fairness of the tax system, the ATO has significantly influenced the behaviour of taxpayers (Devos, 2012). Pui Yee *et al.* (2017) found a similar correlation between tax compliance and taxpayer perception of the penalty regime in Malaysia.

Further to the perception of the fairness of tax laws, compliance with enacted taxes and incurred penalties are perceived to be morally right (Meiselman, 2018). Pui Yee *et al.* (2017) submits that tax avoidance and evasion decline when taxpayers feel that the public goods and services they receive from the government are equal in value to or worth more than the taxes they pay. Devos (2013) supports this assertion when stating that greater deterrence of tax avoidance could be achieved when tax authorities implement procedures that are perceived as fair and just.

It is not only policy makers and tax authorities that promote the fairness of tax laws. Courts have been very careful to only uphold tax penalties to the extent that they relate to non-compliance of tax laws in order to maintain the effectiveness of these penalties as a deterring consideration in taxpayer behaviour (Wilkie & Hogg, 2014). For example, the Canadian Supreme Court reduced a penalty incurred through the Customs Act when an individual tried to export stolen vehicles. This penalty surpassed the maximum fine imposed by the Customs Act for issuing false statements and therefore the judge declared that the penalty should only be incurred to the extent that society has been wronged.

Fairness with regard to the equity and efficiency of administration was also found to be very effective in enhancing tax compliance (Whait, 2014). This was noted during the implementation of the Cooperative Compliance Model in Australia, which is a system based on collaboration and trust between the taxpayer and the tax authority (Whait, 2014). As the taxpayer and the tax authority work together, greater efficiencies are experienced by both sides and the community's confidence in the tax system increases (Whait, 2014). When penalties are applied evenly and consistently across society, taxpayers believe that these penalties are fairer (Smailes & McDermott, 2012).

In addition to the above, Devos (2014) found that there is a close link between perceived fairness and the complexity of the tax system. There are, however, further variables that

have an impact on the perception of fairness of tax systems and penalties, including education, gender, age and occupation (Devos, 2014). Each of these variables results in various (often differing) perceptions of fairness and equity. For example, a penalty may be seen as fairer by an educated person, who understands what behaviour the penalty is trying to deter, rather than an uneducated person, who sees the penalty as an unnecessary punishment for something that does not make sense. The factor is therefore complex to apply but can be very effective in combatting tax avoidance if applied appropriately. In this regard, Thomas (2016) found that making tax administration user-friendly by giving taxpayers access to products and websites that enhance the filings of returns, increases the perception of fairness of the tax system, which further enhances tax compliance. Without changing the tax laws, the IRS was able to increase tax compliance by redesigning the tax forms available on its website (Thomas, 2016). In South Africa a similar phenomenon was observed with the introduction of e-Filing (Mongwaketse, 2018).

It can therefore be concluded that perceived fairness of tax penalties and of the overall tax system has a positive influence on tax compliance and deters tax avoidance and evasion.

3.2.3.5 Simplicity and certainty

One of the factors to consider in determining the effectiveness of penalties to combat tax avoidance is that of simplicity and certainty. Smailes & McDermott (2012) are of the opinion that penalties that are simple are the most effective in combatting tax avoidance. Osofsky (2010) found that the effectiveness of tax penalties decreases when penalties are more complex. The author further found that uncertainty in tax law can be used to manipulate taxpayers to account for higher tax liabilities due to the risk aversion principle. When taxpayers are uncertain of how the law should be applied, a conservative view will be taken to ensure no penalties are incurred. This could, however, also have the opposite effect, as opportunistic taxpayers could take an aggressive view by using a more favourable interpretation. Uncertainty in tax laws may therefore make the laws unreliable as a step to reduce tax avoidance.

Obscurity relating to tax penalties can cause misunderstandings of the consequences of a taxpayer's decision when it comes to tax compliance (Devos, 2013). Devos (2013) advises

that tax systems need to be simplified to enhance tax compliance, as complexity creates room for various interpretations of the law and could lead to non-compliance. Devos (2013) also found that complex tax systems and penalties reduce a taxpayer's ability and willingness to comply.

Adding to this view, as mentioned in section 3.2.1, Doran (2009) advocates the definitional function of tax penalties. He explains that where tax laws create uncertainty, tax penalties set out the level of conduct required to ascertain whether a taxpayer has complied with his or her obligation. Gergen (2010) in turn states that when the tax obligation is uncertain and tax penalties are increased an adverse effect on tax compliance is experienced. Gergen (2010) found evidence that taxpayers take a more aggressive tax position in valuing uncertain tax items, thereby exploiting this uncertainty in the law. Further, Gergen (2010) submits that the simpler tax laws and tax penalties are, the easier it is for a taxpayer to understand the tax obligation and the consequences of not complying with tax laws.

Another factor to consider is that where there is substantial uncertainty in tax law, there is a reasonable chance that penalties will not be able to be imposed on a taxpayer, thereby decreasing the effectiveness of these penalties (Field, 2017). In this regard, Blank (2016) points out that dishonesty is encouraged by complexity. Taxpayers can be motivated to comply more voluntarily with tax laws when the process of filing tax returns is simplified. Complexity therefore has a significant influence on taxpayer behaviour and the decisions taxpayers make (Blank, 2016).

It can therefore be concluded that simplicity and certainty in tax law positively increases the effectiveness of tax penalties, as found by various researchers.

3.2.3.6 Tax morals and responsibility

Various studies found that a strong set of ethical values and morals aids in tax compliance and the effectiveness of tax penalties in combatting tax avoidance (Devos, 2014; Liu, 2014; Frecknall-Hughes & Kirchler, 2015).

Taxpayers either comply with the law irrespective of the magnitude of penalties or they refuse to obey the law, even if this non-compliance will cost them dearly. Taxpayers' sense of responsibility towards the law greatly influences their attitude towards compliance (Doran, 2009).

Kallunki *et al.* (2016) found that Sweden and the USA rank among the top countries with low degrees of tax evasion. According to Kallunki *et al.* (2016), individuals in America have the highest tax morals. Similarly, Sweden is ranked fifth on this list. Kallunki *et al.* (2016) further use empirical evidence to prove that the compliance behaviour of individuals in these two countries do not differ significantly.

It can therefore be concluded that the effectiveness of tax penalties is significantly influenced by tax morals and an attitude of responsibility in taxpayers.

3.2.3.7 Governance

Joulfaian (2009) found that proper governance, or the lack of corruption, has a positive influence on the effectiveness of tax penalties and tax compliance. He further showed, using a simple statistical analysis, that evasion and unwanted behaviour were common occurrences in an environment where bribes were common practice. Examples of these environments are the former Soviet Union and developing economies of Eastern Europe (Joulfaian, 2009). Bribes and corruption therefore undermine the detection of non-compliance and the effectiveness of penalties as a deterrent (Joulfaian, 2009).

In this context, there is a higher possibility of corruption and bribes if taxpayers try to save costs due to their experience of the effects of the latest global financial crisis (Goumagias *et al.*, 2018). It is therefore ever important that tax penalties are perceived as effective and the risk of detection be increased (Goumagias *et al.*, 2018). In this regard, it is relevant to note that South Africa's 2018 Budget Speech reflects a tax gap in personal income taxes alone of twenty-one billion rand (National Treasury, 2018). This is particularly relevant when one considers that South Africa has experienced a high level of unethical behaviour, including state capture and the loss of credibility of the tax collecting authority under the former SARS Commissioner (Marrian, 2019). This is a clear example where poor governance may be the

cause of tax avoidance and even tax revolts, such as the revolt regarding the payment of e-tolls (Naidoo, 2013). In such an environment it may mean that the use of penalties may not lead to less tax avoidance or more compliance.

In light of the above, an environment of good governance and aversion to corruption is vital in increasing the effectiveness of tax penalties and enhancing tax compliance.

3.2.3.8 *Social norms*

Several studies consider social norms as a vital factor influencing taxpayer behaviour (Liu, 2014; Morse, 2011; Pui Yee *et al.*, 2017). Devos (2012) found that educating taxpayers about their social responsibility regarding taxes would motivate them to be compliant with tax laws. The public may for instance be informed that projects such as the construction of new infrastructure are only possible because of socially responsible taxpayers settling their tax obligations (Devos, 2012). This could be done through billboards or media campaigns. This particular example of educating the public is quite popular in South Africa, especially regarding road infrastructure.

Another way to establish social norms is to publicise the names of trespassers and the punishment imposed on their unwanted behaviour. Blank (2010) states that naming individuals and quantifying the penalties imposed on them, causes the public to relate to the consequences of non-compliance. In a social environment where most people want to be known as law abiding citizens, identifying someone that does not conform to this norm could have adverse effects on their standing and therefore make penalties more effective.

In contrast to the standard deterrence model discussed earlier in this study, the norms model determines that most taxpayers are compliant due to adherence to personal or social norms (Doran, 2009). These norms include being cooperative when others are also cooperative or by honouring legal commitments applicable to all of society (Lederman, 2018). Doran (2009) further found that based on the norms model, excessive penalties may reduce compliance as taxpayers could disregard the norm when it becomes too burdensome. This model would therefore encourage emphasis to be placed on raising the social norm, rather than increasing tax penalties, to combat tax avoidance.

It can therefore be concluded that social norms greatly influence the effectiveness of tax penalties in combatting avoidance as taxpayers may fear the consequences of not conforming with these norms.

3.2.3.9 *Rewards*

Combining rewards to encourage certain behaviour and punishment to deter unwanted behaviour is the most adequate way to effect change (Holderness, 2017). The United States Congress utilises tax incentives to reward expected behaviour and tax penalties to deter unwanted behaviour (Mason, 2012). This system was implemented via a use tax that is only applicable if goods or services are purchased from another state and used in a local state, with no payment of taxes due in the local state. This is done to protect local retailers and service providers. Holderness (2017) found that even though tax penalties and tax incentives (rewards) have a similar economic effect, they have a very different psychological effect on taxpayers. While people tend to avoid incurring losses, they are more averse to incurring penalties (Holderness, 2017).

Devos (2013) notes that similar to the 'carrot versus stick' theory, research indicates that the deterring effect of penalties can be increased through the introduction of rewards. Devos (2013) further found that authorities that maintain a balance between positive and negative measures are most successful at increasing tax compliance and combatting unwanted behaviours such as tax avoidance and evasion. In another study, Devos (2014) found that a combination of rewards and penalties is more effective in positively influencing taxpayer behaviour than focussing on penalties only.

In a study relating to the effect tax incentives have on foreign direct investment in South Africa, Kransdorff (2010) noted the same phenomenon. Government uses tax incentives to encourage investment into the local market and taxes the import of foreign goods by way of duties to protect the local market even further (Kransdorff (2010). These incentives have made a noticeable impact on the country's ability to obtain foreign investments.

It can therefore be concluded that rewards or incentives in combination with tax penalties have a positive influence on taxpayer behaviour and can further enhance tax compliance.

3.3 CONCLUSION

In this chapter the literature regarding the effectiveness of tax penalties in combatting tax avoidance was analysed, followed by a discussion of the findings. It was noted that there are strong arguments both for and against the effectiveness of tax penalties in combatting tax avoidance. Tax penalties are the first line of defence in combatting non-compliance with tax laws. Expanding on this, penalties define taxpayer behaviour even more than the tax laws themselves. Penalties do not have to be limited to monetary costs in isolation, as collateral penalties can be even more effective as a strong deterrent. Similarly, making taxpayers aware of penalties that will be incurred also leads to higher compliance rates. On the other hand, it was noted that tax penalties do not influence taxpayer behaviour significantly, especially when taxpayers believe there is a small possibility that non-compliance would be detected. Some researchers also state that when a taxpayer does not comply with tax laws, a further cost in the form of a penalty will not drive them to be more compliant.

It was further noted that there are multiple factors that influence the effectiveness of tax penalties. These factors were investigated in finer detail to gain an understanding of how they influence the effectiveness of tax penalties. The factors include increasing the detection rates through audits and ensuring that tax laws and relevant penalties are enforced consistently. Ensuring the public is aware of tax penalties and of the names of offenders who received penalties also enhances the effectiveness of the penalties. Increasing the public's knowledge of tax laws and creating a perception that these laws are fair, strengthens the deterrent effect of penalties and create social norms of being tax compliant. It can therefore be concluded that a host of factors influence the effectiveness of penalties and addressing these factors will have a much more significant impact on combatting tax avoidance than changing the penalties.

CHAPTER 4

Analysis of data & findings

4 CHAPTER 4 – ANALYSIS OF DATA & FINDINGS

4.1 INTRODUCTION

This chapter aims to do an analysis of the nature and quality of the literature identified for use in this study according to the research design elements as outlined in the previous chapters. The data is analysed across various elements to gain a deeper understanding of the relevance and impact of the articles on the findings of this systematic review. The quality of the data is assessed by using the ABDC Journal Quality List and by identifying whether the data is published in journals accredited by the Department of Higher Education and Training. This is done to ensure that the findings of this systematic review are based on credible sources of data. Lastly, the ethical principles applied during this study are addressed.

4.2 RESEARCH DESIGN ELEMENTS

The following paragraphs analyse the literature based on the research design elements discussed in section 2.2 above. The results are explained, and a table is included to summarise the results relevant to each aspect.

4.2.1 Philosophical stance

A positivistic stance was adopted in twenty-two of the identified articles. In these articles, the researchers analysed data systematically and concluded on the cause and effect relationship found in the data. A realistic stance was adopted in five of the identified articles, with the researchers striving to obtain reliable findings by building statistical models based on the data included in their studies.

A further twelve articles adopted an interpretivistic stance. The researchers performed in-depth modelling and simulations to gain a better understanding of their research topics. The remaining eleven articles adopted a pragmatic stance, with the researchers drawing conclusions on their findings by objectively observing and subjectively interpreting the subject matter in their studies.

A summary of the results pertaining to the philosophical stance of the literature analysed is presented below in Table 5.

Table 5: Results of literature analysed based on philosophical stance

Philosophical stance	Number of articles
Positivism	22
Realism	5
Interpretivism	12
Pragmatism	11
	50

4.2.2 Nature of the study

Twenty-eight articles performed a literature review followed by statistical analysis to determine the cause of the problem identified in the research. These articles can therefore be classified as causal studies. Twelve articles described the characteristics of the researched phenomena and can therefore be classified as descriptive studies. The remaining ten articles are classified as exploratory studies since they adopted a qualitative approach to investigate a phenomenon with limited data available, by using theories and models.

A summary of the results pertaining to the nature of the study of the literature analysed is presented below in Table 6.

Table 6: Results of literature analysed based on the nature of the study

Nature of study	Number of articles
Causal study	28
Descriptive study	12
Exploratory study	10
	50

4.2.3 Method of reasoning

Inductive reasoning was applied in eight of the identified articles as specific observations were made to generate a theory on which to base the findings of the research. Deductive reasoning was applied in thirty-five of the identified articles where an existing hypothesis was tested against reality as the researcher aimed to refine a general concept. The remaining seven articles applied abductive reasoning by generating a new theory and then testing it against reality and reaching a conclusion from the research findings.

A summary of the results pertaining to the method of reasoning of the literature analysed is presented below in Table 7.

Table 7: Results of literature analysed based on the method of reasoning

Method of reasoning	Number of articles
Inductive reasoning	8
Deductive reasoning	35
Abductive reasoning	7
	50

4.2.4 Time horizon

All the articles reviewed for this study collected data at a specific point in time. Therefore, the time horizon for all these articles is considered cross-sectional, while none was considered longitudinal. As the researchers were solving current problems in their research, they required the most recent data. By collecting data at a specific point in time they also

excluded the passage of time as a variable as this was not expected to have an impact on their findings.

A summary of the results pertaining to the time horizon of the literature analysed is presented below in Table 8.

Table 8: Results of literature analysed based on the time horizon

Time horizon	Number of articles
Cross-sectional	50
Longitudinal	0
	50

4.2.5 Unit of analysis

The unit of analysis in thirteen of the fifty articles was taxpayer behaviour. Tax programmes, tax penalties and tax compliance as units of analysis were frequently used in the literature selected in this study. Tax law and taxpayer perception was the unit of analysis in five articles each. In one article the unit of analysis was tax incentives.

A summary of the results pertaining to the unit of analysis of the literature analysed is presented below in Table 9.

Table 9: Results of literature analysed based on the unit of analysis

Unit of analysis	Number of articles
Taxpayer behaviour	13
Tax programmes	8
Tax compliance	7
Tax penalties	6
Tax planning	6
Tax law	5
Taxpayer perception	4
Tax incentives	1
	50

4.2.6 Nature of the data

Fifteen of the fifty selected articles used data obtained from a primary source. This related mostly to surveys and interviews. The remaining thirty-five articles used data obtained from secondary sources. Examples of these secondary sources include published statistics regarding tax penalties, tax compliance and taxpayer behaviour, as well as enacted laws and previous research performed.

A summary of the results pertaining to the source of data of the literature analysed is presented below in Table 10.

Table 10: Results of literature analysed based on the source of data

Source of data	Number of articles
Primary	15
Secondary	35
	50

Five of the selected articles made use purely of quantitative data and related mostly to published statistics of tax collected, quantifications of tax short falls and amounts of penalties imposed. Eleven articles used purely qualitative data in their research and related to narratives obtained from questionnaires and observed case studies. The remaining thirty-four articles used a mix of quantitative and qualitative data.

A summary of the results pertaining to the type of data in the literature analysed is presented below in Table 11.

Table 11: Results of literature analysed based on the type of data

Type of data	Number of articles
Quantitative	5
Qualitative	11
Mixed	34
	50

4.3 ANALYSIS OF DATA

This section sets out the data analysis and quality assessment of the literature used in the current study. The findings of this analysis are presented in a tabular format for reasons of simplification and better understanding of the findings.

4.3.1 Year of publication

In order to determine whether any specific period from 2009 to 2019 was particularly significant for this study, the literature was analysed in accordance with the year in which it was published. If a period contained significantly more publications than other periods, this period was further analysed to determine its influence on this systematic review. The profile of the literature selected for use in this study is presented in Table 12 below:

Table 12: Profile of selected literature by year of publication

Year of publication	Number of articles
2019	1
2018	6
2017	4
2016	3
2015	4
2014	8
2013	4
2012	7
2011	2
2010	6
2009	5
Total articles	50

The average number of publications per year in the period under review was five. It is evident that in 2014 and 2012 there was an increase in the number of publications. Contrary to this, 2019 and 2011 experienced a decline in publications. The number of publications is nevertheless considered relatively consistent throughout the period under review (2009-

2019). In light of the above, there is no indication that undue influence has occurred for the conclusions drawn from the literature reviewed. Therefore, year of publication of the literature is considered relevant for purposes of this study.

4.3.2 Country perspective

Different countries have different tax systems. In order to identify which tax regimes were included in the literature selected for review, the articles were analysed in terms of the countries included in the research. This analysis ensures that the findings of this systematic review are not unduly influenced towards a specific country's tax system and that the findings can be applied in an unbiased manner to the South African and other contexts. The profile according to country of the literature selected for use in this study is presented in Table 13 below:

Table 13: Profile of selected literature by country perspective

Country perspective	Number of articles
United States of America	31
Australia	7
Global	5
New Zealand	2
South Africa	1
Canada	1
Indonesia	1
Malaysia	1
Sweden	1
Total articles	50

It is evident that the United States of America (USA) may be considered significant in comparison to the other countries. While thirty-one of the fifty articles focus on tax penalties and taxpayer behaviour in the USA it is important to consider that the USA has separate federal, state and local governments with separate tax systems at each level and each has its own authority to charge taxes (Roach, 2010). Due to the use of various tax regimes in

the country, the literature focusing on the USA still provides different perspectives on tax penalties.

Seven of the selected articles are written from the Australian perspective. This constitutes only thirteen percent of the total number of articles included in this systematic review and will therefore not unduly distort the findings. Five of the selected articles are from a global perspective, which further enhances the universal relevance of the findings in this systematic review as no specific country has dominance in the literature under review.

In light of the above, there is no indication that undue influence has occurred for the conclusions drawn from the literature reviewed. Therefore, country/jurisdictional perspective of the literature is considered relevant for purposes of this study.

4.3.3 Stakeholder perspective

There are different stakeholders in any tax system. Each of these stakeholders has different interests in the system and may be described as follows:

- Individuals are individual taxpayers who try to maximise their disposable income by reducing expenses, including taxes (Slemrod & Yitzhaki, 2002).
- Corporates are taxpaying entities that aim to increase after-tax reserves to be used for distribution or investment (Huysenov & Klamm, 2012).
- A tax authority is a government entity authorised by law to collect revenue for government spending (Huysenov & Klamm, 2012).

All these interests need to be considered when determining whether tax penalties change taxpayer behaviour. The literature selected for use in this study was analysed from a stakeholder perspective to ascertain which perspectives and behaviours are addressed in each article. The profile of the literature selected for use is presented in Table 14 below:

Table 14: Profile of selected literature by stakeholder perspective

Stakeholder perspective	Number of articles
Individuals and corporates	20
Individuals only	15
Corporates only	12
Tax authorities only	3
Total articles	50

Forty-seven of the articles selected for review in this study were done from the perspective of taxpayers, whether individuals or corporates or both. This provides a comprehensive base to draw conclusions related to the objective of this study to determine if tax penalties are effective in combatting tax avoidance.

The remaining three articles were undertaken from the perspective of a tax authority. These articles enhance the findings of the current study by including the interests of the tax authority as stakeholder in order to provide greater depth of understanding related to tax penalties.

In light of the above, there is no indication that undue influence has occurred for the conclusion drawn from the literature reviewed with regards to the stakeholder perspective. Therefore, stakeholder perspective of the literature is considered relevant for purposes of this study.

4.3.4 Discipline

An academic discipline can be defined as a branch of knowledge, taught and researched as part of higher education (Oxford Dictionary, not dated). According to Lamb (2005:3), the field of taxation is multidisciplinary. It would therefore be appropriate to include literature from multiple disciplines in order to draw relevant conclusions. The literature selected for review in this study was critically evaluated to determine the discipline to which each article pertains. The results of this analysis are presented in Table 15 below:

Table 15: Profile of selected literature by discipline

Discipline	Number of articles
Behavioural economics	23
Law	11
Public administration	9
Economics	4
Business management	3
Total articles	50

Taxpayer behaviour involves a variety of disciplines, including economics, law and philosophy (Sapiei & Kasipillai, 2013). As tax avoidance is a type of behaviour, behavioural economics is a relevant discipline and encompasses the discipline represented most in the selected literature. It could therefore be expected that behavioural economics would be highly represented in the sample of literature selected in light of the objective of the research. Similarly, tax penalties are encoded in laws and therefore law is also considered a relevant discipline given the objectives of the study. The table above shows that eleven of the fifty articles stem from the discipline of law.

In light of the above, there is no indication that undue influence with regard to disciplines has occurred for the conclusions drawn from the literature reviewed. As the literature selected for review in this study stems from multiple disciplines (albeit with a larger focus from behavioural economics and law as expected), the disciplines represented by the literature are considered relevant for purposes of this study.

4.3.5 Construct

Ngai *et al.* (2015) states that a construct is a variable that measures the characteristics of a phenomenon. The identified literature was analysed by using the 'Expedition' and 'AutoTag' functionalities in Qiqqa. This was the starting point for determining the constructs that were most common and could be used for further analysis. The keywords defined in section 2.2.3 of this study were also used to determine further constructs. Lastly, by analysing the literature, further themes were identified and tagged on the relevant articles. The constructs identified in the literature selected for use in this study are presented in Table 16 below:

Table 16: Constructs identified in selected literature

Construct	Number of articles
Tax compliance	50
Tax penalties	50
Tax avoidance	50
Tax planning	33
Taxpayer behaviour	47
Tax knowledge	12
Tax education	6

Tax penalties are designed to increase tax compliance and decrease tax avoidance (Doran, 2009). These constructs have therefore been identified in all of the literature selected for use in this study. It is evident that the articles selected are of value in contributing to achieving the objectives of the study. In addition to this, both tax knowledge and tax education have been found to make a positive contribution to the ability of taxpayers to plan their tax affairs (Field, 2017). These two constructs are therefore expected to also play a role in the behavioural and planning aspects related to possible tax avoidance where penalties may be applied. These constructs were analysed in more depth in Chapter 3 of the current systematic review.

In light of the above, there is no indication that undue influence based on constructs has occurred for the conclusions drawn from the literature reviewed. Therefore, constructs identified within the literature are considered relevant for purposes of this study.

4.3.6 Research classification and data collection method

The literature selected for use in this study was analysed to determine the research classification and the method of data collection used. The relevant profile of the literature selected for use in this study is presented in Table 17 below:

Table 17: Profile of selected literature by method and classification

		Classification		
		Historical	Descriptive	Experimental
Method	Systematic analysis	9	13	
	Survey		7	
	Theoretical modelling		1	7
	Statistical modelling	3	2	
	Case study	3	1	
	Simulation		1	3
		15	25	10

It is evident that a wide variety of research methods and data collection tools were used in the academic literature selected for this systematic review. The wide variety may be a result of the similarly wide number of disciplines from which the literature originated.

In light of the above, there is no indication that undue influence has occurred for the conclusions drawn from the literature reviewed. Therefore, the variety of research methodologies is expected and the various constructs in the literature are considered relevant for purposes of this study.

4.3.7 Quality assessment

The rankings of the ABDC Journal Quality list are often used as criteria for assessing the quality of the journals in which the literature is published. The rankings of the literature in accordance with the ABDC Journal Quality list were analysed in order to define the quality of the literature selected for use in this study.

The Australian Business Deans Council (ABDC) appointed Australian and international experts to set up a journal quality list. The list grades journals by using four classes, namely A*, A, B and C, based on the quality of the research published in the journal (Hirschberg and Lye, 2018). An A* ranking is the highest quality followed sequentially by those listed as A, B and C. The ratings of the selected articles, profiled by year of publication, are presented in Table 18 below:

Table 18: ABDC rating of articles by year of publication

		ABDC rating				
		A*	A	B	C	Not listed
Year of publication	2019		1			
	2018	1	2		1	2
	2017	2	1		1	
	2016	1	2			
	2015		1		1	2
	2014		5	2	1	
	2013		1	1		2
	2012		2	3	2	
	2011					2
	2010		4	1		1
	2009	1		2		2
			5	19	9	6

Thirty-nine of the fifty articles selected for review were published in journals that appear on the ABDC list. Twenty-four of these articles were published in journals with a rating of A* or A. Therefore, these articles are considered to be of the highest quality. Eleven of the articles were published in journals that were not on the ABDC list. Additional lists of accredited journals were therefore analysed to determine if the articles selected were published in journals of high standing in order to ensure that all articles included in this review are of a high quality.

The Department of Higher Education accredits various lists of journals that meet specified criteria. Publication in these journals makes a researcher eligible for subsidisation. These quality lists were used to further assess the quality of the journals selected for use in this study. The following lists were used:

- Scopus (2019) – Scopus is the largest database of peer reviewed literature, including journals and books.

- Clarivate Analytics Web of Science (previously called ISI) (2019) – Clarivate’s Web of Science platform contains research literature associated with a group of journals that underwent a meticulous selection process.
- IBSS (International Bibliography of the Social Sciences) (2019) – The International Bibliography of the Social Sciences is an online resource for interdisciplinary research. It covers international material, which is reviewed on a continuing basis.
- Norwegian Register (2019) - The Norwegian Register for Scientific Journals, Series and Publishers is published on behalf of the Norwegian Ministry of Education and Research. This register presents publications that are recognised for funding by the approval authority, the National Board of Scholarly Publishing.

The literature published in journals included on these lists are presented in Table 19 below:

Table 19: Articles published in accredited journals by year of publication

Accredited journal list

	Scopus	ISI	IBSS	Norwegian	Not listed
2019	1				
2018	5	3	2		1
2017	3	1		1	1
2016	3	3			
2015	3				1
2014	5	1	1		3
2013	2	2			2
2012	3	1	1		3
2011	2				
2010	3		1		3
2009	4	3	2		1
	34	14	7	1	15

All eleven of the literary resources that were not listed on the ABDC list were identified in the lists of accredited journals and *vice versa*. They are represented in table 20 below:

Table 20: Articles published in journals not on ABDC list

Accredited journal list

Journal	Scopus	ISI
Brigham Young University Law Review	✓	
Cleveland State Law Review	✓	
Connecticut Law Review	✓	
Fordham Law Review	✓	✓
Harvard Journal on Legislation	✓	✓
Indiana Law Journal	✓	✓
National Bureau of Economic Research	✓	✓
Southern California Law Review	✓	✓
Stanford Law Review	✓	✓
University of Cincinnati Law Review	✓	
University of Pennsylvania Law Review	✓	✓

In light of the analysis of the quality of the journals in which the research literature was published it is evident that the literature chosen for use in this study is of a high quality and has been selected from credible sources. Therefore, any conclusions drawn will be appropriate and relevant to the objective of this study.

4.3.8 Top journals on ABDC list

Twenty-four articles were published in twelve journals that appear on the ABDC list and had a rating of A* or A. These journals are presented in Table 21 below, displaying the rating assigned to each journal as well as the number of articles obtained from each journal.

Table 21: Top rated journals that appear on ABDC list

Journal	ABDC rating	Number of articles
Australian Tax Forum	A	1
Columbia Law Review	A*	1
eJournal of Tax Review	A	4
Journal of Corporate Finance	A*	1
Journal of Public Economics	A*	1

Monash University Law Review	A	1
National Tax Journal	A	4
Osgoode Hall Law Journal	A	1
Review of Accounting Studies	A*	1
Tax Law Review	A	5
The University of Chicago Law Review	A*	1
Virginia Tax Review	A	3
		24

These journals are highly rated by international experts and articles are only included in these journals if they meet a stringent set of requirements. Almost half of the articles reviewed are published in these journals. This further enhances the credibility of the conclusions drawn and ensures that conclusions will be appropriate and relevant to the objective of the study.

4.3.9 Citations

Prominent literature is cited more often in research. The number of citations may also be an indication of quality as more reliance is placed on literature of a higher quality. The number of times that an article is cited can be obtained from Google Scholar. An analysis was performed with regard to the citations of the literature selected for use in this study and the results are presented in Table 22 below:

Table 22: Number of times articles were cited by year of publication

		Number of citations				
		0	1 to 10	11 to 20	21 to 50	51 to 150
Year of publication	2019	1				
	2018	1	3	2		
	2017		3	1		
	2016		3			
	2015			2	2	
	2014		4	4		

2013		1		3	
2012		5		2	
2011					2
2010		1	1	3	1
2009		2		1	2
	2	22	10	11	5

It is evident from the table above that there is a wide variety of citation counts across the articles selected for this study. This can be expected as journals with open access and/or published by more established researchers will obtain a higher number of citations. It is also important to consider that literature published more recently would have had less time to make an impact and obtain citations. Therefore, recently published articles with fewer citations are not necessarily less credible. Only two articles selected for review have not been cited yet and these relate to very recent periods.

The literature selected for use in this study has been cited numerous times. This contributes to the credibility of the findings in the current systematic review. The analysis of the number of citations therefore clearly shows that the literature selected for use in this study is considered relevant.

4.3.10 Authors by citation

Five articles have been cited more than fifty times. The authors of these articles, the year of publication, the journals that these articles were published in and the number of citations are presented in table 23 below.

Table 23: Additional information about most cited articles

Author	Year of publication	Journal	Citations
Doran, M	2009	Harvard Journal on Legislation	124
Raskolnikov, A	2009	Columbia Law Review	104
Blank, JD	2011	Emory Law Journal	62
Morse, SC	2011	Connecticut Law Review	54
Iyer, GS <i>et al.</i>	2010	National Tax Journal	51

It is noted that all these articles were published at the beginning of the period under review, which is consistent with the expectation that older articles would be cited more often as they have been available for longer periods. These authors are well known authors who have published multiple articles. The frequent citation of authors enhances the credibility of the conclusions drawn and ensures that conclusions will be appropriate and relevant to the objective of the study.

4.3.11 Authors published most

An analysis was done to determine to what extent the current study relies on a single author in the literature reviewed. Only four authors were involved in more than one article. All other authors only authored one article in the literature reviewed. The results of this analysis are presented in table 24 below.

Table 24: Profile of selected literature by author

Author	Number of articles
Blank, JD	4
Devos, K	4
Thomas, KDL	3
Osofsky, L	2
Various	37
Total articles	50

Seventy-five percent of the articles did not have a common author. The other twenty-five percent of the articles were authored by four different authors. It can therefore be noted that no overreliance is placed on one specific author. In light of the above, there is no indication that undue influence has occurred for the conclusions drawn from the literature reviewed. It follows that conclusions will be appropriate and relevant to the objective of the study.

4.4 SUMMARY

The articles selected for use in this study were analysed according to various elements and perspectives to determine whether there is any indication that undue influence has occurred. These articles were also assessed for quality according to multiple criteria to ensure the credibility and quality of conclusions drawn.

Based on the analysis above, no indication of undue influence was noted in the literature concerning the following elements:

- year of publication;
- country perspective;
- stakeholder perspective;
- discipline;
- construct;
- authors published most frequently.

Furthermore, the quality of the literature reviewed in this study was assessed based on the ABDC rating of the journal in which the articles were published, whether the journal appeared on other lists of accredited journals, the number of citations and the authors that were cited most often. Due to the high quality of the literature reviewed in this study the credibility of the conclusions drawn from this literature is enhanced.

The literature reviewed is therefore considered relevant for purposes of this study and any conclusions drawn will be appropriate and relevant to the objective of the study.

4.5 RESEARCH ETHICS

Research ethics are aligned to goals of research such as knowledge and truth. In many instances, research is multidisciplinary and collaborative. Ethical norms promote coordination and cooperation between researchers. Researchers should also be held accountable to the public and ethical values enhance this accountability. Public support for research grounded in ethics is increased as quality and integrity are promoted by meeting

ethical standards. Research ethics also uphold various social and moral values (Shamoo & Resnik, 2015).

Below is a summary of ethical principles that are applicable to this study (Shamoo & Resnik, 2015):

- Honesty: report all data honestly and do not fabricate or misrepresent data.
- Objectivity: minimise bias as much as possible and disclose any areas where personal interests might affect research.
- Integrity: be sincere and consistent in thoughts and actions.
- Respect for intellectual property: never plagiarise and give proper credit for all sources used in compiling research.

All aspects related to the research performed in this study were performed honestly. Due to the nature of a systematic review, findings were presented objectively by following a predetermined methodology. The researcher was genuine in thought and action throughout the study. Acknowledgment was given to all sources that contributed to this systematic review.

CHAPTER 5

CONCLUSION

5 CHAPTER 5 – CONCLUSION

5.1 INTRODUCTION

Chapter 5 aims to show how the research questions were answered and how the research objectives were addressed by referencing to the relevant sections in this study. The chapter points out limitations that were experienced while performing the study. Lastly some recommendations for future research are made, based on the findings of the current study.

5.2 HOW THE RESEARCH QUESTION WAS ANSWERED

Chapter 1 formulated the research question of this study as follows: are tax penalties effective in combatting tax avoidance? Four research objectives were set to aid in answering the above question. These four research objectives will be discussed below and referenced as to how this study addressed them and answered the research question.

1. *To identify, record and systematically analyse the academic literature related to tax penalties and the impact they have on tax avoidance and taxpayer behaviour.*

Chapter 2 clarified the method for conducting the systematic review. It started out by explaining the theory of the research design elements and how they applied to this study. The process used to identify and record the academic literature was also clarified. Fifty articles were identified after doing a keyword search and applying the determined inclusion and exclusion criteria to the search results. All identified articles were imported into Qiqqa for further analysis and the findings of this analysis were discussed in Chapter 4.

2. *To assess the quality of journals in which the academic articles are published by using the list of the Australian Business Deans Council (ABDC) and the lists of accredited journals published by the Department of Higher Education and Training (DHET) as criteria for this assessment.*

Chapter 4 aimed to apply the research design elements discussed in Chapter 2 to the literature selected for use in this study. The identified literature was analysed according to various predetermined criteria to gain a deeper understanding of the relevance of the data to the topic of the study. Table 12 showed that the selected articles were spread evenly across the period under review, namely 2009 to 2019. Section 4.3.2 showed that even though the majority of the articles were pertinent to the USA, their findings were still applicable on a global level as the USA has separate federal, state and local governments with separate tax systems at each level and each has its own authority to charge taxes (Roach, 2010). Owing to the use of various tax regimes in the USA, the literature focusing on the USA still provides different perspectives on tax penalties.

The quality of the literature was assessed by using the ratings per accreditation and ranking lists as well as the number of citations per article. As a result of this quality assessment analysis, it was concluded that the literature reviewed was considered to be of a high quality for purposes of this study and the conclusions drawn would be appropriate and relevant to the objective of the study.

3. *To discuss and present the results from the previous studies and to draw conclusions based on this review.*

Chapter 3 provided a brief overview of the literature reviewed in this study. It was found that tax penalties are the first line of defence in combatting tax avoidance and may define taxpayer behaviour more than tax laws itself. This is also true when there is only a threat of a penalty to reduce tax avoidance. However, some research found that an additional cost, in the form of a penalty, may not motivate a non-compliant taxpayer to be more compliant. In addition to these conflicting findings it was also submitted that tax penalties may become ineffective if certain factors relating to these penalties are not addressed when implementing penalties to combat tax avoidance. The factors identified included detection of con-

compliance and enforcement of tax laws and penalties, as well as awareness and visibility of imposed penalties, tax knowledge and tax education. Addressing these factors have a significant influence on the effectiveness of tax penalties in combatting tax avoidance. Fairness, simplicity and certainty of the tax system, tax morals and social responsibility and norms, adequate governance and rewards also have an impact on taxpayer behaviour. The influence of each factor on the effectiveness of tax penalties in combatting tax avoidance was presented in chapter 3.

4. *To make recommendations regarding the effective implementation of tax penalties in South Africa (if any).*

Chapter 3 applied the factors that have an influence on tax penalties in the South African context where applicable. In section 3.2.3.3 it was shown that a lack of tax knowledge and education in South Africa reduces the effectiveness of tax penalties. In section 3.2.3.4 it was noted that the implementation of the user-friendly e-filing system has increased tax compliance. Similarly, section 3.2.3.7 identified the impact that corruption in South Africa has on taxpayer behaviour. Following these findings, it was concluded that some of the additional factors identified in the literature may have a more significant impact on enhancing the effectiveness of tax penalties than an amendment of the penalties.

5.3 LIMITATIONS

Several limitations of the research performed have been identified and are explained in brief below:

- Only fifty academic articles, published between 2009 and 2019, were selected for use in this study. While an expansion of the keywords and inclusion criteria could provide an increased number of articles and therefore an increased number of perspectives for the study, the variety and quality of the literature reviewed somewhat mitigated the impact of this limitation.
- Tax avoidance is a complex human behaviour that is influenced by multiple factors. A simple model can therefore not be formulated to determine whether penalties are effective in combatting tax avoidance. Therefore, the findings and conclusions

reached may not be effective in all instances. Every case should be considered within its own context.

- Furthermore, most studies included in this review were performed from the perspective of taxpayers, while a limited number focussed on policy makers and revenue collection authorities. In light of the objectives of the study, the articles selected for the study were sufficient to make conclusions on the effectiveness of penalties from a taxpayer perspective.

5.4 RECOMMENDATIONS AND FUTURE RESEARCH

The study gave a brief discussion of various factors that have an influence on the effectiveness of tax penalties. In-depth studies into each of the identified factors should be performed to gain a better understanding of how each of these influences taxpayer behaviour within the South African context. In addition to this, studies with a focus on policy makers and revenue collection authorities may also prove useful in determining the effectiveness of penalties in combatting tax avoidance.

5.5 CONCLUDING REMARKS

The South African economy is in a precarious position as the government requires large amounts of additional funding to deliver on its mandate. On the other hand, taxpayers are trying to reduce expenses as much as possible as the cost of living is increasing rapidly. It is of paramount importance that tax avoidance is combatted effectively so that the tax burden is spread evenly across all stakeholders and government has sufficient funding to support economic growth and enhance the social well-being of the country. The research performed in this study highlighted that many factors other than implementing tax penalties *per se* may play a role in the effectiveness of penalties in combatting tax avoidance. The sole use of tax penalties, without considering these other factors, may therefore decrease the effectiveness of penalties in combatting avoidance. In light of this, it is suggested that any penalty regime be researched in a context specific manner in order to achieve the best results.

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