THE IMPACT OF IMPLEMENTING DIGITAL SERVICES TAX IN SOUTH AFRICA: A COMPARATIVE STUDY

by

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“Trust in the Lord with all your heart and lean not on your own understanding, in all your ways acknowledge Him and He shall direct your paths” – Proverbs 3:5

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ABSTRACT

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Background: The digital economy has been growing tremendously in the recent years, transforming the way business and everyday life is conducted. The digital economy provides plenty of benefits to society at large and has created digital companies, while other traditional companies migrated to remote working. Although the digital economy presents great benefits, it poses tax challenges to the current South African tax system as well as the international tax system that is in place. The international tax policy makers are currently compiling a long-term global solution to address the digital economy tax challenges, however, in the interim, various countries have proposed, introduced or implemented unilateral measures to tax the digital economy with the purpose to protect their jurisdictions over their tax base.

Main purpose of the study: The digital economy has recently been a focus area of debate. The purpose of this study is to analyse the tax challenges that the digital economy poses on the current tax system. The draft of the international tax policy makers global solution proposal will be analysed. A comprehensive analysis will be conducted on four different countries that have implemented digital services tax as a unilateral measure. Furthermore, the advantages and disadvantages of digital services tax will be examined in order to reach a conclusion on the implementation of digital services tax in South Africa.

Method: The research method that is followed in this study is a systematic literature review methodology. This method assisted in identifying and collecting available and relevant literature regarding the digital economy and digital services tax. The guidelines that were followed to perform this study included planning review, performing the review and reporting the findings. A conclusion was reached as to whether South Africa should introduce a digital services tax.

Results: The countries that were selected to be analysed in this study have varying digital services tax policies in place together with various advantages and disadvantages. The findings from these countries provide South Africa with valuable lessons to consider should it implement digital services tax as a unilateral measure to tax the digital economy to protect its tax base.

Conclusions: This study addressed the tax challenges that the digital economy presents and evaluated the proposed international tax global solution. Digital services tax was defined and the advantages and disadvantages of implementing this form of tax are outlined. A conclusion is reached in that South Africa should wait for the completion of the global solution to tax the digital economy. Recommendations for potential further study concerning the digital economy are made.

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Table 1: Abbreviations and acronyms used in this document

Abbreviation	Meaning
BEPS	Base Erosion and Profit Shifting
MNE	Multinational Enterprise
OECD	Organisation for Economic Co-operation and Development
SARS	South African Revenue Services
VAT	Value Added Tax
VAT-DMPS	Value Added Tax on Digital Marketplace Supply

CHAPTER 1: INTRODUCTION

1.1. RATIONALE FOR THE STUDY

Vosloo (2016:1) stated “We are living in a digital age, where individuals and companies can conduct business across borders without moving from their computers”. All it takes is a click of a button to be connected to the digital economy (Bornman & Wassermann, 2018:2).

The digital economy is transforming the way we interact and how business is conducted. Digital companies have been experiencing tremendous growth and this trend is set to continue. Digital technologies present many benefits to the economy and society at large and creates opportunities for tax authorities to reduce the tax administration burdens (EU Commission, 2018:1).

According to Inland Revenue New Zealand, digital technology is defined as “[a] way to transfer, process, record, generate and display information electronically. It includes, but is not limited to, internet-enabled systems, email, text, apps, and social media” (cited in Sawyer & James, 2018:2).

The digital economy is defined as “the global network of economic and social activities that are enabled by platforms such as the internet, mobile and sensor networks” (Li, 2018:5). In terms of this definition, goods and services may be ordered online in one jurisdiction, however, the payment and delivery can be conducted offline in another jurisdiction (Mwencha, 2019:72).

In 2020, the world experienced a global outbreak of the Coronavirus referred to as the ‘COVID-19’ pandemic which led to several countries implementing a national lockdown to reduce the movement of people to curb the spread of the virus (Jantjies, 2020:5). The national lockdown revealed how crucial the digital economy is to the world (Lago, 2020:7). During the global pandemic, digital companies experienced an increase in revenue and recruited more employees to meet the demand of the digital products and services (Deloitte, 2020a). Even though COVID-19 is a medical crisis, it has caused a rapid transformation in every industry and led to more digitalisation of the economy (Jantjies,

2020:1), as well as forcing companies to shift their economic activities to a virtual world (Mason & Shanske, 2020).

The technology advancement has brought transformation to every industry with the intention to improve the efficiency of how an organisation operates (Beebe, 2019:1) with most people depending on digital technology products such as computers, laptops, smartphones and tablets (Lago, 2020:5). Industries such as retail, logistics, financial services, manufacturing, education, healthcare and media have advanced immensely through using digital economy products to render services (OECD, 2014:71).

The retail industry relies on the digital economy for online sales and purchases of goods and services and has commenced to sell digital products such as downloadable content, streaming movies, music, games and other entertainment products. The digital economy allows the retail industry to conveniently gather and analyse information regarding their customers and manage the shipment of products to their customers (OECD, 2014:72).

The transport and logistics industry rely on the digital economy through tracking their vehicles to provide customers with an update on the shipment of their orders and to ensure ‘Just-in-Time’ delivery. The vehicles contain a telemetry which provides crucial information regarding the vehicle or the driver’s performance, which assists with increasing fuel efficiency and the usage of transport network and maintenance (OECD, 2014:72).

The financial services industry depends on the digital economy to render their services. The digital technology enables clients to supervise and manage their finances, perform transactions online and gain access to new services electronically. The digital economy has made it convenient for the banks and insurance providers to manage investment portfolios and deliver exceptional client services (OECD, 2014:72).

Educational institutions rely on online platforms such as Microsoft Teams, Zoom, Google Meet and other similar online platforms to teach. The education industry uses the digital transformation to ensure that learning continues (Mhlanga & Moloi, 2020:6).

The healthcare industry depends on technological equipment to make diagnoses and to perform their services (OECD, 2014:72). The digital economy provides advance

technological solutions to enable the healthcare industry to obtain the highest standard of service delivery (Abdullayevna & Ilkhomovna, 2021:1). According to Abdullayevna & IIkhomovna (2021:3), "the implementation of the digital economy program in the health system provides scientific and technical progress – the development of science and technology in medicine, the creation of new effective methods and tools for molecular biology, diagnostics and treatment".

As evidenced above, the digital economy provides exceptional benefits, however, it has created a new tax challenge across the world (Harpaz, 2021:58). The tax policy makers are struggling to find a universal solution that will ensure fairness and effective taxation of the digital economy. The current international and South African corporate tax rules do not accommodate the digital transformation, especially for companies that trade online and do not have a physical presence in any jurisdiction (EU Commission, 2018:1). The tax system lacks guidance in establishing which jurisdiction has the taxing right (Jantjies, 2020:14).

The digital economy has made governments across the world very anxious as they are concerned that they may not receive their fair share of the revenue that is generated from the digital economy (Oguttu & Tladi, 2009:216). Governments have been losing millions in tax revenue due to the lack of guidance in taxing the digital economy (Mwencha, 2019:70). Taxation is the main source of income for a government to finance a country's public needs (Jones & Basu, 2002:35) with corporate taxes being a government's main source of income, for example, on the African continent, 29% of the total revenue consists of corporate taxes (Oguttu, 2020:801). When a government does not raise enough revenue from taxation it is then forced to borrow funds from other jurisdictions which discourages the country's economic activity (Jones & Basu, 2002:35).

The Organisation for Economic Co-operation and Development, hereafter referred to as OECD, is an international organisation that formulates international tax policies. The OECD works together with governments from various jurisdictions to establish an international standard and solution for social and economic challenges (OECD, 2021). In 2015, the OECD released a Base Erosion and Profit Shifting report referred to as BEPS, to provide guidelines regarding the challenges of taxing the digital economy, however, the report has not been finalised (Jones, Seabrook, Sciliberto, Jones & Sutherland, 2018:9). The OECD discovered that digital companies have a great opportunity to implement

aggressive tax planning measures to obtain a tax benefit due to the lack of a physical presence (Olbert & Spengel, 2017:5).

Various countries have implemented unilateral measures in their jurisdiction to levy tax on the digital economy known as digital services tax (Jones *et al.*, 2018:8). The current South African tax system levies Value Added Tax, hereafter referred to as VAT, on certain electronic services, however, it does not tax the income received from the digital economy from a corporate tax perspective.

This study thus aims to determine whether South Africa should introduce a corporate digital services tax on revenue or profit generated by the digital economy. A comparative study is performed to analyse some Western European countries, namely the United Kingdom, France and Italy and one African country, Kenya. The purpose of the comparison is for South Africa to learn from the selected countries what the advantages and disadvantages are of implementing digital services tax in order to conclude whether is it feasible to implement a digital services tax.

The academic literature collected for the purposes of this study regarding digital technology and digital services tax, will not be older than the past 11 years. The objective of this study is to examine and gain an understanding on how other countries are currently taxing the digital economy. The research is conducted under a specific point in time to gain an understanding of the current international and South African tax policy concerning the digital economy and digital services tax.

1.2. RESEARCH PROBLEM

The current South African tax system only imposes tax on a company if it is incorporated, established or formed in South Africa or its place of effective management is in South Africa (SARS, 2015:3). The digital companies do not require a physical presence to operate, which makes it challenging to levy tax on the revenue it generates. The server can be easily relocated to various countries (Hadzhieva, 2016:17).

South Africa is one of the first African countries to introduce an indirect tax on the digital economy by levying VAT on foreign electronic services, however, there is no corporate tax

imposed (Deloitte, 2020a). The South African tax base has declined due to the global pandemic; therefore South Africa is encouraged to consider introducing a direct digital services tax on the digital companies that have South African users (Jantjies, 2020:4).

Several countries have implemented digital services tax through introducing unilateral measures to tax the digital economy (Faulhaber, 2019:156), while some countries are reviewing and amending their tax policies in order to accommodate the digital economy (Mwencha, 2019:71). The growth of the digital economy requires that the international tax system be updated as the tax authorities around the world are struggling to tax the digital economy based on the current international tax framework (Jones *et al.*, 2018:8).

1.3. RESEARCH QUESTION

The question guiding this study is:
What are the advantages and disadvantages of implementing a digital services tax in South Africa?

1.4. RESEARCH OBJECTIVES

The research question and research problem are supported by the following research objectives:

- To conduct a systematic review of academic literature relating to digital services tax;
- To compare how the current South African tax policy and international tax policies are taxing the digital economy; and
- To determine whether South Africa can introduce a unilateral measure to implement digital services tax.

1.5. RESEARCH DESIGN AND METHODOLOGY

The current study adopts a systematic literature review as a research methodology. Grant and Booth (2009:102) define a systematic literature review as a, “review that seeks to systematically search for, appraise and synthesise research evidence. It is transparent in the reporting of its methods to facilitate others to replicate the process”. This research

approach will assist in gathering all the knowledge and facts with regards to the digital economy and digital services tax. The research design elements will be analysed in detail and the most suitable one for this study will be selected.

1.6. STRUCTURE OF THE MINI-DISSERTATION

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

Chapter 1: Introduction and overview

Chapter 1 provides a background and explains the purpose of this study This is followed by the research question and research problem. The objectives of this study will be highlighted. Furthermore, this chapter will outline the research design and methodology that will be followed in this study.

Chapter 2: Method for conducting a systematic literature review

A systematic literature review is adopted as the research methodology for the current study. This chapter will further explain the theory of each research design element and conclude which element is the most appropriate for this study. In this chapter data will be collected by means of using academic search engines such as Google Scholar, ProQuest, EBSCOhost and academic journal articles obtained through the University of Pretoria's library database using specific keywords.

Chapter 2 will elaborate on how the academic literature was systematically collected and analysed to ensure that the research question is answered, the research problem is addressed, and the research objectives are met. The systematic literature process will be explained in detail and a motivation will be provided as to why the methodology is suitable.

Chapter 3: Literature review

In Chapter 3, a systematic literature review will be performed to analyse the data that was collected in order to understand the concepts, opinions and experiences of the digital

services tax. The data analysis findings will be precisely documented, and conclusions will be reached in a clear manner.

Chapter 4: Conclusion

This chapter provides a conclusion that is based on the analysis of the secondary data. The research question and problem are addressed, and an indication is given on how the research objectives were met. The limitations of the study are discussed, and potential research areas are explored for future research.

CHAPTER 2:
METHOD FOR CONDUCTING A SYSTEMATIC LITERATURE REVIEW

Chapter 2 clarifies the research design and methodology that is applied in the current study in order to assist in addressing the research question, research problem and to meet the research objectives. The research design elements are discussed in detail together with the data sampling and data collection which consists of sources of data and data types, data analysis process, inclusion- and exclusion criteria and the keywords are identified. The research methodology applied in this study is a systematic literature review and a detailed explanation will be provided below as well as a motivation as to why this research methodology is suitable for this study.

2.1. RESEARCH DESIGN

Kothari (2004:33) defined research design as, “the conceptual structure within which research is conducted; it constitutes the blueprint for the collection, measurement and analysis of data”. A research design aims to organise the data that is collected and minimise bias behaviour and maximise the reliability of the knowledge (Kothari, 2004:33).

The research problem and research question of a study is the starting point in determining the appropriate research design (Wahyuni, 2012:72). There are certain elements that need to be considered when selecting a research design. These elements are philosophical stance, nature of the study, method of reasoning, time horizon, sources of data and lastly, the type of data that will be used. The elements are discussed in detail below.

2.1.1 Philosophical stance of the study

Singh (2006:122) explained the concept of philosophy as, “a disciplined, orderly, logical study of the universe”. Research philosophy is a system of how the reality and the assumptions that are made regarding the knowledge that was discovered are viewed and understood (Saunders, Lewis & Thornhill, 2019:130). The research design consists of four philosophical perspectives, namely positivism, realism, interpretivism and pragmatism. These perspectives are described in detail below.

Positivists are of the opinion that different researchers that share the same research problem will produce similar results when similar research processes and statistical tests are applied and used in conducting the said research (Wahyuni, 2012:71). The focal point of positivism is scientific experiments, which allow the researcher to run tests that provide results that are not influenced by human interpretation (Saunders *et al.*, 2019:144). A positivist conducts research on scientific secondary data and uses the knowledge that is discovered to reach a conclusion (Saunders *et al.*, 2019:146).

Realism philosophy perspective is based on the scientific assumptions that were made to develop the available knowledge. Realism can be direct or critical. Direct realism concludes that “what you see is what you get” (Business Research Methodology, 2019: 147). Critical realism takes it a step further and analyses and test the data in order to reach a conclusion.

Interpretivism conducts research from a subjective perspective. Interpretivist researchers aim to develop new understandings and interpretations of the society and contexts (Saunders *et al.*, 2019:149). This philosophical perspective studies the different human perspectives, considering their different backgrounds and experiences in order to understand the world from their point of view. Interpretivist researchers prefer to have an interaction with the participants they are studying (Wahyuni, 2012:71).

Philosophical perspective applicable in this study

Pragmatist research focuses on the practical solution after considering theories, ideas and concepts. The research commences by identifying the research problem and explores the practical solutions to resolve the problem and research question. Pragmatists consider various points of view to interpret the world and to conduct research in order to obtain a broader perspective (Saunders *et al.*, 2019). The focal point of this perspective is to study the research problem and address the research question (Creswell, 2007:22). Pragmatist researchers consider both qualitative, quantitative, objective and subjective data to have a greater understanding of the social reality (Wahyuni, 2012:71). Quantitative data refers to data that is mainly expressed in numerical values, graphs and tables. Qualitative data refers to non-numerical data that is expressed in words that assist in understanding concepts and experiences (Streefkerk, 2021). Pragmatism does not only commit to one

philosophical perspective and reality, it can explore other perspectives and choose the most suitable method that meets the study's needs (Creswell, 2007:23).

The most suitable philosophical stance perspective for this study is the pragmatist perspective. The current study aims to analyse the available academic literature regarding digital services tax. The international and South African tax policies will be examined together with the advantages and disadvantages in order to provide a practical solution whether South Africa should consider implementing a digital services tax on the revenue generated from the digital economy. The current study starts with the research question which will determine the research framework. This study is a systematic literature review relying on secondary numerical data as well as data that is expressed in words to enable a better understanding of digital services tax. The pragmatist perspective enables this study to use both qualitative and quantitative data.

2.1.2 Nature of the study

The nature of study can be exploratory, descriptive or explanatory. The respective natures are explained in detail below.

A descriptive study expands on the exploratory study. The current study further describes the research phenomenon and assists to accurately describe the data collected. (Datt & Chetty, 2016). The aim of the study is to obtain accurate and complete information, however, there is a risk of the study being bias as the researcher clearly defines what must be measured. The present study does not provide any flexibility and focuses solely on the objective of the study, data collection, process, analyses the data and reports on the findings (Kothari, 2004:37).

The explanatory study aims to study a problem in order to provide an explanation of the relationships (Saunders, Lewis & Thornhill, 2009:141). This study requires a hypothesis testing to provide an understanding on the variables among the relations (Datt & Chetty, 2016)

Applicable nature for this study

The suitable nature for this study is the explorative nature. An explorative study focuses on determining what is happening, to seek new insights, to ask questions and assess phenomena in a new light which enables the understanding of the research problem through searching for the literature and conducting interviews. This study, however, is flexible in nature and pursues to change the direction of research based on the discovery of new data (Saunders *et al.*, 2009:140). The nature of the present study assists in developing a hypotheses, gathering data and identifying variables of the research (Datt & Chetty, 2016).

Digital services tax is a relatively new phenomenon globally, therefore an explorative study is the most suitable. The current study is suitable as the focus is on analysing the advantages and disadvantages of taxing the digital economy and exploring whether South Africa should consider introducing a digital services tax. An exploratory study relies on secondary data which will assist in discovering what the tax challenge is with the digital economy, seek new insights, ask the relevant questions, and assess phenomena in a new light.

2.1.3 Method of reasoning

The method of reasoning provides an indication of a process on how the researcher reached a conclusion in a study. There are three types of reasoning methods, namely deductive-, inductive and abductive reasoning. The reasoning methods are discussed in detail below.

The deductive reasoning commences with general theories and through the application of logical arguments, a conclusion is reached (Walliman, 2011:18). It is important to firstly specify the objectives in order to develop a logical structure to achieve the objectives (Zalaghi & Khazaei, 2016:228). The general theories are tested through gathering qualitative and quantitate data, analysing the data, developing a hypothesis and reaching a conclusion (Saunders *et al.*, 2019:154).

Inductive reasoning commences with specific observations and then reaches a general conclusion. The conclusion is based on the experiences, generalises from them and reaches a conclusion. It is crucial to make a number of observations to ensure that the observations do not contradict the generalisation that was made (Walliman, 2011:18). This reasoning approach does not begin with a theory, the theories are developed as a result of the research that was conducted (Zalaghi & Khazaei, 2016:228).

An abductive reasoning is a combination of deductive and inductive reasoning, whereby abductive reasoning serves the purpose of unfolding the "surprising fact" that occurs at any stage during the research process in order to generate a new theory (Saunders *et al.*, 2019:155). This reasoning leads to new insight regarding the existing phenomena from examining the data from a new perspective (Kovács & Spens, 2005:138). Abductive reasoning consists of exploration, examination, selection and explanation phases. During the exploration phase, the researcher analyses the data gathered in order to identify a problem. The examination phase is an expansion of the background knowledge so as to formulate a hypothesis. The selection phase is the evaluation of the hypothesis and the most appropriate one is selected. Lastly, the explanation phase is an explanation of the results using the selected hypotheses (Żelechowska, Żyluk & Urbański, 2020:2).

Applicable method of reasoning for this study

The objectives of this study are clearly determined, which is to conduct a systematic literature review, analysing four countries that implemented digital services tax in order to conclude whether South Africa should consider introducing a digital services tax. The inductive reasoning is the most suitable method of reasoning for this study.

There has been an observation that digital transformation has been growing tremendously and South Africa does not have a direct tax policy in place to tax the revenue or profit that is generated by the digital economy. This study will be analysing the countries that implemented digital services tax in order to gain an understanding so as to reach a general conclusion for the South African setting. This serves as a specific observation that provides guidance to reach a general conclusion.

The data that is collected will be analysed in order to identify the tax challenge of taxing the digital economy. Background knowledge will be gathered to examine how the current international, as well as the South African tax policy is structured, and an explanation will be provided on how the tax policies are going to accommodate taxing the digital economy. The information that is gathered is used to develop a theory.

2.2. DATA COLLECTION

The data collection process consists of two elements that need to be considered which are the source of data and the types of data. The elements are discussed in detail below.

2.2.1. Data collection: Sources of data

In order to answer the research question and meet the research objectives, it is important to gather the correct data. There are two types of data to be collected, namely primary data and secondary data. Primary data is the collecting of new data and secondary data is analysing data that already exists (Saunders *et al.*, 2009:256).

Secondary data saves in resources, time and money as the data has already been collected by previous researchers. The data is readily available and is known to provide high quality data. When conducting a comparative study, secondary data is more suitable if comparable data is available (Saunders *et al.*, 2009:269). The biggest advantage of secondary data is that the data was produced by expert researchers with good quality results (Walliman, 2011:79).

Documentary data, as an example of secondary data, consists of written materials such as books, journals, magazines and newspapers. Documentary data also includes non-written materials such as video recordings, drawings, films, pictures and television programmes. This data can be analysed qualitatively and quantitively as it can include numerical, graphical and non-numerical information. Documentary data can be accessed in libraries, on the Internet and other commercial sources (Saunders *et al.*, 2009:258).

2.2.2. Data collection: Type of data

The data that is collected can be qualitative or quantitative in nature. Qualitative data is data that is expressed in words rather than in numbers (Walliman, 2011:130) and consists of open ended questionnaires, interviews or documents (Saunders *et al.*, 2009:480). This type of data is analysed by data reduction through discarding the irrelevant data and provide a summary of the findings (Walliman, 2011:132).

Quantitative data is data that is expressed in numerical values, graphs, and charts and assists in exploring the past and the present and provides a description of the trends in the data. (Saunders *et al.*, 2009:414). Quantitative data uses mathematical operations to conduct research (Walliman, 2011:114).

This study relies on the secondary data that is already available. Secondary data consists of published and unpublished data and is collected using academic search engines such as Google Scholar, ProQuest, EBSCOhost through the University of Pretoria's library database. These search engines provide reliable and suitable data. The current study consists of qualitative and quantitative data which relies solely on data that is already collected and analysed by previous researchers. The Boolean operators will be used in order to search for the relevant data. The limitation of the data collection is that all the data was collected electronically and not all databases were explored.

2.3. DATA ANALYSIS

Once the data has been collected, the next step is to analyse it. There are three methods that can be used to analyse secondary data, namely content analysis, data mining and meta-analysis (Walliman, 2011:86).

Content analysis is a quantitative analysis approach which examines what can be counted in a text source. This analysis examines large quantities of data to make generalisations (Walliman, 2011:89).

Data mining is an approach that extracts relevant information from a large database that is generated electronically. Data mining utilises statistical tools to identify gaps in a study (Walliman, 2011:89).

A meta-analysis is performed through combining the outcome of the studies that was identified by using a systematic review methodology (Nightingale, 2009:384). Meta-analysis firstly identifies the research problem, gathers the data according to the research problem, analyses the data and documents the results, thereafter, the limitations of the study are discussed and recommendations are made regarding further research areas (Walliman, 2011:90). The purpose of this analysis is to provide a justifiable and clear conclusion (Nightingale, 2009:384). Meta-analysis is based on qualitative data analysis, while qualitative data analysis is an analysis that is used in the first phase of the study to record the current state of the research. This analysis involves the dismantling and reassembling of data in order to find a solution to the research problem (Wahyuni, 2012:75).

The data collected for the purposes of this study will be analysed by means of the meta-analysis approach. This approach will assist in addressing the research question and ensuring that the research objectives are met.

2.4. KEYWORDS

The following keywords were used to collect the data for this study:

- Digital economy;
- Digital services tax;
- Countries with digital tax;
- OECD BEPS Project;
- COVID-19;
- Advantages and disadvantages of digital services tax; and
- Permanent establishment.

2.5. SYSTEMATIC REVIEW AS A RESEARCH STRATEGY

A systematic literature review is defined as a strategic research methodology which identifies published or unpublished studies with the aim to address the research question of the said study. This methodology is designed to reduce the effect of being selective and biased (Nightingale, 2009:381). This review focuses on critically analysing data that already exists in order to clarify the research question, identify the relevant data and bring

all the findings together (Gough, Oliver & Thomas, 2017:4). The selected research strategy is a tool that is used to enhance evidence-informed policy makers regarding an area that needs to be improved (Mallett, Hagen-Zanker, Slater & Duvendack, 2012:453).The background of the systematic literature review is explained in more detail below and a reason is provided why a systematic literature review is the most appropriate review for the current study.

The aim of a systematic literature review is to gather all the known knowledge regarding a certain topic and critically review the data in order to address the research question and reach the best conclusion (Grant & Booth, 2009:102). The purpose of this review is to summarise the existing data and identify a possible gap in the research in order to recommend areas that can be explored in future studies (Kitchenham, 2004:1). A well written systematic literature review should be replicable to reflect scientific value for future research (Staples & Niazi, 2007:1).

The methodology of this study provides a wide range of information and combines the data that is gathered by using meta-analytical techniques. The current review identifies the research question and formulates a method to address the research question. A systematic review consists of three stages, namely planning the review, conducting the review and reporting the review (Kitchenham, 2004:3). The stages are discussed in detail below.

To conclude that a systematic literature review is the best suitable review, it is important to have a review protocol in place in order to reduce the risk of research bias. A review protocol is a formal and structured plan to be used in the execution of the review (Staples & Niazi, 2007:2). The research protocol components include identifying the rationale for the study, the research question, the research objectives, a strategy to collect academic data, criteria and procedures on analysing the data (Kitchenham, 2004:4).

This stage of the systematic literature review is to generate the final results (Staples & Niazi, 2007:2). A systematic literature review commences by identifying the type of research that will be conducted, select the study and the quality of the assessment. This review will assist in identifying academic literature that is unbiased. The existing literature will be identified and assessed as to whether it is relevant for the present study or not. The

literature is searched using electronic databases, references from primary studies and reviewed articles (Kitchenham, 2004:8).

A systematic literature review reflects the changes documented in detail as it occurs in order for the readers to easily assess it. The review is reported in an academic technical report, a journal or conference paper, practitioner magazines as well as on web pages. When the review is reported in a journal, it will be peer reviewed as part of an examination process (Kitchenham, 2004:22).

The method used in a systematic literature review is used to systematically analyse the literature pertaining to certain countries that have implemented a digital services tax. The systematic review aims to have a comprehensive search for literature that is available on a particular subject (Steyn, Smulders, Stark & Penning, 2018:280). Secondary academic literature that is identified is evaluated to provide a review of the digital economy and digital services tax.

The purpose of this study is to gain an understanding of the transformation of the digital economy and how the international tax policy and the South African tax policy is structured to accommodate and tax the revenue or profit that is generated by the digital economy. The scope of this study is narrow and specific; therefore, a systematic literature review will be the most suitable research methodology.

Furthermore, a research question is used to analyse what the advantages and disadvantages are of implementing a direct digital services tax in South Africa. The research question is followed by three objectives which are firstly, to conduct a systematic literature review of academic literature relating to digital services tax. Secondly, to review how the current South African tax policy and international tax policy is positioned to tax the digital economy. Lastly, to conclude whether South Africa should follow a unilateral approach to implement digital services tax.

As mentioned above, a systematic review performs an exhaustive search of academic literature in order to reach a conclusion. The research question and the first objective will be met through gathering academic data and analysing the data through the research design elements and the process discussed above. The systematic literature review is the

appropriate review method used to address the research question as it will provide South Africa with all the advantages and disadvantages required to consider whether it is feasible for South Africa to implement a digital services tax on the digital economy. Four countries that implemented digital services tax have been identified, an analysis and critical evaluation will be performed to determine whether is it viable for South Africa to implement a unilateral approach to tax the digital economy.

The second objective will be met through analysing the current South African tax policy as well as the OECD tax policy on how the digital economy is being taxed. In 2013, the South African Minister of Finance, Pravin Gordhan, announced that the Davis Tax Committee will be appointed to review the South African tax policy framework, South African tax systems and international tax developments in order to advise and make recommendations to the Minister of Finance regarding tax affairs (Ministry: Finance, 2013:1). The Davis Tax Committee has made recommendations on how South Africa can tax the digital economy. These recommendations were analysed and discussed to meet the last objective.

The process of the systematic review will assist in gathering the data relating to both South African and international tax policies and recommendations.

2.6. CONCLUSION

In this chapter the research design elements were studied, and the appropriate element was applied. The pragmatist philosophical stance style is applied in the current study, with the explorative nature of study being be the most suitable for this study. The present study adopts the abductive method of reasoning and will rely solely on secondary data in order to address the research problem and questions as well as to ensure that the research objectives are met.

A systematic literature review is selected as the most appropriate methodology for this study.
The research process is explained in detail.

CHAPTER 3:
LITERATURE REVIEW

A detailed meta-analysis of the academic literature, which was gathered through a systematic literature review process, is presented in this chapter. The literature review commences by providing a background on what digital services tax is and addresses the tax challenge that the digital economy presents. The selected countries unilateral measures will be analysed in detail in this chapter. Furthermore, the advantages and disadvantages of implementing digital services tax will be identified. The purpose of this chapter is to outline the lessons that South Africa can learn from the selected countries when considering introducing unilateral measures to tax the digital economy and reach an informed conclusion whether South Africa should implement a digital services tax.

3.1. INCLUSION- AND EXCLUSION CRITERIA

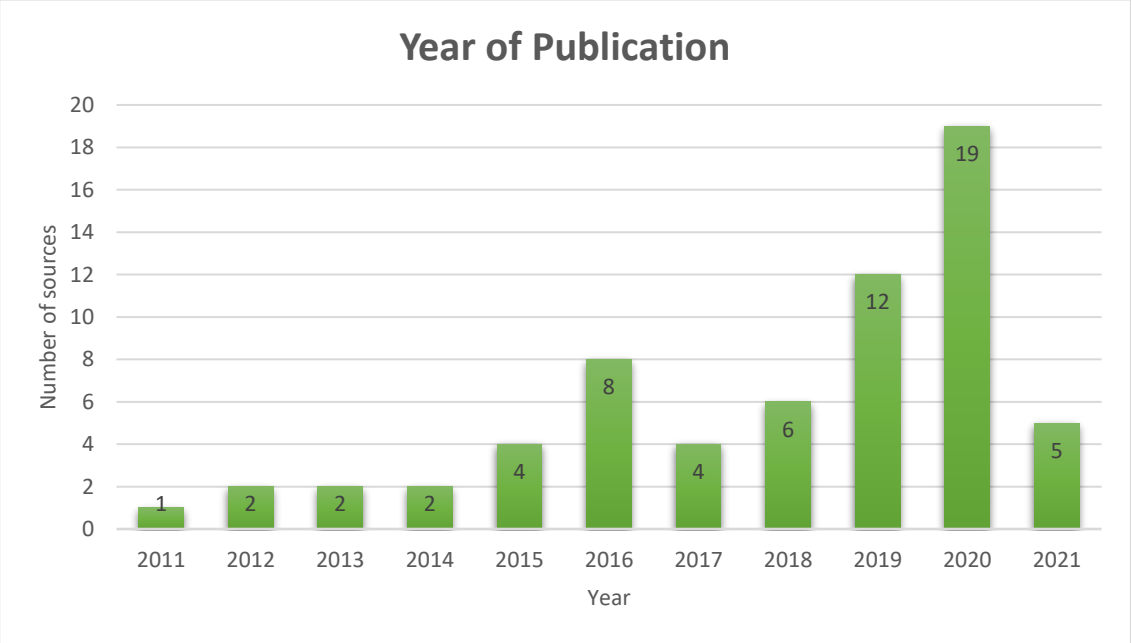
An inclusion- and exclusion criteria are used to ensure that the relevant information is selected to address the research question, research problem and to meet the research objectives. An inclusion- and exclusion criteria outline the year of publication that is considered in this study. The purpose of stating the inclusion- and exclusion criteria is to reduce the risk of bias selection criteria. The criteria must be based on the research question of the study (Kitchenham, 2004:9).

The inclusion- and exclusion criteria in the current study is focusing on digital economy data that is collected with a limitation of the past 11 years (i.e., 2011–2021). The digital economy is a new area of research; therefore, the selected criteria will ensure that the most relevant literature is selected. Literature that is older than 11 years won't be appropriate as the information will be outdated and it does not address the latest development of the digital transformation.

The South African tax- and the international tax regime data that is older than 11 years will be considered for the relevant, historical fundamental principles. The data collected will be peer reviewed academic research articles, published and unpublished data. The published data that will be used will be data from local and foreign governments, books, reports prepared by research scholars and universities (Kothari, 2004:111).

As mentioned above, the inclusion- and exclusion criteria are based on the year of publication of data not older than 11 years. Figure 1 below, is a summary of the number of articles that were collected within the 11-year timeframe. The keywords discussed in Chapter 2 were used to search for relevant literature and only literature that met the criteria was selected. The selected articles were further analysed to determine whether the year of publication is within the selected criteria.

Figure 1: Year of publication summary



Source: Self-created

In this study, 144 articles were collected, however, only 65 articles were used as per the inclusion- and exclusion criteria. As per Figure 1 above, only 1 article from the year 2011 was used, with 30% of the articles used in this study published in 2020. This graph reflects that considerable interest to study the tax challenges that the digital economy presents arose from 2019 onwards. As a result, the present study is based on the most relevant information.

3.2. INTRODUCTION TO DIGITAL SERVICES TAX

The digital economy enables digital companies to sell products and render services across the world without having a fixed physical presence in any country. Digital companies can

communicate with their customers easily and directly without visiting an office (Mwencha, 2019:72). The revenue of digital companies is generated from various locations, therefore governments are faced with the challenge that taxes may not be collected at all in the jurisdiction where the service was provided or the profit is shifted to a low tax jurisdiction (Katterbauer, 2020:14). This led to the introduction of digital services tax. Digital services tax is also seen as an efficient way for government to tax multinational companies that were successfully avoiding corporate income tax (Mason & Shanske, 2020).

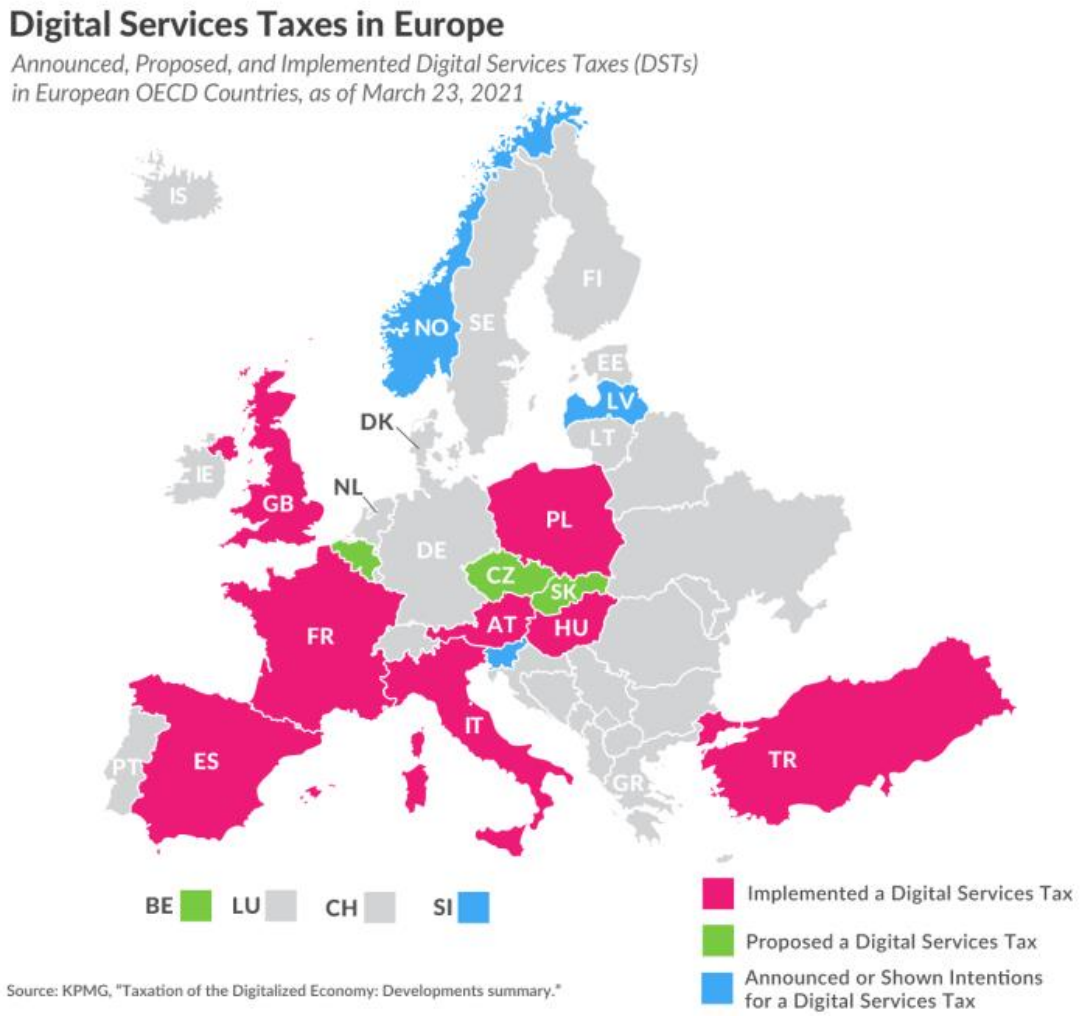
Bunn, Asen and Enache (2020:1) define digital services tax as “gross revenue tax with a tax base that includes revenue derived from a specific set of digital goods or services or based on the number of digital users within a country”. According to Dai & Rizzo (2020), digital services tax is regarded as a sales tax that is implemented on digital platforms. Digital services tax is structured as a tax on revenue and not a tax on profit. Profit is the result of total revenue less expense, therefore digital services tax can be classified as a turnover tax (Lowry, 2019:1).

Various countries, primarily in Europe, have proposed or implemented digital services tax on the revenue that is generated from the Multinational Enterprises referred to as MNE.

The OECD is currently drafting an Inclusive Framework to provide a solution to tax the digital economic activities, however, the OECD developing countries opted for unilateral policy measures (Jantjies, 2020:26).

Figure 2 below, illustrates that more than half of the OECD European countries have either proposed, announced or implemented digital services taxes (Asen, 2020:2). Figure 2 provides an overview of the growth of digital services tax in the European countries.

Figure 2: Digital services taxes: European countries



Source: (Asen, 2020:2)

Throughout the years, several countries have proposed, announced or even implemented digital services tax by following a unilateral approach as represented in Figure 2 (Bunn *et al.*, 2020:16). Some countries introduced an equalisation levy, other countries introduced withholding taxes of digital transactions and others introduced digital services tax as means to tax the digital economy (Oguttu, 2020:805, 807).

Since January 2021, there has been approximately 38 countries across the world that have implemented, proposed or announced that they adopted the unilateral approach to levy tax on the revenue that is received from the digital economy (Harpaz, 2021:58). The countries that have not implemented unilateral measures are waiting for the OECD to finalise the Pillar One and Two guidelines on how to tax the digital economy (Deloitte, 2020a).

Table 2 below, provides a summary of 32 countries that have taken a unilateral approach towards proposed or implemented digital services tax. The table indicates that digital services tax is not only implemented by European countries, however, this unilateral approach has been growing across all the continents. Table 2 represents a combination of developing and developed countries with a digital services tax rate that varies from 1% up to 10% (Jantjies, 2020:24).

Table 2: Countries that proposed- or implemented digital services tax in the world

	Country	**Taxation proposed or** in place		**Country name**	**Taxation proposed or in place**
1	Italy	3% of revenue - Jan 2020	17	Taiwan	Tax on revenue
2	Austria	5% of revenue - Jan 2020	18	Uruguay	Tax on revenue
3	Belgium	1.5% of revenue - July 2019	19	Hungary	7,5% Revenue- Jan 2020
4	Czech Republic	7% of revenue – Dec 2019	20	India	1% -01 October 2020
5	France	3% of revenue - July 2019	21	Vietnam	Tax on revenue
6	Turkey	7.5% of revenue – March 2020	22	Pakistan	5% of revenues – 01 July 2018
7	Indonesia	25% revenue tax	23	Zimbabwe	5% on revenue
8	Kenya	Tax on revenue-	24	Singapore	Revenue tax on online services
9	Malaysia	Tax on revenue	25	Israel	3%-5% Revenue- May 2019
10	Mexico	Tax on revenue	26	Norway	2.5% June 2019, await OECD process
11	Poland	1.5% revenue- April 2020	27	Tunisia	3% of Revenue- Jan 2020
12	Canada	3% of revenue -October 2019	28	United Kingdom	2% of revenue -April 2020
13	Thailand	5% on revenue- May 2019	29	Spain	3% of revenue- Jan 2019
14	Chile	10% of revenue- proposal	30	Latvia	3% on revenue- Dec 2019
15	Maryland-USA state	2.5%-10% tax on revenue on specific sales- Jan 2020	31	New York-USA State	5% on revenue – Jan 2020
16	Nebraska-USA State	5.5% -on revenue- Jan 2020	32	New Zealand	2.5% June 2019, await OECD process

Source: (Jantjies, 2020:24)

Digital services tax is considered as an interim solution to collect taxes from digital companies until the international tax policy is finalised (Lowry, 2019:1).

3.3. TAX CHALLENGES THAT THE DIGITAL ECONOMY PRESENTS

The digital economy has transformed the way of conducting business, however, it poses challenges to the current international tax system, which is based on imposing tax where there is a physical presence in a jurisdiction (Oguttu, 2020:710).

The growing digital economy has raised concerns regarding the current international tax system as it does not accommodate taxing the digital economy (Bunn *et al.*, 2020:16). The

tax authorities from various countries consider the revenue that is generated from the digital economy as an untapped source of income (Deloitte, 2020a). The European Council has argued that the current international tax regime must be revised to allocate taxing rights to the jurisdiction where the digital platform users are located (Cui, 2019a:1136).

In the current international tax regime, for a country to levy tax on a transaction, the tax nexus must firstly be determined. The tax nexus indicates which jurisdiction has the taxing right. There must be a connection between a source country and the revenue that is generated (Oguttu & Tladi, 2009:213). The first challenge regarding digital companies is establishing the tax nexus and how to allocate the profit that is generated by the MNEs (Harpaz, 2021:66). The current corporate tax policy relies on the concept that a company is taxed where it is physically present. This is also known as a permanent establishment (Katterbauer, 2020:17). The purpose of this concept is to ensure there is fair taxation on the transaction that took place between companies in different jurisdictions (Hongler & Pistone, 2015:15).

The OECD applies the permanent establishment concept as a fundamental concept to determine the tax nexus (Ministry of Finance, 2017:1). The permanent establishment concept requires that there must be a fixed physical presence for a country to obtain a jurisdiction taxing right (Oguttu & Tladi, 2009:213). A permanent established is defined as a “fixed place of business through which the business of the taxpayer is carried on” (Stiglingh, Koekemoer, Van Heerden, Wilcocks & Van der Zwan, 2021:510).

According to Article 5 of the Model Tax Convention (OECD, 2019:293), a country is not permitted to tax the profit of a non-resident company unless the profit is linked to a permanent establishment in the source country.

In South Africa, the permanent establishment concept is crucial in order to determine the tax consequences of the income that is generated from the digital economy (De Abreu, 2019:10). The South African legislation relies on the interpretation of the OECD for the definition of a permanent establishment (SAICA, 2020:18). The current definition of a permanent establishment does not accommodate the digital economy therefore, there is

no provision to tax digital companies from a corporate tax perspective as most of the companies do not have a fixed physical place of business (Vrabic, 2020:49).
Some countries have introduced a 'significant economic presence' instead of relying on the 'physical presence' to determine the taxing right of a digital company (Oguttu, 2020:806). The significant presence concept represents a reformed tax nexus to complement the existing permanent establishment concept. The significant presence includes revenue thresholds to accommodate the various forms of digital companies (Katterbauer, 2020:18). The significant economic presence can be defined as "a significant and continuous economic presence in the territory of the State set up in a way that it does not result in a substantial physical presence in the same territory" (De Abreu, 2019:37).

The tax authorities of some countries have proposed to modify the current income tax policy to tax digital companies or to introduce a new turnover tax, being digital services tax. This tax will be targeting the revenue that is generated by the digital companies (Kim, 2020:145).

3.4. INTERNATIONAL TAX POLICY MAKERS ADDRESSING THE DIGITAL ECONOMY TAX CHALLENGES

The G20 organisation known as the "international forum that brings together the world's major economies for the government" worked together with the OECD and created the BEPS Committee which issued a 15 Action Plan report in 2015 whereby they addressed the digital economy tax challenges that are experienced across the world (Jantjies, 2020:13). The action plan is to ensure that the revenues generated are taxed where the economic activity is performed (Ministry of Finance, 2017:7).

The OECD proposed new international tax rules on how to tax the digital economy which are based on the Ottawa Taxation Framework (Oguttu, 2020:710). In 1998, the OECD designed the Ottawa Taxation Framework as the basis on which the digital economy tax policy should be developed to achieve fairness on the tax base and to avoid double taxation (Mwencha, 2019:75). The OECD stated that as a starting point to address the challenges in the digital economy, the Ottawa taxation principles should be considered to

find a solution as they are a broader reflection of the economic and social policy (OECD, 2015:17).

The digital services tax policy must reflect neutrality, efficiency, certainty and simplicity, effectiveness as well as fairness and flexibility (OECD, 2015:21). The digital services tax policy must be made transparent by clearly indicating how much a taxpayer must pay and when the tax payment is due. The government is encouraged to enforce a stable tax policy by avoiding temporary tax laws (Bunn *et al.*, 2020:2). Oguttu (2016:249) further explained that adhering to the basic principles leads to an effectively good tax system, ensuring cooperation in developing the new international tax rules.

The principle of 'fairness' in the Ottawa Framework is an important concept. The allocation of taxing rights must be fair across all countries, large or small, developed or developing. The current international tax rules permits MNEs to not pay a fair portion of taxes in the countries where the transaction took place therefore the new system needs to provide distributive justice (Oguttu, 2020:804).

Table 3 below, provides a summary of the taxation principles of the digital services tax policy. The principles provide guidance to govern the tax treatment of the digital economic activities. A consensus was reached that these principles should be accepted as the general principle that should reflect when taxing the digital economy in order to provide a fair sharing of the tax base (Mwencha, 2019:74).

Table 3: Ottawa Taxation Framework – Guidelines for digital services tax

Type of Principle	Description
1. Neutrality	Taxation should seek to be neutral and equitable between forms of electronic commerce and between conventional and electronic forms of commerce. Business decisions should be motivated by economic rather than tax considerations. Taxpayers in similar situations carrying out similar transactions should be subject to similar levels of taxation.
2. Efficiency	Compliance costs for taxpayers and administrative costs for the tax authorities should be minimized as far as possible.
3. Certainty and Simplicity	The tax rules should be clear and simple to understand so that taxpayers can anticipate the tax consequences in advance of a transaction, including knowing when, where and how the tax is to be accounted.
4. Effectiveness and Fairness	Taxation should produce the right amount of tax at the right time. The potential for tax evasion and avoidance should be minimized while keeping counteracting measures proportionate to the risks involved.
5. Flexibility	The systems for taxation should be flexible and dynamic to ensure that they keep pace with technological and commercial developments

Source: (Mwencha, 2019:74)

The OECD discussed and explored options on how to address the digital economy challenges and made the following proposals to determine the 'nexus' for the digital economy (Jones *et al.*, 2018:9):

- The country that has a virtual permanent establishment will get the taxing right;
- Introduce a withholding tax on digital economy transactions; and
- Impose tax on the turnover that is generated by a non-resident company that has a significant economic presence.

The BEPS Action Plan Report was deemed to be inconclusive therefore various countries implemented unilateral measures to tax the digital economy (Jones *et al.*, 2018:9). The OECD has not prevented countries from creating their own unilateral measures to tax the digital economy (Jantjies, 2020:15). The OECD Action Plan report proposed a Two-Pillar approach to levy tax on the revenue that is generated from the digital economy. These Pillars are discussed below.

Pillar One was created to address the tax challenges of digitalisation and propose a new tax nexus being the significant economic presence. The amendment of the tax nexus is a good starting point to obtain a solution in taxing the digital economy (Rukundo, 2020:24). The new nexus is based on a sales threshold for companies that have a "sustained and significant involvement" in a country through engagement and consumer interaction, regardless of where the physical presence of the digital company is located. This concept

targets large digital companies (Oguttu, 2020:815). The OECD stated that the digital economy cannot be isolated as it will violate the principle of neutrality of the tax system (Harpaz, 2021:70). Pillar One focuses on three concepts to determine the profit allocation which is based on user participation, marketing intangibles and significant economic presence. This Pillar ensures that the profit that is generated from users can be taxed in their jurisdictions. An approach such as this is considered very complex and poses as an administration burden (Oguttu, 2020:812).

Pillar Two proposes an anti-base erosion mechanism by imposing a minimum global tax requirement that must be met (Jantjies, 2020:23). This Pillar provides a jurisdiction on the taxing right where another jurisdiction did not impose a tax on a transaction or if the transaction is subject to a low tax rate. Pillar Two aims to protect the tax base of a jurisdiction when income is taxed at a low effective tax rate (Oguttu, 2020:820).
The OECD has not finalised Pillar One and Two, therefore it has provided alternative measures that countries can use to protect their tax bases. Developing countries are recommended to rely on the source basis to tax the digital economy (Oguttu, 2020:820).

According to *CIR v Lever Brothers and Unilever Ltd* court case, the source indicates the origination cause of income and where it is located. In *CIR v Black* court case, it was held that if an amount has multiple origination cause, the source of the income is based on the dominant cause. *CIR v Nell* further stated that if an amount has multiple dominant cause, the source must be apportioned (Stiglingh *et al.*, 2021:814).

Some developing countries depend on withholding taxes as a measure to tax the digital economy and others rely on alternative corporate taxes that are based on turnover. These alternative measures protect the tax base of a country and are aligned with the international tax policies (Oguttu, 2020:825, 827, 828).

3.5. COMPARATIVE ANALYSIS OF SELECTED COUNTRIES

This study aims to systematically analyse four countries which introduced and implemented digital services tax, those countries being Kenya, United Kingdom, France and Italy with the aim to provide lessons learned and a to find a solution as to whether South Africa should implement a digital services tax. South Africa is selected as the

primary country for this study. A motivation is provided below why these four countries were suitable to be selected for this study.

In the past few years, various countries around the word have announced, proposed, or introduced implementing digital services tax. The European Union was the first to propose a digital services tax and currently various countries in every continent have implemented unilateral measures to tax the digital economy (Bunn *et al.*, 2020:16). Europe is the first continent to have introduced digital services tax; therefore, the afore-mentioned European countries and Kenya, were selected for the purpose of laying a platform for South Africa to learn from.

In 2017, the United Kingdom was the first country to advocate for the implementation of digital services tax (Cui, 2019b:79), while in 2018, the European Council and the government of the United Kingdom proposed to introduce digital services tax on the revenue that is generated by the digital economy (Cui & Hashimzade, 2019:1). France enacted digital services tax in 2019 and in the same year the United Kingdom and Italy also considered implementing the same legislation (Cui, 2019a:1135). Since the United Kingdom was the first country to propose digital services tax and the latter countries followed, these countries were selected in order to perform a comparative analysis on how each jurisdiction's digital services tax is structured.

The United Kingdom, France and Italy are known as the Western European countries. The European Commission, the United Kingdom and the French government are the high profile parties that negotiate with the OECD to determine tax policies (Cui & Hashimzade, 2019:2). The United Kingdom, France and Italy were selected to be analysed and compared as they are the first countries to have introduced and implemented digital services. Italy was selected as it relied on the European Commission's digital services tax policy and enacted the same policy. The governments of these countries challenged the international tax community to introduce a long-term strategy to tax the digital economy while implementing unilateral measures as an interim solution (Cui, 2019b:69).

There is currently no African Union policy that is specifically addressing the taxation of the digital economy (Latif, 2019:105). The Kenyan government is the first African country to introduce digital services tax and made it effective from 1 January 2021 (Deloitte,

2020b:1). Kenya and South Africa experience similar economic and infrastructural challenges (Gitari, 2020:71). According to the World Bank data, in 2019 the estimated population in Kenya was 47.6 million and in South Africa it was 58.7 million. The population size provides an indication that these countries are relatable and can learn from each other (Gitari, 2020:4).

Due to the similarities between Kenya and South Africa, Kenya was selected as a country to learn from and adopt innovative solutions on how to introduce and implement digital services tax.

Below is a discussion of the digital services tax in the European countries - United Kingdom, France and Italy together with the two African countries selected, Kenya and South Africa.

3.5.1 Digital services tax in the United Kingdom

In March 2018, the government of the United Kingdom proposed to introduce digital services tax that will be imposed on the revenue generated from large digital platforms such as online advertising and the transmission of data electronically (Cui, 2019a:1136). The United Kingdom was one of the first countries after France, to introduce unilateral measures to tax digital companies (Kim, 2020:147).

In April 2020, the United Kingdom implemented a 2% digital services tax on revenue generated from multinational enterprise services (Bunn *et al.*, 2020:17). The tax is imposed only on certain digital companies that render services and generate revenue from users within the United Kingdom. The digital services tax is levied on digital products such as social media platforms, search engines and online market places (Lowry, 2019:11). The companies that provide financial services, hardware and software distributors and those that provide broadcasting services were excluded from the scope of digital services tax (Kim, 2020:148). The digital services tax was introduced to ensure that digital companies pay tax on the revenue that is received from the users within the United Kingdom (Lowry, 2019:7).

The United Kingdom is the only country that implemented an exemption on the first £25 million of the taxable income and a "safe harbour" rate for low income earning organisations (Bunn *et al.*, 2020:17). The digital services tax is imposed on United Kingdom residents if the annual taxable income is at least £500 million worldwide and non-resident companies must have generated at least £25 million from United Kingdom residents. The United Kingdom government introduced a deduction of 50% of income when one of the users of the digital goods or service is in a country that has a similar digital services tax, for example France or Spain. Due to digital services tax, the United Kingdom government anticipates an increase in their tax revenue from £280 million in 2020 to £515 million by 2024 (Grondona, Chowdhary & Uribe, 2020:15).

3.5.2 Digital services tax in France

In 2018, the French Minister of Finance, Bruno Le Maire, announced that the country was introducing digital services tax (Lowry, 2019:11). In January 2019, the French government implemented a 3% levy of digital services tax on revenue generated from the MNE services. France is the first country to implement a digital services tax in the world (Kim, 2020:149). The tax is estimated to increase the tax base with an additional €500 million (Lowry, 2019:8). The French government refers to the digital services tax as "GAFA – Google, Apple, Facebook and Amazon Tax" (Shukla, 2020:1). The tax is aimed at taxing the largest American digital companies (Kim, 2020:149).

The digital services tax is levied on French residents if their annual taxable income is at least €750 million worldwide and non-resident companies that have at least €25 million in France (Grondona *et al.*, 2020:12). The French government deferred to implement digital services tax on digital advertising as it awaits an international solution (Oguttu, 2020:810).

There are two different methods to calculate digital services tax, namely digital interfaces and the targeted advertising method with both methods considering the total turnover. The digital interfaces are calculated on a ratio based on the number of transactions involving a French user or the number of French accounts divided by the total number of accounts. The targeted advertising ratio is calculated based on advertising messages by French users and by the total number of French data used, divided by the total number of data collected (Katterbauer, 2020:26).

The digital services tax was implemented to promote fairness in payment of taxes by the foreign companies that receive revenue from French users (Lowry, 2019:8). The French president guaranteed that the introduction of digital services tax is merely an interim solution and "France will reimburse any tax paid under its digital services tax once there is an international deal on the digital taxation" (Kim, 2020:149).

3.5.3 Digital services tax in Italy

On the 16 May 2018, the Italian government had a consultation with the European Commission to propose a digital services tax that mimics the European Union's digital services tax (Kim, 2020:150).

In 2017 the European Commission developed a proposal to provide a long-term solution that allows the permanent establishment concept to be extended for income tax purposes and to introduce digital services tax as a short-term solution. The aim of the proposal was to ensure that the digital economy is taxed fairly. The permanent establishment concept would be amended to include a significant economic presence concept in order to impose a corporate tax on digital companies (Kim, 2020:145). The digital services tax includes a revenue threshold to tax entities that generate at least €750 million worldwide revenue and €50 million revenue from European Union users. The tax will be levied at 3% (Kim, 2020:146).

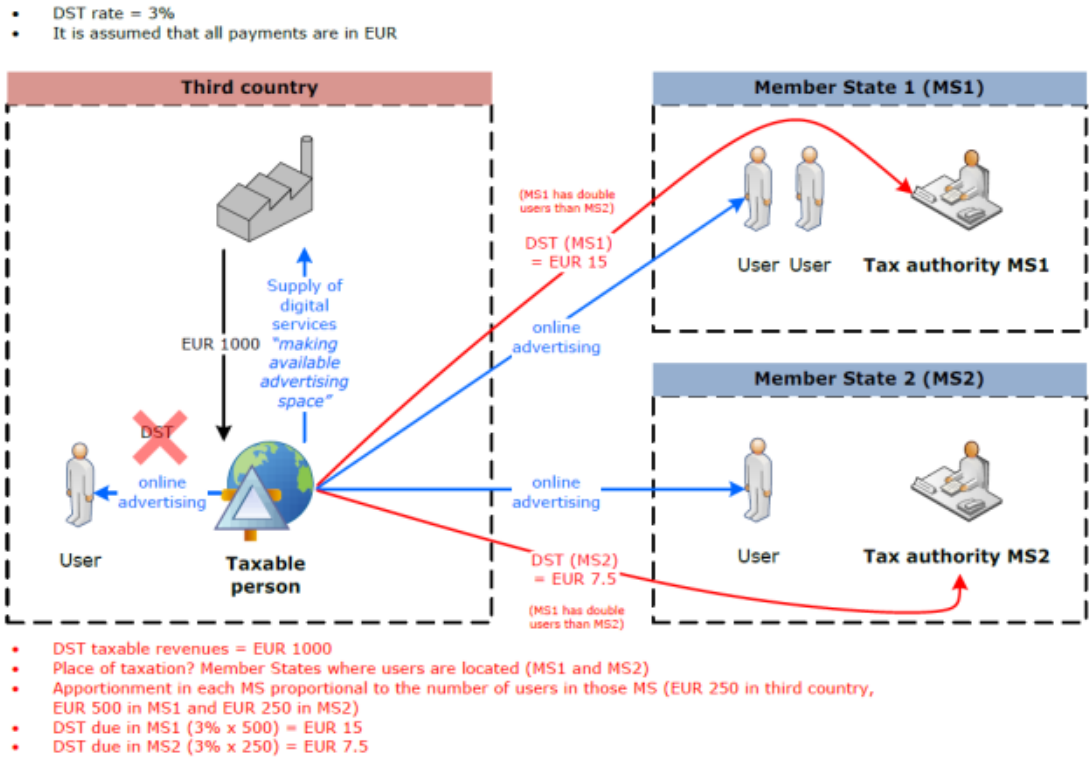
After numerous unsuccessful attempts, the Italian government implemented digital services tax on the 1st of January 2020. The tax is levied at 3% on the advertising service through digital platforms, online purchases and social media platforms such as Facebook (Dai & Rizzo, 2020:1). The Italian government applies the same tax rate of 3% and the same worldwide revenue threshold of €750 million as the European Union, except the domestic threshold is €5.5 million instead of €50 million (Kim, 2020:150).

The Italian government confirmed that their tax revenue increased with an additional €150 million in 2019, €600 million in both 2020 and 2021 (Grondona *et al.*, 2020:13).

The digital services tax is better understood through a practical example. Figure 3 below provides an example of a digital company that is located in a 3rd country which provides online advertising services and makes taxable supplies of €1,000 from four users located in different jurisdictions. One of the users is located in the same jurisdiction as the digital company that is providing the services, two users are located in Member State 1 and one user is located in Member State 2. The taxable supply must be split equally among the four users which results in €250 for each user. Member State 1 tax authorities levy 3% digital services tax on each of the two users and as a result will receive €15 based on €500 multiplied by 3%. Member State 2 tax authorities levy 3% digital services tax on the one user and receive €7.5 which is €250 multiplied by 3%. The user that is located in the same jurisdiction as the digital company providing online advertising sales will not be liable for digital services tax (Gastaldi & Zanardi, 2019:6).

Figure 3 below, provides a visual explanation of the above example.

Figure 3: Example of digital services tax on online advertising sales



Source: (Gastaldi & Zanardi, 2019:6)

3.5.4 Digital services tax in Kenya

The rapid growth of the digital economy in African countries encouraged the countries to evaluate their tax policies to ensure that they are equipped to deal with the digital transformation (Rukundo, 2020:3). The digital economy is growing at a noticeable rate in Kenya which led to an improvement in internet accessibility and usage of digital products (Gitari, 2020:1).

The Kenyan government considers the digital economy as a focal area for taxation to increase the tax base of the country (Deloitte, 2020b:4). In 2020, the Kenyan government proposed to implement a digital services tax through amending the countries Income Tax Act. The tax will be levied on all income that is generated by digital services from a Kenyan digital marketplace. The government appointed agents who will collect the digital services tax (Oguttu, 2020:808). The digital services tax was effective from 1 January 2021 at a

rate of 1.5% on all residents and non-residents that provide digital services that are within the scope of digital services tax (PwC, 2021:1).
Digital services tax will apply to companies that provide a digital platform for direct interactions between a buyer and a seller of goods and services. Digital services tax excludes companies that are subject to withholding taxes, transmit messages through cable or radio communication, online services by government institutions, financial service providers and financial instruments (Deloitte, 2020b:2).

The Kenyan government also introduced VAT at a rate of 16% on the revenue generated from the digital marketplace supply, known as Value Added Tax on Digital Marketplace Supply. This tax has not yet been implemented as it must first be approved by the National Assembly, however, the proposed date for implementation of Value Added Tax on Digital Marketplace Supply was to be effective from April 2021. These taxes are imposed on resident and non-resident digital companies that offer services to Kenyan residents. The non-residents must appoint a Kenyan tax representative that will be responsible to submit the tax return, process payments and maintain the tax records. The non-resident may also depend on the agent that is appointed by the Kenyan Revenue Authority to collect the tax on their behalf (PwC, 2021:1). If a person that is subject to digital taxes fails to comply, penalties that are prescribed by the Kenyan Tax Authority will be applicable (Deloitte, 2020b:3).

The Kenyan government did not provide a minimum threshold to clarify the applicability of the digital services tax. The tax is currently imposed on all digital services and it may lead to undesirable implications. (Deloitte, 2020b:2).

3.5.5 Digital services tax in South Africa

South Africa is one of the first countries to implement VAT on the digital economy activities as a unilateral measure. The VAT Act was amended to include the supply of electronic services from non-residents. The South African VAT Act defines a service 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, money or stamp, form or card” (SAICA, 2020:393). This amendment attracted new foreign taxpayers which increased the tax base of South Africa (Jantjies, 2020:18). The

introduction of VAT on the digital economy led to an increase of more than R2 billion on the South African tax base over the past 4 years, however, no corporate tax has been introduced therefore the government continues to lose potential income tax revenue (Jantjies, 2020:4).

Electronic services include any service that is supplied by means of electronic communication or the Internet, eBooks and music, but does not include educational services and telecommunications services. This definition excludes the suppliers from an export country due to the fact that they are not conducting their business in South Africa. The tax authorities need to provide a special inclusion for the local and foreign suppliers of electronic communication to promote fairness when taxing digital companies (Stiglingh *et al.*, 2021:1128).

The foreign electronic services are included in the definition of electronic services if at least two of the requirements below are met (Stiglingh *et al.*, 2021:1128):

- The electronic services must be supplied to a South African resident.
- The payment for the electronic services must be made from a South African bank account.
- The South African resident that is receiving the electronic services must have a business address, residential address or postal address that is located in South Africa and a valid tax invoice must be delivered to that address.

The foreign electronic service providers must have an intermediary to manage the electronic supply between the foreign country and South Africa. The intermediary will not be an agent for ensuring that VAT is paid by the foreign provider. If the foreign service provider supplies electronic services in South Africa and the taxable supplies exceed R1 million within a 12 month period, that provider is obliged to register as a VAT vendor (Stiglingh *et al.*, 2021:1129).

The current scope of electronic services is not considered broad enough to accommodate electronic activities such as the social media platforms (Jantjies, 2020:17). Price Waterhouse Coopers researchers revealed that the digital online advertising platforms such as Google and Facebook are developing at a fast rate in South Africa. It is estimated

that South Africa can expect to receive R77 billion revenue that is generated from Facebook and Google in 2021 (Tax Consulting South Africa, 2016).

It is recommended that South Africa should consider introducing tax rules that will be targeted at taxing the income or the profit that is derived from digital companies. Corporate income tax is the major revenue source for the government; however, the revenue has declined due to more companies becoming digitalised. South Africa should consider introducing an income tax measure on the digital economy. There is also an opportunity for South Africa to generate revenue from custom duties on cross-border digital economic activities (Jantjies, 2020:17, 20, 21).

The South African policy makers must ensure that the jurisdiction that has taxing rights is clearly defined together with the details pertaining to what will trigger digital services tax should the country consider to introduce an income tax measure for the digital economy (De Abreu, 2019:33).

3.6. CAN SOUTH AFRICA LEVY DIGITAL SERVICES TAX AS A CORPORATE TAX?

There have been several researchers that concluded that the design of the digital services tax is disguised as a corporate tax. In order for digital services tax to be a corporate tax, the tax nexus and profit allocation rules will require modification (Kim, 2020:159). The current South African tax nexus concept will be analysed below to determine whether South Africa can introduce digital services tax as a direct corporate tax or not.

In order for any company to have a South African corporate tax obligation, it is important to firstly determine the residency status of that company (SARS, 2015:3). South Africa has a residence-based tax system meaning, if a company is a resident, it will be taxed on its worldwide income and if it is a non-resident, it will be taxed on the income derived from the company's South African source (Stiglingh *et al.*, 2021:28). The double tax agreements should be considered when taxing a non-resident company as it allocates the taxing rights (De Abreu, 2019:8).

In terms of Section 1 of the Income Tax Act, a company is a resident in South Africa if it is, "incorporated, established or formed in the Republic or has its place of effective

management in the Republic" (SAICA, 2020:23). The resident definition specifically excludes companies that are deemed to be residents of another country (SAICA, 2020:23). A company is a resident in South Africa when the founder files a Notice of Incorporation together with the Memorandum of Incorporation with the Companies and Intellectual Property Commission, according to section 13 of the Companies Act 71 of 2008 (Government of South Africa, 2013:27). If a company is not incorporated, formed or established in South Africa, the place of effective management will indicate which country has the taxing right (SARS, 2015:3).

According to section 223 of the Constitution of the Republic of South Africa, "When interpreting any legislation, every court must prefer any reasonable interpretation of the legislation that is consistent with international law over any alternative interpretation that is inconsistent with international law" (Government of South Africa, 1996:91). In the *CIR v Dowing* court case, it was held that the South African Revenue Services, hereafter referred to as SARS, can rely on the interpretation of the OECD Model Tax Convention Articles for guidance (Oguttu & Tladi, 2009:214). South African is encouraged to rely on the OECD definition of place of effective management.

The place of effective management concept is challenging as it is not defined in the Income Tax Act, therefore reliance is placed on the ascribed definition and also considering the international interpretation of the definition (SARS, 2015:3). According to SARS Interpretation Note 6, the OECD defined the place of effective management as "the place where key management and commercial decisions that are necessary for the conduct of its business as a whole are in substance made" (SARS, 2015:4).

In Article 4 of the OECD Model Tax Convention, it is stated that a company can be a resident of two countries simultaneously, whereby they are liable to pay tax in both countries. This is referred to as dual residence (OECD, 2019:271). In terms of paragraph 3 of Article 4 of the OECD Model Tax Convention, the place of effective management concept is designed as a 'tie-breaker rule' to resolve this issue and avoid double taxation. The company is deemed to be a resident where it is effectively managed (OECD, 2019:272). In paragraph 24 of the OECD Model Tax Convention, "[an] entity may have more than one place of management, but it can have only one place of effective management at any time" (OECD, 2019:285).

Interpretation Note 6 is crucial in South Africa as it provides essential guidelines of the interpretation of place of effective management (Jonker, 2013:9). Interpretation Note 6 further explains that a company is responsible to prove its place of effective management as per section 102 of the Tax Administration Act (SARS, 2015:4).

SARS relies on the following factors to determine where a company is effectively managed (SARS, 2015:6–9):

- The location where key management meet on a regular basis to make decisions;
- The location where the top-level executive management team is located; and
- The location of the head office of the company where the senior managers are based.

SARS deems the following factors as irrelevant in determining the place of effective management (SARS, 2015:12–13):

- The location whereby the daily business operations take place;
- The legal place of incorporation, establishment or registered office address;
- The location of the economic nexus; and
- The location of where the accounting records are situated.

The above-mentioned principles are not legally binding in the South African tax court, however, it holds persuasive value and will be taken into consideration to determine the taxing rights (De Abreu, 2019:22).

A digital company can locate their main server that performs the core activities of the company in a tax jurisdiction that has a low tax rate or no tax at all. In that case, based on the interpretation above, the residency of that company will be based where the main server is located (Oguttu & Tladi, 2009:220).

Digital services tax does not require a physical presence to determine the tax nexus, instead the tax nexus is the location where the revenue is generated, considering certain thresholds. When the tax nexus is determined, the profit will be allocated to the jurisdictions where the business is located, even if there is no physical presence (Kim, 2020:162).

If South Africa creates a new digital services tax policy and treats it as a corporate tax instead of a consumption tax, only the home countries of the digital companies will have the taxing right based on the traditional international tax policies which focuses on the location of the tax nexus. The main reason digital services tax is a consumption tax, is to ensure that the market countries benefit in taxes without being bound to the traditional international tax rules. If digital services tax is treated as a direct tax or a corporate tax, it will conflict with the international tax treaties (Kim, 2020:137, 166).

As evidenced above, if a company is not formed or established in South Africa, the jurisdiction that will have the taxing right is where the company is effectively managed. Digital companies are effectively managed where the board of directors meet on a regular basis or the location where the decisions are made. The current South African income tax legislation and source rules do not enable digital services tax to be a corporate tax (De Abreu, 2019:18).

The South African government appointed The Margo, Katz and Davis Tax commissions to assist with the improvement of the current South African tax system. In 2013, the Minister of Finance announced that the Davis Tax Committee will be appointed to review the South African tax policy framework, South African tax systems and international tax developments in order to advise and make recommendations to the Minister of Finance regarding tax affairs (Ministry of Finance, 2013:1). In 2016, the Davis Tax Committee issued a report confirming that South Africa should rely on the OECD recommendations on how to tax digital companies (Davis Tax Committee, 2016:4).

The OECD made the following recommendations to address the direct taxation of the digital economy challenge in South Africa (Davis Tax Commitee, 2016:4);

- The permanent establishment definition for double tax agreements must be amended;
- South Africa must implement a digital tax policy that will accommodate any type of technology;
- South Africa must amend the non-resident source rules to accommodate taxing non-resident suppliers;
- Expand the section 9 source rules to include taxing proceeds received from supplying goods and services. The source rules must be adhered to where goods or services are

physically delivered or rendered in South Africa and the payment is made to a non-resident;

- Foreign companies with a South African source of income should be required to submit an annual corporate income tax return irrespective of whether they have a permanent establishment in South Africa or not; and
- Introduce self-assessment for foreign companies.

3.7. ADVANTAGES OF IMPLEMENTING DIGITAL SERVICES TAX

Digital companies are expanding more rapidly than the economy in general. Digital technologies introduce numerous benefits, one of which is the creation of tax administration opportunities which provides a solution to minimise administrative burdens and eases collaboration among tax authorities (EU Commission, 2018:1). It is crucial to update the existing permanent establishment concept with the advantage being that the concept will assist in mitigating double taxation among state parties and it will provide a level of harmony to the international tax regime (Vrabic, 2020:50).

Digital services tax is not considered as an income tax for double tax agreement purposes (Rukundo, 2020:23). Double tax conflict does not occur when two taxes are imposed on different tax bases. Since digital services tax is a consumption tax, it will not conflict with the double tax agreement (Kim, 2020:166). A consumption tax is efficient and it is uncomplicated to administer, unlike corporate taxes (Kim, 2020:170).

The South African government increased its tax revenue with an additional R2 billion by implementing VAT on the digital economy. The United Nations Conference of Trade and Development conducted a study and discovered that the South African government has been experiencing a loss on potential income tax revenue of more than R500 million annually from the lack of not having a digital services tax (Jantjies, 2020:4). The advantage of implementing digital services tax, is that the government will increase its tax revenue by more than R500 million.

The introduction of digital services tax will improve the fairness of taxation as it will allow countries to tax the revenue that is generated in its jurisdiction and no taxes will be lost

due to bilateral income tax treaties or lack of jurisdiction. Digital services tax is based on the location of the user and will still apply to companies that shift their profits to low tax jurisdictions (Katterbauer, 2020:24).

3.8. DISADVANTAGES OF IMPLEMENTING DIGITAL SERVICES TAX

The permanent establishment concept plays a significant role in taxing the digital economy. The current definition of a permanent establishment does not accommodate the digital economy. In order to update the current permanent establishment concept, it will require considerable finances, operational costs and specialist resources. The new permanent establishment concept will present an opportunity of risks for tax agencies as they may miss the opportunity to make updates as per the new concept (Vrabic, 2020:49). In order to revise the current permanent establishment concept, the various countries will be required to negotiate in order to reach common grounds. This process will be a very lengthy, extensive process (Chaffey, 2014:53).

Digital services tax is considered to be sales tax. The introduction of a sales tax may create additional burdens for digital companies and the goods and services produced will be expensive for users (Katterbauer, 2020:20). Some African countries that introduced digital services tax have been losing investors in innovation due to the increase in the cost of capital (Oguttu, 2020:809).

The Davis Tax Committee report outlined that the OECD identified that the implementation of digital services tax will pose administrative challenges such as, “identification of businesses, determination of the extent of activities, information collection and verification, and identification of customers” (Davis Tax Commitee, 2016:6). The tax authorities will be required to perform a line-by-line analysis to calculate the income that is attributable to a specific server or website before it can be taxed accordingly. The tax authorities will incur expenses such as appointing employees to train and upskill regarding the digital services tax. International tax experts will be required to provide training and guidance on the administration, however, these experts are usually in short supply for African revenue administrations (Rukundo, 2020:20).

The MNEs will incur considerable compliance costs in order to ensure that the tax returns for each jurisdiction that has a server is filed (Oguttu & Tladi, 2009:221). Since digital services tax is a new tax, it will require new reporting and accounting systems to be implemented which will be an additional expense (Shukla, 2020:2).

Some of the unilateral measures that are introduced conflict with the double tax agreement treaties that are in place. The unilateral measures include a significant economic presence concept that allows the country where the profit is generated to have the taxing right, this concept contradicts the double tax agreement. A double tax agreement is a treaty agreement that is signed between two countries in order to override conflicting taxing rights. (Oguttu, 2020:809). Some of the introduced unilateral measures may require that the rules with regards to double tax treaties be revised (Jantjies, 2020:26).

The unilateral measures were meant to be a temporary solution, while the OECD provides a global solution, however, it might be difficult to replace the measures with the global solution as the tax will be enacted into law. The tax authorities will encounter high compliance costs for auditing and the verification of the accuracy of the tax returns and the payments made (Oguttu, 2020:810).

3.9. CONCLUSION

The purpose of this chapter was to analyse the academic literature that was collected regarding digital services tax. This chapter commences with an introduction of what digital services tax is. It was discovered that digital services tax is a tax that is levied on the gross revenue therefore, for tax purposes it is considered a consumption tax and not a direct income tax or corporate tax. A consumption tax is a “tax levied on the value of the sales revenue of a firm” (Kim, 2020:159). Consumption tax does not require a physical presence and it is considered to be an efficient and simplified manner to tax the digital economy.

This chapter further raised the tax challenges that the digital economy poses, and it was noted that the challenges are experienced not only in South Africa, but globally. It was revealed that the international tax policy makers are currently working on a global solution in order to address the digital economy’s challenges. Currently the OECD has a draft of

solutions that come in the form of Pillar One and Pillar Two, however, these Pillars are not yet finalised.

Various countries have implemented unilateral measures as an interim solution to tax the digital economy while it is waiting for the final global solution. The four countries that implemented digital services taxes are analysed in detail. Based on the analysis that was performed in this chapter, it was revealed that digital services tax is criticised in that it is discriminating against the biggest American technology companies such as “Google, Amazon, Facebook and YouTube” as these companies meet the revenue thresholds that are in place (Kim, 2020:136).

If South Africa considers introducing a unilateral approach to tax the revenue that is generated from the digital economy, it is encouraged to learn from the countries that are already imposing a digital services tax (Jantjies, 2020:27).

According to Jantjies (2020:4), should South Africa implement digital services tax, the government will require additional employees and institutional technological capacity to introduce an effective digital tax system.

The digital economy poses an international tax challenge, therefore, the solution to address the challenges should be a global solution. African countries that introduce digital services tax through unilateral measures must ensure that the policy is aligned with the current domestic laws, double tax agreement obligations and international tax policies (Rukundo, 2020:22).

South Africa has always relied and benefited from the OECD international guidelines in order to structure their South African tax policies. The OECD is currently finalising a global solution on how to tax the digital economy. The biggest concern with the current OECD draft that is addressing the tax challenges regarding the digital economy, is that it is focusing on benefitting the OECD countries. The non-OECD countries, including South Africa and other African countries, may be required to reform the international rules once it is finalised (Jantjies, 2020:18).

South Africa has always been encouraged to wait on the OECD guidelines to ensure that the global cooperation is maintained (Jantjies, 2020:20).

It is recommended that African countries should expand the current tax policies that are in place so as to accommodate the digital economy and not introduce a new policy. It is recommended that the existing tax policies such as VAT and sales taxes be amended. Developed countries are in a position to introduce unilateral measures to tax the digital economy (Rukundo, 2020:23).

CHAPTER 4:
CONCLUSION

Chapter 4 provides a conclusion on how the research question was answered and how the research problem was addressed. An indication is given on how the research objectives were met. This chapter further outlines the limitations of the current study and proposes the possible future research that can be explored concerning the taxation of the digital economy.

4.1. HOW THE RESEARCH QUESTION AND RESEARCH PROBLEM WAS ADDRESSED

The research question guiding this study is to determine what the advantages and disadvantages are of implementing digital services tax. Four countries were selected for the purposes of this study and to possibly guide a decision which might be made by South Africa. It was discovered that digital services tax is a consumption tax that will not conflict with the double tax treaties that are already in place. The main advantage of digital services tax is the that it will provide relief to the government tax collection that will increase the tax base of each jurisdiction.

The disadvantages of introducing digital services tax are that it may create an administrative burden and tax authorities will need to appoint an international tax expert from each jurisdiction to provide training on the administration of the tax. This may not be feasible for South Africa.

The research question was address and advantages and disadvantages were provided for South Africa to consider when implementing digital services tax.

The research problem that is posed in this study is that the current South African tax system does not accommodate taxation on the digital economy. The current traditional tax system levies tax on companies that have a physical presence in a specific jurisdiction. Various foreign companies do not have a physical presence in South Africa; however, they have many South African users and the revenue that these companies generate is not

taxed in South Africa. South Africa has been experiencing revenue loss due to the lack of tax measures in taxing the digital economy (Jantjies, 2020:26).
In order to curb the revenue loss that the South African government is experiencing, the South African tax legislation expanded the scope of VAT by introducing VAT on electronic services. The VAT on electronic services was introduced in 2013 and came into effect in 2014, however, the definition of electronics is limiting and is not wide enough to accommodate all the digital economy activities (Jantjies, 2020:16). The introduction of VAT on electronic services aims to address some of the challenges that the digital economy is posing.

4.2. HOW THE RESEARCH OBJECTIVES WERE MET

The research problem is followed by a research question which is to analyse the advantages and disadvantages of implementing digital services tax in South Africa. There are three research objectives in this study that were set to assist in addressing the research question.

The first objective of this study is to systematically analyse academic literature that relates to digital services tax. The detailed method of the systematic literature review was discussed in Chapter 2 of this study. The research design elements were analysed and discussed in detail and the most appropriate element was selected for this study. Plenty of data was collected through keywords, inclusion- and exclusion criteria was conducted to obtain suitable literature for the purpose of this study. The selected literature that meets the criteria was analysed and an understanding of what digital services tax was obtained.

The second objective of this study is to compare how the current international tax regime and the South African tax policies are aligned to tax the digital economy. The tax policies were analysed in detail in Chapter 3 and a conclusion was reached that the OECD need to propose a new tax nexus to include a significant economic presence and the traditional permanent establishment concept needs to be modified. The international tax global solution must be based on the Ottawa taxation framework principles which are “neutrality, efficiency, certainty, simplicity, effectiveness, fairness and flexibility” to ensure that an effective tax system is in place (Oguttu, 2020:802).

The present study analysed three European countries and an African country that implemented digital services tax in order for South Africa to learn from them so as to make an informed decision whether it should implement digital services tax. The digital services tax policy of each country was analysed in detail in Chapter 3. The analysis of these countries assisted in addressing the research question by outlining the advantages and disadvantages that South Africa should consider when implementing digital services tax which is discussed in detail in Chapter 3. A detailed analysis of the international- and South African tax policies was conducted; thereby, this objective was met.

The last objective of this study is to determine whether South Africa should introduce a unilateral measure such as digital services to tax the digital economy. The inconclusiveness of the OECD global solution led to various countries introducing unilateral measures as an interim solution to tax the digital economy (Oguttu, 2020:828). Some countries felt they are missing an opportunity to raise additional revenue from the digital activities while they are waiting on the OECD to finalise the solution (Jantjies, 2020:25).The interim solutions that are adopted by some countries was to tax certain digital economic activities and have a tax threshold in place, while other countries introduced a withholding tax policy on non-resident MNEs (Jantjies, 2020:25).

The South African government relies on the OECD international tax guidelines. In order to address the last objective, South Africa is encouraged to wait for the OECDs solution on how to tax the digital economy, as implementing a unilateral measure comes with several disadvantages and the policy might have to be revoked when the OECD solution is finalised and is effective. The OECD had planned to finalise the global solution by the end of 2020, however, due to the outbreak of the COVID-19 pandemic this process has been delayed (Jantjies, 2020:16).

4.3. LIMITATIONS OF THE STUDY

The limitation of this study is that it focuses solely on digital services tax as a unilateral measure to tax the digital economy. The other unilateral measures such as introducing a significant economic presence, an equalisation levy and withholding taxes were not explored and analysed in detail.

This study was limited to four countries being the United Kingdom, France, Italy and Kenya that South African could learn from in order to draw a conclusion whether it should implement digital services tax. South Africa is a developing country and the countries selected for this study are mainly developed countries. Digital services tax is mostly adopted by developed countries; therefore, it was a limitation that only one developing country was selected to learn from.

The inclusion- and exclusion criteria limited the study to articles that are not older than 11 years. An expansion of this criteria could have provided more articles, especially exposure to the articles when electronic commerce started to grow.

4.4. FUTURE RESEARCH

The South African government relies heavily on corporate income taxes as a source of income. The South African corporate tax revenue has declined in the past few years due to more companies becoming digitalised, therefore South Africa should consider introducing a corporate tax measure to tax the digital economy (Jantjies, 2020:20).

South Africa can explore revenue opportunities from custom duties on cross-border digital activities as the current tax policy makes provision for custom duties on foreign digital economic activities (Jantjies, 2020:20).

A study must be performed to analyse the significant economic presence, equalisation levy and withholding unilateral tax measures to determine which of these solutions is most suitable for South Africa to adopt.

The OECD focuses mainly on developed countries; therefore, South Africa and other African countries may not benefit from the OECD solutions. It is therefore important that continuous research be performed to address the tax challenges that the digital economy presents, without jeopardising the double tax treaties policies.

4.5. CONCLUDING REMARKS

The digital economy continuous to grow tremendously which opens a window for broader tax challenges. The need to obtain a global tax solution to address the digital economy is growing as various countries have been prompted to introduce unilateral measures to tax the digital economy. The OECD is currently compiling new tax policies that should be based on the Ottawa principles to ensure there is a fair international tax system that benefits all tax jurisdictions.

The research performed in this study focused mainly on digital services tax in European countries as that is where it originated. A study should be performed that focuses solely on African countries which are more relatable to South Africa's economy and analyse how they are taxing the digital economy.

South Africa is encouraged to learn from these countries, to consider the advantages and disadvantages that are discussed and the general tax principles when considering introducing a unilateral measure to tax the digital economy.

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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:	Samukeliso Zamaswazi Nkambule
Student number:	13089316

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.

SZ Nkambule

Signature