AN ANALYSIS OF THE VAT CONSEQUENCES OF CUSTOMER LOYALTY PROGRAMMES FOR SUPPLIERS

by

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ABSTRACT

The VAT taxability of customer loyalty programme benefits in South Africa is an issue of uncertainty, for taxpayers and SARS. Customer loyalty programmes are growing in popularity, both in terms of existing programs' membership and participation numbers and an increase in the number of businesses that operate customer loyalty programmes. Clarifying the VAT taxability of customer loyalty programme benefits, therefore, has the potential to significantly increase the VAT revenue collected by SARS without making extensive and costly changes to the existing VAT systems and legislation already in operation. This is an issue of relevance to SARS and National Treasury since the South African Government have been battling with an increasing budget deficit in recent years and has a pressing need to find additional sources of revenue in an attempt to urgently reduce the aforementioned deficit.

This study aims to clarify the VAT taxability of loyalty points customers receive as a result of participating in customer loyalty programmes. The study considers the relevant current South African legislation and the limited guidance published by SARS on this topic in order to conclude on the VAT taxability of loyalty points earned by customers. Further, the study performs an international comparison by considering the relevant Canadian legislation and court cases and subsequently by comparing it to that of South Africa.

Keywords: Customer loyalty programme benefits, Value Added Tax (VAT), loyalty points, South Africa.

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Table 1: Abbreviations and acronyms

Abbreviation	Meaning
Aeroplan:	Aeroplan Limited Partnership
BPR 310	Binding Private Ruling 310
CIBC	Canadian Imperial Bank of Commerce
CLPs	Customer Loyalty Programmes
CRA	Canada Revenue Agency
CU	Currency Unit
GST	Goods and Services Tax
HST	Harmonised Sales Tax
IFRS	International Financial Reporting Standards
Income Tax Act	Income Tax Act 58 of 1962
SARS	South African Revenue Service
PST	Provincial Sales Tax
TAA	Tax Administration Act 28 of 2011
VAT	Value Added Tax
VAT Act	Value Added Tax Act 89 of 1991

CHAPTER 1:
INTRODUCTION

1.1.INTRODUCTION

The South African Budget for the 2021/22 financial year shows an expected contribution from Value Added Tax (VAT) collected of R370.2 billion. This represents roughly a quarter of the total of the tax revenue collections budgeted for (Deloitte South Africa, 2021). This amount is sufficient to cover the entirety of the Treasury's budgeted debt servicing cost of R269.7 billion and still have a balance of more than R100 billion left to contribute to the rest of Government's spending priorities. This illustrates the significance of VAT to National Treasury in working towards its fiscal goals as set out in former Minister of Finance, Tito Mboweni's, budget speech on 24 February 2021, which included stabilising national debt (National Treasury, 2021:iii).

South Africans have been paying VAT as we know it today, on standard rated goods and services since 1991, replacing the then Goods and Services Tax (PwC South Africa, 2012). The rate of VAT in South Africa was initially 10% and since 1993 has only changed twice. The first change in the South African VAT rate was in 1993 when the rate was increased to 14% which stayed as such until 1 April 2018, after which it was increased for the first time in 25 years to the current 15%. The hike in the VAT rate was deemed unavoidable for a Government faced with an ever-growing fiscal gap at the time (Business Tech, 2018). The fiscal deficit has continued to increase in the meantime, with the biggest recorded deficit in South Africa's history shown in the 2021 budget (Naidoo, 2021).

Customer Loyalty Programmes (CLPs) are offered by all of South Africa's major retailers, such as Pick n Pay, Dis-Chem and Clicks and present a significant taxing opportunity to the South African Revenue Service (SARS). Pick n Pay reported that Smart Shopper cards are now swiped in 75% of transactions by customers, a 10% increase from the previous year. The retailer now has 8,5 million active Smart Shoppers (Business Insider SA, 2021). This trend is indicative of consumers making every cent count during tough economic times as well as consumers embracing the convenience of participating in CLPs when they make use of online shopping platforms in addition to already doing so when shopping in-store.

An omni-channel retail experience allows the customer to integrate and complement their traditional brick and mortar shopping experience, with online shopping platforms such as websites and applications, allowing customers to shop according to their preferences, whether it be fully online with door-to-door delivery, a combination of both by making use of a click and collect service or in-store shopping only. This is illustrated through the extremely successful launch of the Checkers Sixty60 application, which at the time of writing processed over 10 000 orders per day (MyBroadband, 2021) in combination with Xtra Savings, which is the Shoprite group's recently launched CLP (Buthelezi, 2020). With millennials and Gen Z accounting for a growing portion of economically active South Africans, this shift in demand for an omni-channel shopping experience is indicative of the future of retail (Barr, 2020).

SARS currently has no legislation specifically aimed at bringing the loyalty points consumers receive as a result of being members of CLPs, into the South African tax net, including VAT. Therefore, this study will turn to international practices on the indirect taxation of loyalty points issued to consumers belonging to CLPs and consider the lessons to be learned from these jurisdictions in assessing the taxability of these points in terms of current South African VAT legislation as well as recommendations to enable the successful indirect taxing of the supply of these points by SARS. The comparative jurisdiction to be considered is Canada. This jurisdiction was chosen based on the similarities between the jurisdiction's VAT equivalent tax and South African VAT as well as court rulings available concerning the taxation of loyalty points in the jurisdiction.

1.2.RATIONALE FOR THE STUDY

The 2019/20 Truth & BrandMapp Loyalty Landscape Whitepaper found that in 2019, 72% of economically active South Africans were using CLPs (Netto & Cromhout, 2020:3). The Consumer Protection Act 68 of 2008 defines a loyalty programme as, "…any arrangement or scheme in the ordinary course of business, in terms of which a supplier of goods or services, offers or grants to a customer any loyalty credit or award in connection with a transaction or an agreement" (National Treasury, 2008:22). CLPs can be found across a variety of sectors in the South African economy, from banking to restaurants and as discussed in this study, retail. Each programme aims to cultivate brand loyalty in

customers (Radder, Van Eyk & Swiegelaar, 2015:93) in exchange for rewards, be it in the form of points converted to cashback or access to exclusive promotions that non-members will not receive the benefit of. As mentioned previously, South Africans' enthusiasm in relation to CLPs was highlighted with the launch of the Checkers Xtra Savings loyalty programme in October 2019, which attracted more than five million members in its first year of existence (Buthelezi, 2020).

The South African Government have been facing an increasing budget deficit over the last five years, with the biggest recorded deficit shown in the 2021 Budget (Naidoo, 2021). This fact was intensified by the need to fund Government's COVID-19 Vaccine Rollout Strategy (Magubane & Omarjee, 2021) as well as the cost of Government's Temporary Employer-Employee Relief Scheme offered to industries and persons affected by lockdown regulations (Smit, 2021). This, along with the ever-increasing budget deficit, highlights the necessity for National Treasury to find additional revenue sources within the existing South African tax framework in an attempt to meaningfully reduce the budget deficit. Clarifying the VAT taxability of the benefits provided by CLPs will enable SARS to potentially increase their revenue collection substantially, without taking on the resource-intensive process of developing new legislation specifically for CLPs (Pidduck, Odendaal, Pleace & De Winnaar., 2019:642) or unsettling taxpayers by implementing harsh tax hikes (Visser, 2021).

Current South African tax legislation offers no specific rules or provisions from an income tax or VAT perspective addressing the taxability of the rewards and benefits customers receive as a result of being a member of any number of CLPs. Therefore, the taxability of the supply of these CLP benefits to customers by the providers of the CLPs from a VAT perspective, remains an issue of uncertainty in South Africa (Sibiya, 2017:70). Other than a discussion paper on the VAT Treatment of Loyalty Programmes and Binding Private Ruling 310 (BPR 310) issued by SARS in 2014 and 2018 respectively, there is no guidance from SARS with regards to the possible VAT consequences of potential supplies made as a result of CLPs, resulting in a lack of consensus as to the correct treatment thereof (South African Revenue Service, 2014:1–2; South African Revenue Service, 2018:1–3). The gap left in current legislation around CLPs, resulting in the non-taxing thereof, indicates a significant opportunity for SARS to broaden the South African tax base without implementing drastic changes to legislation (Odendaal & Pidduck, 2014:6–7).

1.3.RESEARCH PROBLEM

The problem area to be addressed in this study is the lack of specific guidelines on the VAT implications of supplying customers with loyalty points as a result of being members of CLPs. The problem is exacerbated by a variety of differing terms and conditions attached to points supplied by different CLP providers. Each of these different sets of terms and conditions will require separate consideration against the relevant requirements of the Value Added Tax Act 89 of 1991 (VAT Act) (National Treasury, 1991:12).

Output VAT is defined in section 1 of the VAT Act as, "… the tax charged under section 7(1)(a) …" (National Treasury, 1991:12). Section 7(1)(a) contains several requirements to be met before VAT can be levied, among these are terms also defined in section 1. Therefore, the above-mentioned loyalty points supplied to customers as CLP benefits will be assessed against the requirements of section 7(1)(a) in order to reach a conclusion as to whether VAT should be levied on the supply thereof to customers.

The requirements of section 7(1)(a) can be broken up into the following five requirements: Does the CLP loyalty points provided to the customer constitute:

a)a "supply" as defined in section 1;
b)by a "vendor" as defined in section 1;
c)of "goods" as defined in section 1;

OR

d)of "services" as defined in section 1; and
e)in the course or furtherance of any "enterprise", as defined in section 1, carried on by him (National Treasury, 1991:19).

Therefore, determining whether VAT should, and can, be charged on loyalty points supplied as part of CLPs, will increase the ability of SARS to increase revenue collection by merely extending the enforcement of existing VAT legislation to CLP benefits.

1.4.RESEARCH QUESTION

To what extent do the loyalty points provided to customers as a result of being a member of CLPs constitute a, "…supply by any vendor of goods or services … in the course or furtherance of any enterprise carried on by him" as per section 7(1)(a), the charging section, of the VAT Act (National Treasury, 1991:19)?

1.5.RESEARCH OBJECTIVES

The study has the following research objectives:

- Determining whether loyalty points awarded to customers as a result of belonging to CLPs meet all the requirements of section 7(1)(a) of the VAT Act.
- Compare the taxability of loyalty points to another jurisdiction, namely Canada to South Africa.
- Recommend amendments and/or additions to current South African VAT legislation to provide taxpayers with clarity on the VAT consequences of supplying loyalty points to customers.

1.6.RESEARCH DESIGN AND METHODOLOGY

This study will follow a qualitative approach by applying a multiple-case design. Multiple-case design provides for the selection of multiple cases to study in order to develop an understanding of an issue within a broader context (Mills, Durepos & Wiebe, 2010:3). By following this design, similarities across cases with different circumstances and conditions can be identified, allowing for general categories to be formed within a range of related cases (Mills *et al.*, 2010:3). Multiple-case design is applied in this study by way of the selection of South African CLPs, each CLP serving as a case to be studied in conjunction with the current South African VAT legislation. The selection of the Clicks ClubCard, Pick n Pay Smart Shopper and Dis-Chem Benefit CLPs was made due to the similarities in how loyalty points are earned and redeemed, but with each CLP being subject to its own unique set of terms and conditions and as such, operating in differing circumstances.

Therefore, the multiple-case design will allow for the identification of differences and similarities across different South African CLPs and can assist in the forming of generalisations regarding all South African CLPs to consider against current VAT legislation in South Africa (Mills *et al.*, 2010:2). The study will therefore follow a doctrinal, or 'black letter law' approach in determining whether the current VAT legislation is applicable to the loyalty points which customers receive as a result of belonging to CLPs and making qualifying purchases as set out in the terms and conditions of each CLP.

This method will be used to achieve the research objectives of the study as it enables the assessment of awarding loyalty points to CLP members against the relevant South African VAT legislation. Doctrinal comparative tax research with the purpose of understanding legal doctrine, allows for meaningful comparison of the relevant tax laws of the chosen jurisdictions (Brooks, 2020:13). The comparison done in this study is between the South African legislative provisions and case law precedents applicable to CLPs and the VAT consequences to that of the Canadian jurisdiction where GST consequences are considered. This enables the study to learn more about the South African jurisdiction by way of comparing it to Canada (Brooks, 2020:14) which ultimately allows for a conclusion to be reached and recommendations to be made on the VAT taxability of loyalty points awarded to customers as a result of belonging to any number of CLPs.

Purposeful maximal sampling will be used in the selection of CLPs offered by South African retailers (Vogt, 2021:252). The sample of CLPs to be used will consist of the 2019/20 Truth & BrandMapp Loyalty Landscape Whitepaper's most used CLPs in South Africa that reward members with loyalty points, namely Clicks ClubCard, Pick n Pay Smart Shopper and Dis-Chem Benefit (Netto & Cromhout, 2020:16).

In selecting Canada as the international jurisdiction to which South Africa's VAT legislative consequences for CLPs is compared, theoretical case selection was applied (Goerres, Siewert & Wagemann, 2019:87). Theoretical case selection is applied because it allow for comparisons to be made between the cases selected, in this case the two jurisdictions, which will ultimately form the basis for the insights formed in the study (Given, 2008:875). The underlying research question of the study guided the selection of a comparable jurisdiction for purposes of performing an international comparison (Rihoux & Ragin, 2009:6). The jurisdiction used for the international comparison requires a degree of

similarity to the South African VAT system and the fairly prominent presence of CLPs in the jurisdiction. In addition to meeting these requirements, Canada offers the advantage of a recent court judgement considering the issue of CLP supplies from an indirect tax perspective. This jurisdiction selection, therefore, complies with the theoretical framework of the present study, enabling the comparison of the legislation of the two jurisdictions from a South African perspective, to learn from relevant principles identified from the Canadian jurisdiction. An international comparison provides value by identifying lessons to be learned from a different jurisdiction whilst remaining vigilant to not purport that a solution that is functioning well in one legal, cultural, political and economic context will do so in another, likely vastly differing context (Brooks, 2020:37). Any jurisdiction chosen for the international comparison in this study will present its own set of unique differences and challenges. The present study acknowledges that the Canadian context has significant differences from the South African context. Canada however, due to the structural similarities between the South African VAT and the Canadian GST systems, provides an opportunity to make meaningful comparisons despite these contextual differences between the jurisdictions and identify solutions present within the Canadian context that could be translated and applied within South Africa.

Secondary data will be used to conduct the study. Sources used include publications and reports on the above-mentioned CLPs, the study of relevant local and international legislation and case law as well as relevant peer reviewed journal articles and research outputs by acknowledged sources and authors in the field of taxation research. The afore-mentioned data is publicly available and thus there is no ethical concerns stemming from the use of the information.

1.7.STRUCTURE OF THE MINI-DISSERTATION

The study will take on the form of a mini-dissertation, the structure of which is summarised below.

Chapter 1: Introduction

This chapter provides the background for the study by giving a brief overview of loyalty points awarded by CLP providers in South Africa and the taxation position SARS has at

present concerning loyalty points. The chapter further sets out the research problem, research objective(s), research design and gives an outline of the structure of the study.

Chapter 2: Literature review

This chapter presents a critical review of a sample of relevant literature from a different jurisdiction considered in order to draw a comparison between the positions taken in South Africa and the Canadian jurisdiction, which is discussed in Chapter 4. The literature considered ranges from the relevant legislation for each jurisdiction, court cases addressing this legislation as well as journal articles and dissertations addressing the issue at hand.

Chapter 3: VAT taxability of loyalty points in South Africa

This chapter considers the supply of loyalty points to customers as a result of belonging to a CLP against the requirements of section 7(1)(a). Special consideration is given to the nature and definition of loyalty points, taking into account the guidance given in the Discussion Paper on the VAT treatment of Loyalty Programmes issued by SARS (South African Revenue Service, 2014:3).

Chapter 4: Comparing South Africa to Canada

This chapter compares the VAT position taken by SARS with regards to the taxability of loyalty points supplied to customers by CLP providers to the position taken by the tax authority of Canada, the Canada Revenue Agency (CRA). Drawing this comparison allows for the identification of similarities and differences between the jurisdictions, which provides context for recommendations with regards to amendments and/or additions to be made to current VAT legislation.

Chapter 5: Conclusion

This chapter concludes the study by providing a summary of the findings of the study and setting out recommendations for amendments and/or additions to be made to current VAT legislation applicable to CLP loyalty points provided to customers. This chapter also explains the limitations of the study by highlighting some issues yet to be addressed regarding the taxability of other types CLP benefits, which constitutes potential future areas of study.

CHAPTER 2:
LITERATURE REVIEW

2.1.INTRODUCTION

The literature considered addresses the taxation of loyalty points awarded to customers as a result of belonging to CLPs. Further literature addressing the taxation of vouchers and other similar issues were also considered in order to draw on the principles established for these similar issues when considering the taxation of loyalty points awarded. The jurisdiction considered was chosen based on the similarities between the jurisdiction's VAT equivalent tax and South African VAT, the presence of CLPs as well as court rulings available concerning the taxation of loyalty points in the jurisdiction.

2.2.VAT ON CLP BENEFITS IN CANADA

The CRA charges Goods and Services Tax (GST) on the supply of goods and services by GST registered businesses. The CRA distinguishes between taxable supplies, zero-rated supplies and exempt supplies and no input claims are allowed for the making of exempt supplies (Canada Revenue Agency, 2012, sec. GST/HST).

The term 'taxable supplies' is defined by the CRA as, "…supplies of property and service that are made in the course of a commercial activity" and 'zero-rated supplies' as, "…supplies of property and services that are taxable at the rate of 0%" (Canada Revenue Agency, 2020:7). 'Exempt supplies' are simply defined as "supplies … that are not subject to the GST/HST" (Canada Revenue Agency, 2020:7). Canadian businesses that receive revenue from taxable supplies of more than CAN$30 000 per annum must register for GST accounts (Canada Revenue Agency, 2020:10).

The majority of provinces in Canada levy GST at 5% on the supply of goods and services that are not zero-rated or exempt supplies. This can be in the form of 5% GST collected on behalf of the CRA with additional Provincial Sales Tax (PST) added on top of the 5% or as

one total tax charge known as Harmonised Sales Tax (HST). HST is a GST levied in terms of an agreement between the CRA and the governments of participating provinces as part of the HST programme (Canada Revenue Agency, 2020:8). Regardless of the composition of the tax rate charged, whether it be in the form of HST or GST only; or GST plus PST, the same guidelines with regards to which supplies are taxable and which are considered exempt or zero-rated supplies are followed (Canada Revenue Agency, 2020:8).

There are no legislative provisions specifically addressing the GST taxability of CLP rewards, such as loyalty points, provided to CLP members by GST registered businesses that operate CLPs. The CRA provides some guidance on the GST taxability for loyalty points such as air miles collected by employees on their personal credit cards in transactions pursuant of the business of the employer (Canada Revenue Agency, 2004). This guidance however, does not address the issue of whether the awarding of the loyalty points to the CLP member should in fact be subject to GST, but rather the subsequent use and/or redemption of loyalty points earned in limited circumstance where an employer-employee relationship exists. Therefore, in determining the GST taxability of loyalty points awarded to CLP members by CLP providers who are registered for GST, the general GST provisions, the foundation of which is laid by the definitions set out above, are to be followed in considering this issue. This was done by the Tax Court of Canada (*Canadian Imperial Bank of Commerce v. The Queen, 2019 TCC 79*, 2019) and subsequently, on appeal, by the Federal Court of Appeal (*Canadian Imperial Bank of Commerce v. Canada*, 2021) when it ruled on whether payments made by the Canadian Imperial Bank of Commerce (CIBC) to Aeroplan Limited Partnership (Aeroplan) were correctly subject to GST.

The case was ruled on by the Tax Court of Canada in 2019 and upon appeal, the ruling was upheld by the Federal Court of Appeal in 2021. The transaction under consideration in these decisions was not the supply of loyalty points by the CLP provider to the CLP member but as part of its considerations both courts looked at the nature of the loyalty points. In this case it was in the form of air miles and whether it can in nature be considered to be ‘gift certificates’ as provided for in the Excise Tax Act, which sets out the provisions applicable to GST in Part IX (Minister of Justice, 1985b, pt. IX).

The agreement between the CIBC and Aeroplan provided that credit card holding customers of the CIBC would be granted membership to the Aeroplan Mile Loyalty Program (sic), and that Aeroplan would provide a variety of marketing-related activities for the bank's credit cards. Therefore, the issue on which the Tax Court of Canada ruled in 2019 was whether the agreement created one combined taxable supply or whether the supply by Aeroplan to the bank was a separate supply that can be characterised as a supply of 'gift certificates' and is therefore not subject to GST (Shooner, 2019).

The tax court ruled that it constituted one single supply of, "…promotional and marketing services" (*Canadian Imperial Bank of Commerce v. The Queen, 2019 TCC 79*, 2019:4), and as such the transaction was correctly subject to GST and that as a result of this there was no GST rebate to be claimed by the CIBC as GST was correctly charged on the transaction. This decision, however, is not the reason for the relevance of the court case for the issue of the GST taxability of CLP rewards that is under consideration. Upon considering the supply made by Aeroplan to the CIBC, the nature of the Aeroplan Miles were considered by the court and this consideration can be used to gain insight into how the Tax Court of Canada defines and is likely to treat loyalty points in terms of the general GST provisions set out above.

The Tax Court of Canada determined that the Aeroplan Miles cannot be considered to be of the same nature as a 'gift certificate' as the Aeroplan Miles do not provide the holder, the CIBC credit card holding customer, with a stated monetary value to be redeemed from the issuer, Aeroplan. For something to be considered a 'gift certificate' in terms of the Excise Tax Act, it needs to be issued in exchange for consideration and needs to, "…have attributes similar to those of money" as explained by Justice Visser in paragraph 83 of the ruling on this case (*Canadian Imperial Bank of Commerce v. The Queen, 2019 TCC 79*, 2019, para. 84). The Aeroplan Miles were issued for consideration and although it does give Aeroplan members value, this value is not a, "…readily stated monetary value" (*Canadian Imperial Bank of Commerce v. The Queen, 2019 TCC 79*, 2019) and as a result cannot be considered a gift certificate for purposes of GST and the Excise Tax Act.

The Federal Court of Appeal upheld the decision made by the Tax Court of Canada that the supply of Aeroplan Miles to the CIBC was part of a single taxable supply of promotional and marketing services by Aeroplan (*Canadian Imperial Bank of Commerce v.*

Canada, 2021). The Federal Court of Appeal did not address whether the Aeroplan Miles can be considered 'gift certificates' for purposes of the Excise Tax Act and GST, because it was deemed that this classification would impact the CLP members redeeming these miles and the CLP provider, Aeroplan, which will accept these miles as consideration, and neither of these parties were party to the appeal. It was therefore not deemed relevant for purposes of making a ruling on the appeal by the Federal Court of Appeal (Shooner, 2021).

Therefore, based on the interpretation of the Tax Court of Canada, loyalty points such as the Aeroplan Miles, are not considered to be within the ambit of the term 'gift certificates' for purposes of the Excise Tax Act and the GST provisions contained therein. As such, in considering whether the supply of loyalty points by GST registered businesses to CLP members are taxable supplies, the general provisions of Part IX of the Excise Tax Act, as briefly outlined above, will need to be considered. The Federal Court of Appeal remained silent on this interpretation and noted that its silence does not serve as an endorsement of this interpretation by the Tax Court. The CIBC can still take the matter to the Supreme Court of Canada for a further appeal, which could result in the higher court providing their view on this interpretation made by the Tax Court, but at the time of the present study, there was yet to be an appeal lodged by the CIBC.

Therefore, it is necessary to determine whether loyalty points earned by customers as a result of participating in CLPs of GST registered business can be considered to be a taxable supply as defined and therefore should be subject to GST. Division II, Subdivision A, sets out the provisions applicable to the imposition of GST at a rate of 5% (Minister of Justice, 1985b:346–361). The term 'taxable supply' is defined in section 123 of the Excise Tax Act as, "…a supply that is made in the course of a commercial activity" (Minister of Justice, 1985b:254). The definition of 'commercial activity' includes, "…any business carried on … except to the extent to which the business involves the making of exempt supplies" (Minister of Justice, 1985b:225–226). 'Supply' as defined means, "…the provision of property or a service" (Minister of Justice, 1985b:254). Therefore, for the supply of loyalty points to CLP members to be taxable, it would need to fall within the ambit of the definitions of 'property' or 'service' as defined in the Excise Tax Act.

All GST registrants are required to collect GST on all taxable supplies made to their customers (Canada Revenue Agency, 2020:8). There are exceptions to these taxable supplies, such as in the form of zero-rated supplies and for the sale of certain exempt 'real property' supplies. None of these exemptions apply to CLP benefits, but mainly deal with the supply of places of residence and farmland sales (Canada Revenue Agency, 2020:8–10). Zero-rated supplies are set out in Schedule VI to the Excise Tax Act and includes items that are not zero-rated in South Africa such as prescription medication, medical devices and items similar to South Africa's zero-rated items for VAT purposes such as feminine hygiene products, basic grocery items and items that are exported (Minister of Justice, 1985b:1140–1165). Similar to South Africa, none of the items included in this schedule specifically include or refer to loyalty points or CLP rewards. Exempt supplies are set out in Schedule V of the Excise Tax Act and includes amongst others, the supply of certain real property as described above and a range of services such as healthcare and educational services (Minister of Justice, 1985b:1105–1139). As was the case with zero-rated supplies, none of the items included in Schedule V specifically include or refer to loyalty points or CLP rewards. Therefore, since loyalty points are not excluded from being subject to GST by way of being included in exempt or zero-rated supplies, the definition of 'property' or 'service' remains the determining factor for determining whether the supply of loyalty points are taxable for the purposes of GST.

The definition of the term 'goods' in the Excise Tax Act refers to the meaning of goods as in the Customs Act (Minister of Justice, 1985b:230). In the Customs Act the definition of 'goods' is given as, "…includes conveyances, animals and any document in any form" (Minister of Justice, 1985a:5). This definition does not give much guidance in terms of items that specifically will not be considered to be 'goods' as defined but does indicate that a wide meaning can be ascribed to the word goods, as it will, for example, include the items mentioned within its ambit.

The definition of 'service' in the Excise Tax Act is, "…anything other than property, money and anything that is supplied … in the course of or in relation to the office or employment …" (Minister of Justice, 1985b:251). Therefore, the term 'service' can also be seen to be given a wide meaning in the context of the Excise Tax Act and therefore for purposes of determining whether the supply of something is to be subject to GST.

Since there are no specific exclusions in the definitions of either ‘goods’ or ‘service’ addressing loyalty points or something of a similar nature, nor other specific exclusions in the Excise Tax Act as was discussed above, there is no indication that the supply of loyalty points will not fall within the ambit of either of these terms. Therefore, as concluded above, should loyalty points fall within either of these definitions, an argument can be made that the supply thereof should be subject to GST.

2.3.CONCLUSION

The CRA does not have specific legislative provisions regarding the GST taxability of loyalty points customers receive as a result of participating in CLPs. Therefore, the taxability thereof has to be considered in terms of the general GST provisions set out in Part IX of the Excise Tax Act (Minister of Justice, 1985b, pt. IX). These provisions were analysed above and determined that should the definitions of ‘property’ or ‘service’ be interpreted to include loyalty points, this supply of loyalty points made to CLP members fall within the scope of what is considered a taxable supply for purposes of GST. Therefore, the supply of loyalty points to CLP members by GST registered businesses can be subject to GST in light of the interpretation of the general GST provisions made by this study.

CHAPTER 3:
VAT TAXABILITY OF LOYALTY POINTS IN SOUTH AFRICA

3.1.INTRODUCTION

The current South African VAT legislation applicable to suppliers of loyalty points to customers who are members of CLPs will be analysed in this chapter. This analysis will be done by considering the terms and conditions of South Africa's three most popular CLPs rewarding customers with loyalty points, namely Clicks ClubCard, Pick n Pay Smart Shopper and Dis-Chem Benefit, against the requirements contained in section 7(1)(a) of the VAT Act. This section sets out the requirements to be met for a supply to be deemed subject to VAT. There is uncertainty among taxpayers regarding the treatment of loyalty points awarded to customers as a result of belonging to CLPs which results in the non-taxation of these points as applied by SARS.

This chapter will illustrate that this is a result of the lack of specific legislative provisions addressing the VAT consequences of customer loyalty points and the ambiguity of the limited guidance already issued by SARS. This guidance is in the form of BPR 310 issued in 2018 and valid for a three-year period from 2 August 2018 and a Discussion Paper on the VAT treatment on loyalty programmes issued in 2014 which was subsequently converted to a Draft Interpretation Note issued in April 2020 (South African Revenue Service, 2020:1).

By referring to the guidance given in these publications and by interpreting and applying section 7(1)(a) of the VAT Act, this chapter will aim to conclude on the taxability of loyalty points awarded as a result of customers belonging to and participating in CLPs, as well as make recommendations to SARS on how specific legislative provisions added to the VAT Act will result in clarity on the taxability of these points from the perspective of the suppliers.

3.2.CURRENT VAT PRINCIPLES

The definition of Output VAT in section 1 of the VAT Act (National Treasury, 1991:12) is, "… the tax charged under section 7(1)(a) …". Therefore, in order for the loyalty points provided to customers to be subject to Output VAT in terms of current VAT legislation, it would need to meet the following requirements as contained in section 7(1)(a):

a)a "supply" as defined in section 1;

b)by a "vendor" as defined in section 1;

c)of "goods" as defined in section 1;

OR

d)of "services" as defined in section 1; and

e)in the course or furtherance of any "enterprise", as defined in section 1, carried on by him (National Treasury, 1991:19).

These requirements will each be considered separately below.

Section 12 of the VAT Act sets out supplies that are exempt from Output VAT as levied in terms of section 7(1)(a) (National Treasury, 1991:34–35). Therefore, before consideration can be given as to whether the supply of loyalty points meet the requirements of section 7(1)(a), it must be determined whether this supply of loyalty points by the CLP provider to CLP members is not an exempt supply as set out in section 12 of the VAT Act.

Section 12(a) determines that any supply of 'financial services' as defined in section 2 of the VAT Act will be exempt, except to the extent that it is zero-rated in terms of section 11. The definition of 'financial services' in section 2 lists and explains the type of supplies that are included in this term and will therefore be considered exempt, such as the provision of long-term insurance and the buying and selling of cryptocurrency. However, none of these items listed or explained refer to or can be seen to include in its ambit the supply of loyalty points by a CLP provider. Section 12 goes on to list further supplies which are to be exempt from VAT in paragraphs (b) to (m), none of which relates to or includes the supply of loyalty points to CLP members by CLP providers. Therefore, since no supply set out in section 12 of the VAT Act includes or makes reference to the supply of loyalty points, the supply is not exempt and will be considered against the requirements of section 7(1)(a).

The VAT Act also goes on to list supplies that are subject to VAT in terms of section 7(1)(a), but at a rate of 0% and not the standard rate, which is 15% at the time the present

study was conducted. These supplies are called zero-rated supplies and are set out in section 11 of the VAT Act. The supply of loyalty points will therefore still be considered against the requirements of section 7(1)(a), but if it falls within the ambit of zero-rated supplies, will carry VAT at a rate of 0% and will therefore not contribute in raising additional revenue funds by SARS.

As was the case for exempt supplies in section 12 of the VAT Act, none of the paragraphs or sections and schedules referenced in section 11 of the VAT Act makes any reference to the supply of loyalty points. Therefore, a CLP provider supplying a CLP member with loyalty points will not be a zero-rated supply if the requirements of section 7(1)(a) are met, but a standard rated supply on which VAT will currently by levied at a standard rate of 15%.

3.2.1.Supply

The definition of term ‘supply’ in section 1 of the VAT Act includes, “…performance in terms of a sale” (National Treasury, 1991:14). The term ‘sale’ is also defined in section 1 of the VAT Act, and means, “…an agreement of purchase and sale and includes any transaction or act whereby or in consequence of which ownership of goods passes or is to pass from one person to another” (National Treasury, 1991:13). The terms and conditions of different CLPs will determine whether ownership of points pass to the CLP member. The Dis-Chem Benefit CLP’s terms and conditions stipulate that any rewards as a result of the programme accrue to the member only and is non-transferable (Dis-Chem, 2021). The terms and conditions of the Clicks ClubCard set out that the ClubCard itself is not transferable and that benefits earned accrue only to the named ClubCard owner who is a CLP member (Clicks, 2021). This is also the case for the PnP Smart Shopper card and rewards earned with the card (Pick n Pay, 2021). Therefore, no clear conclusion can be made as to whether the ownership of points does pass to the CLP member. The mere fact that points are not transferable does not prevent the CLP member from owning the points, but the accrual of the points to the CLP member does not on its own mean that ownership passed to the member. However, as discussed above, the nature of the loyalty points is considered to be more aligned to the nature of services than that of goods and as such, the matter of whether ownership passes to the CLP member will not be relevant for

purposes of determining whether Output VAT in terms of section 7(1)(a) can be levied on the supply of the points to the CLP member by the CLP provider.

Section 9 of the VAT Act sets out the timing of supply rules and determines that a supply is deemed to take place at the time an invoice is issued by the supplier or the time any payment of consideration is received by the supplier. CLP members earn loyalty points on transactions entered into with the CLP provider or loyalty partners and the CLP provider issues a valid VAT invoice to the CLP member for these transactions. This invoice, often in the form of a digital or print till slip, will not only detail the goods and/or services supplied to the CLP member, but also the loyalty points the CLP member earned as a result of entering into this transaction, along with details regarding loyalty points used in the transaction if applicable. Therefore, the timing of the supply of loyalty points to customers is when the loyalty points are earned as a result of the qualifying transaction entered into by the CLP member, as this is the point in time at which an invoice is issued to the CLP member for the loyalty points earned.

For customers to earn loyalty points as part of the Clicks ClubCard, Pick n Pay Smart Shopper and Dis-Chem Benefit CLPs, the customer is required to swipe their loyalty programme card (or enter their loyalty card number in the online shopping environment) when they make purchases from qualifying retailers. Loyalty points are therefore awarded to customers when sales transactions are entered into between the CLP provider and CLP members.

A sales transaction between a CLP provider and a CLP member, therefore, does not only entail supplying the customer with the items purchased, but also provide the customer with the loyalty points that the purchase earned them. Therefore, since loyalty points are awarded to customers as part of sales transactions, the first requirement of section 7(1)(a) is met. Providing CLP members with loyalty points constitutes a supply as defined in section 1 of the VAT Act.

3.2.2.Vendor

In terms of section 1 of the VAT Act, ‘vendor’ means any person who is or is required to be registered under this Act (National Treasury, 1991:15).

Section 23 of the VAT Act sets out the requirements for when a person becomes liable to register as a vendor and specifies that any person who, at the end of any month made supplies in excess of R1 million in the preceding twelve-month period or will do so in the upcoming twelve-month period in terms of written contractual obligation(s) for supplies to be made in that period, must register for VAT.

All three of the retailers whose loyalty programmes are under consideration in this study are VAT vendors. This is evidenced by the retailers' turnover which would represent taxable supplies. It is common knowledge that should a customer visit any of the stores considered in this study and make a purchase, VAT will be levied on that purchase, whether it be at a rate of 15% or 0% depending on the item(s) purchased. The receipt received with the purchase will indicate the percentage of VAT levied, as well as provide the retailers' VAT numbers, illustrating the retailers' registration as a VAT vendor in terms of section 23 of the VAT Act, as shown in Appendix B. Given the fact that the turnover of the Clicks Group (2020), Pick n Pay Group (2020) and Dis-Chem Group (2020) all exceeded R20 billion in their 2020 financial years, as shown in each company's 2020 Annual Financial Statements, it is clear that each company exceeded the R1 million worth of supplies as set out above.

The 'vendor' requirement of section 7(1)(a) is, therefore, also met.

3.2.3.Goods and services

The section 1 definition of 'goods' includes, "…corporeal movable things, fixed property, any real right in any such thing or fixed property, and electricity" (National Treasury, 1991:10). The definition goes on to exclude 'money', another defined term in the Act meaning, "…coins (other than coins made wholly or mainly from a precious metal other than silver)" and paper currency that is a legal tender in terms of the South African Reserve Bank Act or any such coins or paper currency from any country other than South Africa, "…which is used or circulated … as currency" (National Treasury, 1991:12).

Loyalty points awarded to customers do not fall within the ambit of the definition of currency as per section 1 of the VAT Act, as it does not constitute legal tender in terms of

the South African Reserve Bank Act nor currency of a country other than South Africa. Loyalty points are therefore not specifically excluded from the definition of goods.

Loyalty points, however, do not constitute corporeal movable things, nor fixed property or electricity. Nor does it constitute any real right in any such corporeal movable things or fixed property, since the loyalty points do not give CLP members a right to specific goods sold by the CLP providers, but rather the right to a set-off of the points against the value of future transactions entered into with the CLP provider. A CLP member who has accrued sufficient loyalty points may even be able to use their loyalty points in settlement of the full purchase price of a future transaction entered into with the CLP provider, therefore in essence, receiving a 100% set-off on the future transaction. As such, loyalty points will not be considered to fall within the definition of 'goods'. It is therefore necessary to consider whether loyalty points can be seen as included in the definition of services.

'Services' is defined as, "…anything done or to be done, including the granting, assignment, cession or surrender of any right or the making available of any facility or advantage but excluding a supply of goods…" (National Treasury, 1991:14) as described above.

When a CLP member enters into a sales transaction with the CLP provider, the member expects to not only receive their purchased items in return, but also loyalty points as a result of participating in the CLP. These loyalty points can be redeemed against future purchases by the customer.

In the case of the Pick n Pay Smart Shopper programme, customers earn 1 point for every R2 spent (Pick n Pay, n.d.). These points can then be spent on future purchases at any Pick n Pay store, effectively as cash against the purchase (Pick n Pay Group, 2020). Dis-Chem Benefit points are also earned on qualifying purchases, with each point being worth 1 cent to be used against future purchases or 1000 points resulting in R10 value to be set-off against a future purchase (Dis-Chem, n.d.). Clicks Clubcard members also earn points on qualifying purchases; one point is earned for every R5 spent and 10 points gives a customer R1s benefit to be used against future purchases(Clicks, n.d.).

From the above, it is clear that the loyalty points CLP members earn when making purchases from CLP providers, give them the right to discounts on future transactions with the CLP provider. This right to future discounts is granted to the CLP member by the CLP provider in the form of the loyalty points earned on qualifying transactions. Therefore, the loyalty points or the right to a future discount that it represents, fall within the definition of 'services' as per section 1 of the VAT Act and the awarding of loyalty points to customers is the supply of services by the CLP provider, a VAT vendor, to a CLP member.
The third requirement of section 7(1)(a), 'goods' OR 'services' as defined, is therefore also met.

3.2.4.Enterprise

The final requirement of section 7(1)(a) to be met is that the supply as discussed above, is to be made, "…in the course or furtherance of any enterprise" (National Treasury, 1991:7–9).

The section 1 definition 'enterprise' includes in paragraph a "…any enterprise or activity which is carried on continuously or regularly by any person in the Republic or partly in the Republic and in the course or furtherance of which goods or services are supplied to any other person for a consideration …" (National Treasury, 1991:7–9). 'Consideration' as defined in section 1 of the VAT Act includes, "…any payment made or to be made … whether in money or otherwise …" (National Treasury, 1991:6).

Each of the retailers whose loyalty programmes are under consideration in this study are carrying on an enterprise as retailers. They regularly and continuously supply goods and services for consideration to customers across the country and beyond. The question that has to be asked, is whether the activities that form part of these retailers' loyalty programme offerings are in the course or furtherance of their enterprises as retailers? To answer the question, consideration must be given as to whether the loyalty programmes add to the ability of retailers to carry on their activities of selling goods as well as provide services, to customers. Loyalty programmes are a key part of how retailers not only attract customers to shop at their stores, but also keep the customers coming back on a regular basis. Loyalty programmes have become a focus point of the battle between retailers for market share in South Africa, evidenced by the launch of Checkers' Xtra Savings, which

translated to, "…roughly R4 billion in market share" taken from competitors in the 2020 financial year (Buthelezi, 2020). It is therefore evident that a loyalty programme offering and in the case of the CLP providers under consideration, the provision of loyalty points to CLP members, definitely adds to the ability of retailers to further their enterprises.

The final requirement of section 7(1)(a) is met and the supply of loyalty points to CLP members are in the course or furtherance of the retailers' enterprises.

3.2.5.Conclusion on section 7(1)(a)

All the requirements of section 7(1)(a) for Output VAT to be charged on the supply of loyalty points are met, as evidenced by the discussions above. The result of this is that CLP providers have an obligation to levy Output VAT on the supply of loyalty points to CLP members.

3.3.GUIDANCE FROM SARS' FURTHER PUBLICATIONS

This section will consider the guidance given by SARS in BPR 310 and the Draft Interpretation Note addressing the taxability of loyalty points. Reasons for the differences between the interpretation above and the guidance given by SARS will also be given.

3.3.1.Binding Private Ruling 310

BPR 310 (South African Revenue Service, 2018:1–3) is only binding between SARS and the applicant and does not constitute a 'practice generally prevailing' as defined in the Tax Administration Act 28 of 2011 (TAA). It does, however, still serve as an indication of how SARS interpret the provisions of the VAT Act in a CLP context. The definition of 'Binding Private Ruling' in section 75 of the TAA confirms that it is, "…a statement issued by SARS…" only applicable to a specific "…proposed transaction" (National Treasury, 2012:76). 'Practice generally prevailing' is defined in section 5(1) of the TAA as, "…a practice set out in an official publication regarding the application or interpretation of a tax Act" (National Treasury, 2012:30). The definition of 'official publication' in section 1 of the TAA includes only, "…a binding general ruling, interpretation note and practice notice" (National Treasury, 2012:24) and does not include a binding private ruling. As such, any guidance given in BPR 310 cannot be seen as a 'practice generally prevailing', but only as

guidance that was provided to the parties of the specific proposed transaction under consideration in BPR 310.

This creates an important distinction between the degree of relevance of the guidance in BPR 310 to the study and to all taxpayers, as it would be more difficult to justify an approach that is contrary to a 'practice generally prevailing' than it would be for guidance given in a binding private ruling only. A taxpayer is, however, still entitled to follow an approach contrary to guidance published by SARS in an official publication such as interpretation notes, as the courts are not bound by these publications and do not have to follow the same interpretation as that of SARS (Strauss, 2018).

The scenario addressed in BPR 310 involved a CLP offered by the applicant, but the management of the CLP was done through a trust. Customers would enter into transactions with the applicant on which they earned loyalty points. The customers would then be appointed as beneficiaries of the trust. The trust receives a contribution from the applicant based on the gross profit of the applicant and this contribution will immediately vest in the customers who were appointed beneficiaries of the trust. The trust uses this contribution received to buy shares in the applicant or to acquire customer credits for the participants.

BPR 310 determines that the contribution made by the applicant to the trust does not constitute 'consideration' as defined in section 1 of the VAT Act, as it is not paid in exchange for the supply of goods or services. The payments to the applicant made by the trust on behalf of the customers do, however, meet the definition of 'consideration' in section 1 of the VAT Act, "…to the extent it is applied to paying for goods already supplied by the applicant to the customers" (South African Revenue Service, 2018:3). This is the case since the payment is made in exchange for goods already supplied to these customers. The payment made by the trust to the applicant that will be applied against future purchases made by these customers does not meet the definition of 'consideration' of section 1 in the VAT Act according to the guidance given in BPR 310.

The view taken here is partially contrary to the interpretation of section 7(1)(a) and the requirements contained therein above. In the discussion above it was concluded that the loyalty points awarded to CLP members does constitute a supply at the time it is awarded

to the CLP members. In BPR 310, the loyalty points itself are not considered separately, but rather the payment the trust makes to the applicant for the value of these credits the customers earned by participating in the CLP. Therefore, a direct comparison with the interpretation above cannot be made as the retailers under consideration above have CLP programmes that do not follow the third-party trust approach and therefore, require different consideration in terms of the VAT Act, as was done above.

The payments made by the trust to the applicant are seen as an extension of the transaction in which it will be used in exchange for discounts on goods. As such, points yet to be used in past transactions, do not meet the timing of supply requirements in terms of section 9 and therefore, no supply of these points takes place until the points are used in a transaction between the customer and the applicant. It does, however, concur with the interpretation above that it constitutes a supply, even if there is a timing difference and as such, VAT will have to be levied thereon.

3.3.2.Draft Interpretation Note

The purpose of the Draft Interpretation Note is, "…to address the VAT implications of points based loyalty programmes" in terms of the relevant general VAT principles contained in the VAT Act (South African Revenue Service, 2020:3).

The guidance in the Draft Interpretation Note is given for a CLP with a specified set of characteristics, all of which the three CLPs under consideration in the sample, adhere to. The guidance given can therefore be referred to for purposes of this study.

The Draft Interpretation Note uses the following diagram, as presented in Figure 1 below, to illustrate the transactional flow of the CLP under consideration, with LPO used as meaning Loyalty Programme Operator:

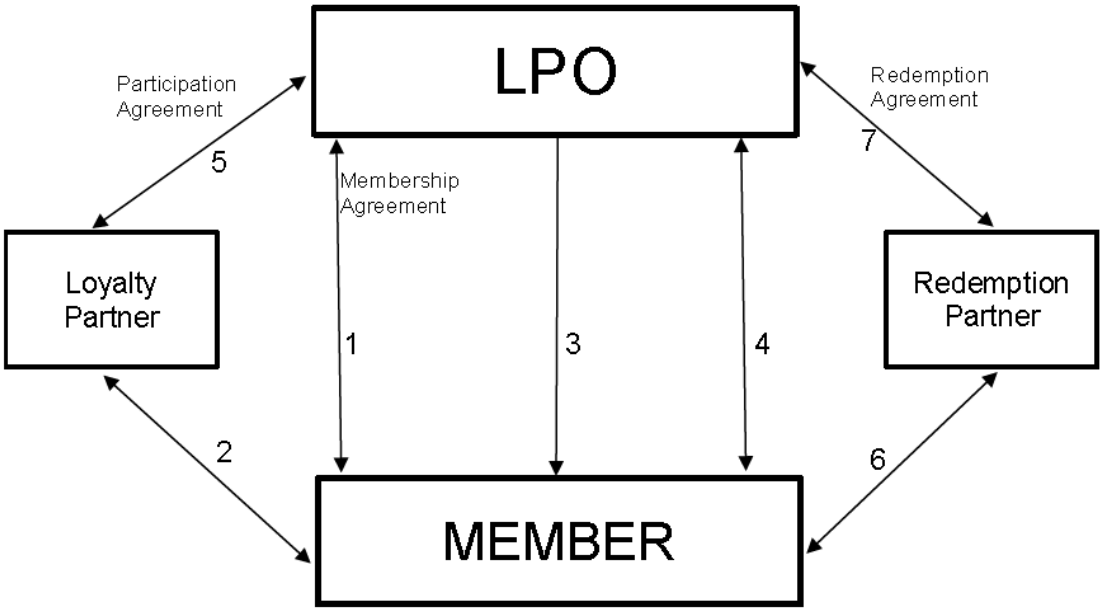

Figure 1: Transactional flow of loyalty programmes

Source: SARS (2020)

This study is concerned with transactions 2 and 3. Transaction 2 being the purchases made by the CLP member on which loyalty points are earned. Transaction 3 represents the allocation of loyalty points by the Loyalty Programme Operator to the CLP member based on the value of purchases in transaction 2. The points awarded to the CLP member in transaction 3, as a result of qualifying purchases made in transaction 2, grants the CLP member the right to a future discount by using the points earned as payment or partial payment, on a future transaction with the CLP supplier. As per the discussion of the requirements of section 7(1)(a) above, this study takes the view that transaction 3 is a supply on which Output VAT should be levied.

The guidance in the Draft Interpretation Note and the interpretation of the definition of 'services' above aligns, in that a loyalty point represents a right awarded to a CLP member which can be used as partial payment in a future transaction with the CLP provider. Further, the guidance given also supports the interpretation given above with regards to the fact that the awarding of loyalty points to a CLP member constitutes a supply as defined in section 1 of the VAT Act (National Treasury, 1991:14). The Draft Interpretation Note's guidance, however, does not attach a value to the loyalty point as it is deemed to be awarded to the CLP member for no consideration.

The value of supplies is considered in section 10 of the VAT Act and determines in section 10(2) that the value of a supply is the amount of consideration received for the supply. 'Consideration' is defined in section 1 of the VAT Act as, "…any payment made … whether in money or otherwise…" (National Treasury, 1991:6). CLP members earn loyalty points on transactions with the CLP providers, in which the CLP members purchase goods or services for consideration, the value of which determine the amount of loyalty points the CLP member earns.

The view taken with regards to this consideration paid for the goods and services in the transaction on which the CLP member earns the loyalty points, is that the consideration does not only pertain to the goods and services purchased, but is also partly attributable to the loyalty points earned. This is due to the CLP member entering into the transaction with the CLP provider with an expectation to not only receive the goods and services but also loyalty points in exchange for the consideration paid to the CLP provider. This view aligns with the view adopted by the International Accounting Standards Board in the International Financial Reporting Standard 15 Revenue from Contracts with Customers (IFRS 15) (IASB, 2014:A784–A785).

In the Illustrative Examples that accompany IFRS 15, guidance is given for revenue transactions with customers as part of a CLP, where customers earn loyalty points. This is contained in Example 52 of the Illustrative Examples and illustrates how the transaction price paid by the customer is allocated between the products purchased and the points earned. The transaction price in terms of IFRS 15 means, "…the amount of consideration to which an entity expects to be entitled in exchange for transferring promised goods or services to a customer" (IASB, 2014:A773). For purposes of a transaction with a customer as part of a CLP, the promised goods and services to be transferred to the customer is both the products purchased as well as the loyalty points. The view this study takes from a VAT perspective is in line with this. This study concluded in section 3.3.1 that the consideration paid by the customer is both for the products purchased as well as the loyalty points, as the customer expects to receive both as part of concluding the transaction with the CLP provider.

Illustrative Example 52 to IFRS 15 (IASB, 2014:B410) provides revenue recognition guidance specifically to entities that operate CLPs that reward CLP members with loyalty

points. IFRS 15 provides for the recognition of revenue based on the fulfilment of obligations by an entity to its customers (IASB, 2014:A744–A754). Illustrative Example 52 therefore describes a purchase by a customer on which the customer earns loyalty points as a fulfilment of an obligation by an entity to its customers. As such, two obligations toward the customer are identified in Illustrative Example 52. The first being to provide the customer with their chosen goods and/or services and the second being the loyalty points earned by the customer as a result of entering into a transaction for the afore-mentioned goods and/or services. The consideration received or receivable, from a transaction with a customer is referred to as the 'transaction price' for purposes of IFRS 15. The transaction price is allocated between the two obligations based on the stand-alone selling price of each obligation. In Illustrative Example 52, the customer purchased goods to the value of Currency Units (CU) 100 000, which is the transaction price and earned 10 000 loyalty points on the purchase. The stand-alone selling price of the goods is therefore CU100 000, and a stand-alone selling price value for the loyalty points is estimated as CU9 500. Loyalty points are earned on a basis of one loyalty point for every CU10 spent. Therefore, 10 000 loyalty points are earned by the customer on a purchase of CU100 000. An estimation is made that only 9 500 of the 10 000 loyalty points will be redeemed by the customer, resulting in an estimated stand-alone selling prince of CU0.95 per point and a total estimated stand-alone selling price for 10 000 loyalty points being CU9 500. Therefore, by making use of the stand-alone selling price method as allocation basis CU91 325 (calculated as 100 000 x 100 000 / 109 500 = 91324) of the CU100 000 transaction price is allocated to the goods purchased and CU8676 (calculated as 9 500 x 100 000 / 109 500 = 8676) to the loyalty points (IASB, 2014:B410).

The redemption estimate for points is based on the likelihood that the customer will redeem their loyalty points in future (IASB, 2014:A785). In accordance with the disclosure requirements of IFRS 15, the method applied in estimating the stand-alone selling price of loyalty points is to be disclosed in an entity's accounting policy notes in their annual financial statements (IASB, 2014:A770). The Clicks Group disclosed a 91% redemption rate estimate in their 2020 Annual Financial Statements (Clicks Group, 2020:54). Pick n Pay in turn discloses in their 2020 Annual Financial Statements that adjustment is made for an expected 17.5% forfeiture rate in their estimation of the stand-alone value of loyalty points awarded to customers (Pick n Pay Group, 2020:41). The 2020 Annual Financial Statements of the Dis-Chem Group does not disclose a specific redemption estimate

percentage applied, but merely describes that the estimated percentage of between 90% and 100% is based on the historical redemption rate of points and continues to say that the "Group experiences low levels of unredeemed loyalty points due to the ease…" of redemption (Dis-Chem Group, 2020:70).

Therefore, in a manner similar to how the transaction price is allocated between the products and the points in Illustrative Example 52 to IFRS 15 (IASB, 2014:B410), the 'consideration', as defined in the VAT Act, received by the CLP provider can be allocated between the loyalty points earned by and awarded to the CLP member and the goods and/or services the CLP member purchased in the transaction. The allocation in IFRS 15 is based on the stand-alone selling prices of both the products and the points, which in the case of the points is based on an estimate relying on the value of the points at redemption and the likelihood of redemption. This same estimation method can also be used by VAT vendors for VAT purposes in allocating a part of the consideration received to the loyalty points. In the case of this study, the three VAT vendors under consideration, Clicks Group, Pick n Pay and Dis-Chem Pharmacies, all compile and publish annual financial statements in terms of IFRS and as discussed above, already have policies in place to value points for purposes of revenue recognition and disclosure in terms of IFRS 15 in their annual financial statements.

The conclusion of this study is therefore contrary to the guidance given in the Draft Interpretation Note. The supply of the loyalty points to a customer is not a supply made for no value because a CLP member enters into a transaction with the CLP provider with the expectation to not only receive the goods and services they wish to purchase, but to also be awarded loyalty points as part of the transaction. Therefore, the consideration paid by the CLP member to the CLP provider is in exchange for both loyalty points as well as the products purchased and as such, a portion of the consideration is to be allocated to the loyalty points, thereby meaning that the supply of the points does have a value.

3.4.CONCLUSION

Loyalty points supplied to CLP members by CLP providers as a result of participating in CLPs are supplies on which Output VAT are to be levied in terms of section 7(1)(a) of the VAT Act. All the requirements for Output VAT to be levied are met by these supplies made by CLP providers to CLP members, as well as the time of supply and value of supply

provisions contained in the VAT Act in sections 9 and 10 respectively. This is the case based on interpretation of the general VAT principles contained in the VAT Act, as there is currently no specific provision addressing the supply of loyalty points by VAT vendors.

To date, the guidance issued by SARS in this regard is non-binding and only serves as an illustration of how SARS is likely to interpret provisions of the VAT Act. Vendors are therefore not bound by this and are free to continue not levying Output VAT on the supplies of loyalty points they make without necessarily being in contravention of any provisions of the VAT Act.

SARS can, however, consider widening their tax base by issuing binding guidance on the interpretation of the VAT Act with regards to the provision of loyalty points by CLP providers who are VAT vendors. In addition, SARS can add specific provisions to the VAT Act that provides vendors with clear guidance in this regard, to ensure the taxability of the supply of loyalty points are certain and not an area of debate between vendors and the revenue agency.

CHAPTER 4:
COMPARING SOUTH AFRICA TO CANADA

4.1. INTRODUCTION

This chapter will compare the charging provisions of South African VAT to that of Canadian GST. Since neither jurisdiction provide CLP specific guidance, the taxability of CLP benefits provided to CLP members will be determined by the application of the general charging provisions applied in each jurisdiction. Each jurisdiction was considered separately in Chapters 2 and 3 respectively. This chapter will highlight important similarities and differences identified between the jurisdictions' legislative provisions and identify lessons the jurisdictions can learn from one another based on the identified similarities and differences.

4.2. CHARGING SECTIONS

Both South Africa's VAT and Canada's GST systems operate on an input-output basis. Each jurisdiction's legislative provisions provide for the making of taxable and exempt supplies and both make provision for certain taxable supplies that are considered to be zero-rated (National Treasury, 1991:29-34; Canada Revenue Agency, 2020:1140–1165). The structure of Canada's GST system and South Africa's VAT are discussed in Chapters 2 and 3 respectively.

Both systems provide for their sales tax to be charged on the provision on taxable supplies to customers, as discussed above. Neither jurisdiction has legislative provisions that specifically address the taxability of CLP benefits such as loyalty points, provided to customers in the course carrying on an enterprise (National Treasury, 1991:7–9), as described in the VAT Act or in the course of a commercial activity as defined in the Excise Tax Act (Minister of Justice, 1985a:254).

South African VAT legislation provides that only registered VAT 'vendors' as defined in the VAT Act, are to levy VAT on taxable supplies made by them (National Treasury, 1991:15).

This aligns well with the wording of the Canadian Excise Tax Act which provides that only businesses who are GST registered are to levy GST on supplies made in the course of a 'commercial activity' as defined in the Excise Tax Act (Minister of Justice, 1985b:254). Both jurisdictions have monetary thresholds that determine when businesses become liable to register for VAT and GST respectively. These thresholds were discussed in more detail in Chapter 2 and Chapter 3 and remain important when considering the comparability of the jurisdictions and the potential CLP taxability consequences as it further emphasises the structural similarity between the jurisdictions.

In Chapter 3 the thresholds set out in the VAT Act were, for purposes of the CLPs included in the sample, not a requirement that warranted much discussion as all CLPs under consideration are operated by large retailers who make earnings exponentially beyond that of the R1 million compulsory VAT registration requirement and their VAT registered status is confirmed in the receipts included in Appendix B. For smaller entities who operate CLPs, however, the thresholds set out in both jurisdictions' legislative provisions could result in small businesses avoiding being subject to VAT/GST burdens potentially associated with the taxing of CLPs in a manner described in section 3.3.2.

Section 3.3.2 makes use of IFRS 15 requirements and guidance given in the IASB's IFRS 15 Illustrative Examples specifically addressing revenue associated with loyalty points to reconcile the study's interpretation of the VAT taxability of loyalty points with the guidance issued in SARS' Draft Interpretation Note (South African Revenue Service, 2020:3). This interpretation's reliance on IFRS 15 adds further value to the international comparison performed by the study as most listed Canadian companies are required to publish financial statements in terms of IFRS (IASB, 2021:A770) as is the case for South African listed companies and for all three companies whose CLPs were included in the sample considered in Chapter 2. Should the Canada Revenue Authority decide to pursue the taxability of loyalty points awarded to CLP members a similar valuation method for loyalty points awarded to customers could be applied for Canadian GST purposes, incorporating IFRS 15 accounting and disclosure principles. For example, as disclosed in the 2020 Annual Report to Shareholders of the Canadian Tire Corporation (Canadian Tire Corporation, 2020:87), the company runs a loyalty programme called Triangle which gained 1.8 million new members in 2020.

In Chapter 2 the supply of loyalty points to CLP members by GST registrants were considered against the general GST provisions contained in Part IX of the Excise Tax Act and it was determined to meet the requirements to be taxable, should loyalty points be considered to fall within the ambit of 'service' or 'goods as defined in the Excise Tax Act, and therefore be subject to GST (Minister of Justice, 1985b:236–251). The same was done in terms of South African VAT legislation and the conclusion was that the loyalty points supplied to customers can also be considered taxable for VAT purposes in South Africa.

In comparison with the Canadian Excise Tax Act, the South African VAT Act provides clearer guidance on what is considered to be included within the ambit of 'goods' or 'services' as defined for purposes of the Act and as such, for purposes of determining when a supply of such goods or services are made. There is no definition for 'goods' given in the Excise Tax Act (Minister of Justice, 1985b:236) itself, but rather a reference to refer to the definition of 'goods' as contained in the Customs Act. The Customs Act in turn, defines the term 'property' merely by providing a brief list of things that are to be considered as included in the definition (Minister of Justice, 1985a:5). Therefore, the Customs Act does not provide much more guidance for purposes of determining whether loyalty points could fall within in the ambit of the definition, as none of the specific inclusions are relevant for purposes of considering the taxability of loyalty points awarded to customers. The term 'service' is defined in the Excise Tax Act, but this definition merely provides a list of three specific exclusions (Minister of Justice, 1985b:251). Therefore, although it is not practically possible to compare the wording of the definitions from the two jurisdictions, it can be seen that both jurisdictions intend for these terms to have a wide meaning. As discussed in Chapters 2 and 3, since no specific exclusions are made with reference to loyalty points, it is likely that these definitions will include loyalty points within their ambit and as such, the points are potentially taxable for VAT or GST purposes as applicable.

The VAT Act stipulates that a registered vendor is to levy VAT on supplies made "…in the course or furtherance of any enterprise" (National Treasury, 1991:19). The Excise Tax Act in turn provides that, "…a supply that is made in the course of a commercial activity" (Minister of Justice, 1985b:254) is to be subject to GST. Chapter 2 and Chapter 3 look at the meanings of each of these phrases in more detail, but what can be seen is that both

South African VAT and Canadian GST has the aim of taxing businesses for the activities they carry on, on which they earn revenue. Therefore, for both jurisdictions the operation of CLPs can reasonably be seen to form part of business' "…carrying on of an enterprise" (National Treasury, 1991:19) for VAT purposes and "…in the course of a commercial activity" (Minister of Justice, 1985b:254) for GST purposes. An added complexity that South African legislators do not face, is the differing additional indirect tax in the form of HST and PST which certain Canadian provinces levy, over and above or instead of the national GST (Canada Revenue Agency, 2020:8). South Africans are subject to the same rate of VAT across the entire country regardless in which of the nine provinces customers may find themselves.

These conclusions illustrated the similarities between the jurisdictions and the operation and interpretation of the jurisdictions' VAT/GST systems. It also indicates that both revenue agencies potentially have the opportunity to widen their tax bases by enforcing their current legislative provisions on the supply of loyalty points to CLP members by VAT vendors/GST registrants. See Table 2 below.

Table 2: Comparison of loyalty points guidance

	South Africa	Canada
Comparability to South Africa's VAT provisions	-	✓
Charging section wording	"in the course or furtherance of any enterprise"	"a supply that is made in the course of a commercial activity"
Who is liable to pay VAT/GST	VAT 'vendors' as defined	GST registered businesses
Specific legislative provisions	X	X
Other official guidance issued	✓	✓
Court case precedents	No VAT cases on loyalty points	✓ Section 2.2
Applies IFRS 15	✓	✓

Source: Compiled by researcher

4.3. SINGLE OR MULTIPLE SUPPLIES

The Constitutional Court of South Africa ruled on an Income Tax matter with regards to deductions claimed by Clicks Retailers for 'future expenditure' that pertains to Clicks CLP, the ClubCard Programme (*Clicks Retailers (Pty) Ltd v Commissioner for the South African Revenue Service (CCT 07/20) [2021] ZACC 11*, 2021). This programme was part of the sample of CLPs considered in Chapter 3, when the taxability of the supply of loyalty points in terms of the VAT Act was considered. This case is relevant for purposes of this study despite it not being a VAT court case. The reason being, it provided an indication of the possible interpretation of supplies made as part of CLPs and whether supplies made from the earning of points to the redeeming of points by customers can be seen as pursuant to one larger supply over a period of time, or whether it can be seen as separate supplies altogether. This creates valuable context for South African legislation in comparison to the Canadian court case considered in section 2.2.

As was discussed in section 2.2, both the Tax Court of Canada and subsequently on appeal, the Canadian Federal Court of Appeal (*Canadian Imperial Bank of Commerce v. Canada*, 2021:4) determined that the supply made by Aeroplan to the CIBC constituted a single supply of promotional and marketing services, which is GST taxable. Therefore, the fact that this supply was CLP related supplies did not influence whether the supply as a whole was deemed taxable, as all aspects that formed part of the supply was seen to be encompassed by the supply of 'promotional and marketing services'. This issue differs from the one considered by the Constitutional Court of South Africa in two important ways. Firstly, the South African case was considered from an income tax perspective, whereas the Canadian case was a GST/VAT case. Secondly, the Canadian case considered a supply that contained amongst others, aspects relating to the supply of loyalty points as well as access to loyalty programmes and not specifically the earning and redeeming of loyalty points by CLP members and customers. The South African case, however, considered the transactions in which CLP members earned and subsequently redeemed their loyalty points and whether those constituted two different supplies rather than one over-arching supply. Therefore, a direct comparison between the two cases cannot be

made, but both are valuable in navigating taxability issues within a CLP and loyalty points landscape.

Clicks Retailers claimed an income tax allowance in terms of section 24C of the Income Tax Act 58 of 1962 (Income Tax Act) (National Treasury, 1962:172). SARS disallowed this deduction claimed by Clicks Retailers, because SARS was of the opinion that the transactions and contracts pursuant to those transactions under consideration, did not meet the requirements set out in section 24C to be able to claim the deduction (Brink & Malindisa, 2021). Section 24C of the Income Tax Act allows a taxpayer to claim an allowance based on 'future expenditure' (National Treasury, 1962:172). A section 24C allowance is granted to taxpayers who receive amounts in terms of a contract in the current year of assessment and will use those amounts received to finance 'future expenditure' in terms of the same contract in future year(s) of assessment (Killoran, 2021). Therefore, section 24C of the Income Tax Act requires that the future expenditure on which a deduction is to be claimed is to be incurred in terms of the same contract that resulted in the taxable income inclusion of the taxpayer. This requirement was the issue contended in the case discussed below.

In the case of *Clicks Retailers (Pty) Limited v Commissioner for the South African Revenue Service [2021] ZACC 11 (2021)*, the court determined that the redemption of points that entitles a customer to a discount on a future purchase from Clicks was not part of the same contract as the original sale on which the customer earned the points to be subsequently redeemed. The court further ruled that there was not a strong enough inextricable link between the contract in which the CLP member is entitled to earn loyalty points and the contract(s) for the sales transactions (*Clicks Retailers (Pty) Ltd v Commissioner for the South African Revenue Service (CCT 07/20) [2021] ZACC 11*, 2021, paras 44–48). In making this determination, the court explained that the sales transaction(s) can exist and be entered into without having regard to the CLP contract with a customer, as non-CLP members can also enter into these transactions with Clicks. As such, the contracts can exist without one another and although there is an inextricable link between the contracts, the contracts are still "…too independent of one another" (Brink & Malindisa, 2021) to be considered to be the same contract for purposes of the income tax deduction that Clicks Retailers wanted to claim. Clicks Retailers claimed a section 24C allowance (National Treasury, 1962:172), but did not meet all the requirements set out in

this section of the Income Tax Act to be able to claim this allowance. The requirement which Clicks Retailers did not fulfil is the requirement that the 'future expenditure' for which an allowance is claimed, is incurred in terms of the same contract for which income was already received (National Treasury, 1962:172). Clicks Retailers was therefore not allowed the deduction as the court did not see the sale transaction(s) on which loyalty points were earned by CLP members and subsequent redemption of these loyalty points as part of the same contract, as explained above.

This ruling by the Constitutional Court of South Africa, although not on a VAT issue, does indicate potential issues in considering the taxability of the supply of loyalty points to CLP members. This ruling considered the different contracts between the CLP provider and CLP members as a determining factor, whereas taxability for VAT purposes will likely rely on the time of supply rules contained in the VAT Act rather than the contracts at play in a transaction or series of transactions. Section 3.2.1 of the study considered the time of supply provisions contained in section 9 of the VAT Act in terms of the supply of loyalty points to CLP members. This discussion determined the supply for VAT purposes takes place when the CLP members earn loyalty points on qualifying purchases and does not consider the subsequent redemption thereof to influence the timing of when the supply is made.

Neither the South African or Canadian court cases specifically address the VAT/GST taxability of loyalty points supplied to CLP members. They do, however, touch on aspects that are relevant to the interpretation of legislative provisions that can come into play should the issue of VAT/GST taxability of loyalty points be considered by the court in future and therefore cannot be ignored as part of this discussion.

4.4. CONCLUSION

By comparing the legislative provisions of South African VAT to that of Canadian GST, the present study was able to identify differences and similarities in the two jurisdictions. Both jurisdictions apply similar structures in taxing the supply of goods or property and services. The legislative provisions require considerations of the similar elements in determining whether a supply is in fact taxable. The consideration of these elements requires consideration of definitions in Acts. The relevant definitions in the VAT Act were more

detailed and provided a reader with a better image of what is included or excluded in each definition, an aspect that could not be observed when referring the relevant definitions of the Excise Tax Act. The question surrounding single or multiple supplies presents an opportunity for South African legislators to learn from the decision made by the Canadian Federal Court of Appeal when potentially drafting guidelines for the taxability of loyalty points awarded to CLP members.

Although the two jurisdictions under consideration, South Africa and Canada, operate in vastly different cultural, economic and political contexts, there are still valuable insights to be gained from this comparison and lessons to be learned by both jurisdictions should they in future wish to extend the applicability of VAT/GST to the supply of loyalty points by vendors/registered businesses.

CHAPTER 5:
CONCLUSION

5.1. INTRODUCTION

The final chapter of this study will provide a conclusion to the study by giving a summary of the findings of the study, providing recommendations for possible amendments, additions and/or clarifications to be made or with regards to current VAT legislation and its applicability to loyalty points provided to customers as a result of belonging to CLPs. Furthermore, the chapter will set out the limitations of the study by highlighting some issues yet to be addressed regarding the taxability of other types of CLP benefits, such as personalised or exclusive discounts, which constitute potential future areas of study on this topic.

5.2. SUMMARY OF FINDINGS AND CONCLUSION

The first research objective of this study was to determine whether loyalty points awarded to customers as a result of belonging to CLPs are taxable for VAT purposes. This objective was guided by the requirements of section 7(1)(a) of the VAT Act. This section sets out the requirements to be met for a supply made by a vendor to be subject to VAT at a standard or zero rate. The section was therefore broken up into different requirements contained in section 7(1)(a) and each requirement was then considered individually taking into account relevant interpretations of the Act as well as the implication of the requirement considered in terms of the three CLPs included in the sample selected, namely Clicks ClubCard, Pick n Pay Smart Shopper and Dis-Chem Benefit. The conclusion being that the current VAT charging requirements are met, considering the supply of loyalty points to customers that are CLP members.

The second research objective was to compare the legislative provisions and its applicability to the supply of loyalty points of another jurisdiction to that of South Africa and for this purpose Canada was selected. The comparison was performed by comparing the wording of both jurisdictions' legislative provisions and requirements and studying a

Canadian Federal Court of Appeal case that determined that the supply of Aeroplan Miles to the CIBC was part of a single taxable supply of promotional and marketing services by Aeroplan. This is an issue which could potentially become a point of contention in a South African context as highlighted in Chapter 4 when consideration was given to the similarity between this Canadian court case and the South African court case on which the Constitutional Court ruled on an Income Tax matter pertaining to the Clicks' ClubCard CLP. The legislative comparison identified similarities and differences between the relevant parts of legislation. It was, however, ultimately concluded that both revenue authorities do have the opportunity to tax the supply of loyalty points made to customers belonging to CLPs, should the revenue authorities choose to do so by clarifying their positions on the issue and enforcing the applicability of the legislative provisions already in place.

The third and final research objective of the study was to recommend possible amendments, additions and/or clarifications to be made to or with regards to current VAT legislation and its applicability to loyalty points provided to customers as a result of belonging to CLPs as well as to provide VAT vendors with clarity on the VAT consequences of supplying loyalty points to customers. The conclusion on the first research objective being that the current VAT charging requirements are met in considering the supply of loyalty points to customers that are CLP members against section 7(1)(a) gives rise to the recommendation that SARS issue specific and binding guidance to VAT vendors in this regard in order to clarify their position on this issue and whether it is their intention for VAT to be charged on the supply of loyalty points. There is currently no consensus regarding this issue among VAT vendors which may lead to unintended non-compliance by some VAT vendors as a result of this uncertainty. SARS could rely on the general charging provisions as described above and merely issue clarifying guidance as recommended. SARS, however, also has the ability to draft new legislation with the taxing of the supply of loyalty points by vendors to customers in mind, should they deem this a more suitable long-term solution or a solution that would result in less contention of the interpretation taken by SARS.

5.3. LIMITATIONS

This study only considered the taxability of CLP members earning loyalty points as a result of belonging to a CLP and no other types of CLP rewards such as free additional goods and/or services and exclusive and/or personalised discounts not available to non-members or even other CLP members. Therefore, this study was limited to loyalty point rewards only and as such, the sample of CLPs selected was also done in terms of this limitation.

A further limitation of the study is that only the consequences of the earning and redeeming of loyalty points at the same retailer was considered. CLPs that follow a multi-party approach, where loyalty points can both be earned and used at more than one retailer was not considered as part of the study and therefore a programme of this nature was not included in the sample of CLPs selected. Programmes of this nature include FNB eBucks (eBucks, 2021) and Standard Bank UCount rewards (Standard Bank, 2021). CLP members of the aforementioned programmes earn loyalty points by swiping their bank card associated with the CLP and can choose when and how they want to redeem these points earned. For example, Standard Back UCount rewards can be redeemed at Caltex garages in the form of fuel and oil purchases (Standard Bank, 2021). This creates added complexity because the entity that rewards customers with the loyalty points is not directly the same entity where these points can be used and as such, further consideration will have to be given to inter-party agreements such as, what the agreement between Standard Bank and Caltex provides for with regards to UCount rewards used at Caltex garages.

A further issue not considered was the fringe benefit consequences of loyalty points earned by employees as a result of the business of their employers. This has been a topic of consideration in other international jurisdictions such as Canada and Australia. For purposes of the comparison with Canadian GST, this issue was not deemed relevant as it did not have an effect on any potential GST consequences but rather on the income of the employees and employers.

5.4. FUTURE RESEARCH

Potential future research to be done includes the consideration of other tax consequences of loyalty points earned, for example fringe benefit consequences for purposes of Income Tax, which is an issue that was addressed in the comparative jurisdiction, Canada. Further international comparisons can provide for more lessons to be learned by South Africa by

referring to comparable jurisdictions and their treatment of the taxability of CLP benefits for purposes of their VAT/GST equivalent tax. For example, Australia, where limited guidance has already been issued on this topic by the Australian Taxation Office, addressing whether the supplies made by a loyalty programme operator to a programme partner are taxable supplies (Australian Taxation Office, 2013:2).

Within the South African VAT context, further research can be done on the potential VAT consequences for vendors that operate CLPs that rewards customers with rewards other than loyalty points only, such as rewards in the form of free additional goods and/or services and exclusive and/or personalised discounts not available to non-members or even other CLP members. An example of a programme that can be considered in this regard is the Woolworths WRewards programme that offers members exclusive personalised vouchers based on instant savings when members use their WRewards card instore or online (Woolworths, 2021).

Another potential area of future study is the study of multi-party CLPs, where customers can earn and redeem CLP rewards at a variety of participating businesses. This is the CLP structure applied by FNB in their eBucks programme and by Standard Bank with their UCount rewards offering. The complexity not considered in the current study is to determine which party will be considered in order to make the supply of the rewards, when the points are earned at one participating programme partner and redeemed at a different participating programme partner. Consideration in this regard will also include referring to the existing guidance published by SARS on the topic of VAT and CLPs, as was done in this study, as well as looking at international guidance as mentioned above in the guidance given by the Australian Tax Office on multi-party CLPs. This consideration was given in order to assess whether there are any lessons to be learned that can be applied in the South African context.

5.5. CONCLUDING REMARKS

This study considered three of South Africa's biggest CLPs that reward members with loyalty points and in terms of the VAT Act to assess the VAT taxability of awarding loyalty points to customers. SARS has the opportunity to widen its VAT collecting net by extending the application of what is VAT taxable in order to include the supply of loyalty

points. This study is of the view that the general charging provisions of the VAT Act can be extended to apply to loyalty points as is, it is up to SARS to clarify this point and enforce this interpretation, should SARS arrive at the same interpretation and wish to increase the amount of revenue collected by way of VAT in future. Adapting tax legislation to changing consumer needs and patterns will be key in ensuring the legislation does not fall so far behind the development of the digital economy that they are no longer able to effectively collect revenue on transactions not within the scope of out-dated legislation. Clarifying the VAT taxability of loyalty points can be a small step in SARS' efforts to keep up with the ever changing of times and ways of transacting.

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APPENDIX A:

Declaration of plagiarism

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DEPARTMENT OF TAXATION

Declaration Regarding Plagiarism

The Department of Taxation emphasises integrity and ethical behaviour with regard to the preparation of all written assignments. Although the lecturer will provide you with information regarding reference techniques, as well as ways to avoid plagiarism (see the *"Guidelines on Referencing"* document), you also have a responsibility to fulfil in this regard. Should you at any time feel unsure about the requirements, you must consult the lecturer concerned before submitting an assignment.

You are guilty of plagiarism when you extract information from a book, article, web page or any other information source without acknowledging the source and pretend that it is your own work. This does not only apply to cases where you quote the source directly, but also when you present someone else's work in a somewhat amended (paraphrased) format or when you use someone else's arguments or ideas without the necessary acknowledgement. You are also guilty of plagiarism if you copy and paste information directly from an electronic source (e.g., a web site, e-mail message, electronic journal article or CD-ROM) without paraphrasing it or placing it in quotation marks, even if you acknowledge the source.

You are not allowed to submit another student's previous work as your own. You are furthermore not allowed to let anyone copy or use your work with the intention of presenting it as his/her own.

Students who are guilty of plagiarism will forfeit all credits for the work concerned. In addition, the matter will be referred to the Committee for Discipline (Students) for a ruling. Plagiarism is considered a serious violation of the University's regulations and may lead to your suspension from the University. The University's policy regarding plagiarism is available on the Internet at *http://www.library.up.ac.za/plagiarism/index.htm*.

For the period that you are a student at the Department of Taxation, the following declaration must accompany **all** written work that is submitted for evaluation. No written work will be accepted unless the declaration has been completed and is included in the particular assignment.

	Student
I (full names & surname):	Elizabeth Maria Geerlings
Student number:	17015139

Declare the following:

1. I understand what plagiarism entails and am aware of the University's policy in this regard.
2. I declare that this assignment is my own, original work. Where someone else's work was used (whether from a printed source, the Internet or any other source) due acknowledgement was given and reference was made according to departmental requirements.
3. I did not copy and paste any information directly from an electronic source (e.g., a web page, electronic journal article or CD ROM) into this document.
4. I did not make use of another student's previous work and submitted it as my own.
5. I did not allow and will not allow anyone to copy my work with the intention of presenting it as his/her own work.

E.M. Geerlings

Signature

APPENDIX B:

VAT registration numbers

Pick n Pay: VAT registration number: 4090105588

Pick n Pay

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******ELECTRONIC TAX INVOICE******
HILLCREST
087 750 2120 /2119

CASHIER: prudence mbeba
                        6ea
            3     @      16.99      50.97

            2     @      33.99      67.98
                                    88.99
** Less cash-off                   -26.00
                                    79.99
                                    34.99

            2     @      19.99      39.98#V
** Less cash-off                   -10.00

            2     @       0.80       1.60
                                    20.00
Smart Shopper Instant Saving       -20.00
              DUE VAT INCL         328.50
----------------DISCOUNT----------------
SMART SHOPPER REDEMPTION            16.27
VAT INCL. OF 1.93
-----------------TENDER-----------------
                                   312.23
              Visa Card            312.23
              004332
              TOTAL ITEMS:             13
--------------TAX INVOICE--------------
   TAXABLE     GROSS    S/SHOPPER      NET
       VAL   VAT VAL DISC VAT VAL VAT VAL
    298.52     38.94         -1.93   37.01
#    29.98      0.00          0.00    0.00
#  ZERO RATED
e  NON-SUPPLY
---------VAT REG NO. 4090105588---------
V VITALITY HEALTHYFOOD CASH BACK ITEM

         Liquor Lic.:GAU/201198C
     PLEASE RETAIN AS YOUR GUARANTEE
    CUSTOMER CARE LINE: 0860 30 30 30
       WEBSITE: www.picknpay.co.za
     THANK YOU FOR SHOPPING WITH US.
--------------SMART SHOPPER-------------
Smart Shopper card #  ************3268
Rands earned:                      R1.81
Rands used:                       R16.27
Total Loyalty Savings:            R20.00
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Dis-Chem Pharmacies: VAT registration number: 4820223024

DIS-CHEM LOFTUS PARK PHARMACY

*ORIGINAL*ORIGINAL*

SHOP B03 CASH SALE
LOFTUS PARK SHOPPING CENTRE C0596465
CNR KIRKNESS & PARK STREETS 2021/07/29
PRETORIA

TAX INVOICE V.A.T REG. NO: 4820223024
CASHIER: [123506] L.MOKGOMO
TILL NO: 0006

LEVY RX.NO: 00228444/0 0721N
1000000000009 1 x 97.95 97.95 T1

Total>>>: 97.95
(Rounding): 0.00
(Incl.VAT @15%): 12.78

Clicks: VAT registration number: 4520189236

CLICKS Pharmacy

CALL 0860 254 257 www.clicks.co.za
Lyttelton

R87.95
1 BALANCE DUE R87.95
Debit card R87.95
EXP. DATE: 09/2022
Auth Code = 781530
CHANGE R0.00

TOTAL BEFORE VAT R76.48
TOTAL VAT R11.47
TOTAL AFTER VAT R87.95

TAX-CODE TAXABLE-VAL TAX-VALUE
15% VAT R87.95 R11.47

Tax Inv. Incl. VAT @15% REG:4520189236
Due to cash rounding : value added tax
charged & as reflected on this document
must be adjusted for input tax purposes
With Clubcard you could have earned
17 points