ANALYSING THE TAXATION LEGISLATION IN SOUTH AFRICA APPLICABLE TO SOLE PROPRIETORS AND A COMPARISON TO OTHER COUNTRIES' TAXATION REGIMES

by

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ABSTRACT

"The hardest thing to understand in the world is the Income Tax"- Einstein

"Abracadabra, thus we learn the more you create, the less you earn. The less you earn, the more you're given, the less you lead, the more you're driven, the more destroyed, the more they feed, the more you pay, the more they need, the more you earn, the less you keep, And now I lay me down to sleep. I pray the Lord my soul to take, if the tax-collector hasn't got it before I wake." - Ogden Nash

Tax revenue forms the backbone of any country's economy. Without the collection of tax revenue, governments would be unable to deliver on, and adhere to, their social and welfare commitments. In essence a country has the need for all citizens to pay income tax. In recent years there have been some modifications in our domestic tax legislation (Katz Commission, 1994:2) to try and fall in line with more international communities' tax practices. These modifications have steadily shown an increase in the number of registered individual taxpayers in South Africa. In particular it is noted that there has been a steady increase of 5.9 million registered taxpayers in 2010/11 (Statistics South Africa, 2011:2). This is a considerable increase in comparison to the 2008/09 tax years, where there was a reported 5.5 million registered taxpayers (Statistics South Africa, 2009:2). This seems to indicate that our revenue office is taking on certain plights of the international tax communities' tax practices in order to develop better tax compliance procedures and to further ensure that they have as many citizens that are liable for income tax, registered for income tax. Unfortunately as the rate of unemployment in South Africa maintains levels above the 20% mark, the unemployment rate being a reported 23.30% in 2010 (CIA World Factbook, 2010), there seems to be a shift towards more self-employment when one considers that being unemployed must then open the possibilities that individuals will tend to seek self-employment in order to make a livelihood.

It can be further noted from the 2010/11 Tax Statistics publication (Statistics South Africa, 2011:2) that personal income tax is still the main income tax contributor to the fiscal – rendering a contribution of 34.3% to the total composition of main sources of tax revenue collected in South Africa for the 2010/11 tax years. Of the 34.3% of personal income tax that contributed to the composition of the main sources of tax

revenue collected, 5.1% is the percentage that reflects sole proprietors' income contribution to the South African tax revenue of personal income tax.

The objective of this mini-dissertation was therefore to establish what taxes sole proprietors are regulated by within the context of the South African tax legislation framework, and then comparing this to the tax legislation applicable to sole proprietors in two other developed countries, namely the United Kingdom and Australia.

This mini-dissertation aims to identify the various terms used by each of these tax jurisdictions for sole proprietors and additionally aspires to further address any other taxes sole proprietors would be subject to, or become liable for, by way of a literature review. There were certain definitions for sole proprietors that were utilised to serve as the basis for understanding the terminologies in each tax jurisdiction, and to address the tax components applicable to self-employed individual taxpayers.

Where necessary and deemed relevant to the importance of this mini-dissertation, certain comparisons were made by way of graphs to illustrate and/or contrast certain aspects of the tax legislation differences of these three tax jurisdictions.

After an in-depth literature review – whereby these said definitions were utilised for sole proprietors – the various tax regimes were compared to that of the South African domestic tax legislation for sole proprietors and a detailed analysis was then compiled to determine what specific taxes sole proprietors are subjected to in South Africa. A detailed comparison was then performed further on the United Kingdom and Australian taxation regimes to determine if there are similarities or shortcomings in our domestic tax legislation for sole proprietors when compared to the United Kingdom and Australia respectively. These similarities are discussed in the last chapter of this mini-dissertation.

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CHAPTER 1

BACKGROUND AND INTRODUCTION

1.1 BACKGROUND AND INTRODUCTION

The comparison of a country's taxation regime with particular focus on that of sole proprietors is a demanding undertaking. When making even the simplest of comparisons between countries, there are numerous factors which can affect the reliability of such a comparison. Whilst there may be challenges in making such comparisons, the value and reliability of these comparisons are significantly enhanced when a comparison is made between similar industrialised countries. It is unlikely that any other country's tax system would provide South Africa with a superior 'off-the-shelf' model for its tax system. The reason being is that each country's tax system reflects the interplay of numerous economic, social, political, cultural and historical factors that may not be relevant to the design of South Africa's tax system. Thus the aim of this mini-dissertation is to provide a reliable comparative of the tax legislation applied in South Africa in respect of sole proprietors with that of two other tax jurisdictions. The hope is that this will highlight the important features of South Africa's tax treatment for sole proprietors and will aid in creating a comparison for how the United Kingdom and Australian tax legislations facilitate sole proprietors.

This mini-dissertation has been an opportunity to report on specific aspects of how sole proprietors are regarded in each tax jurisdiction. In doing so, a large amount of information was collected, synthesised and analysed by way of a literature review. International trends have been highlighted where relevant to sole proprietors, and some policy recommendations have been made with respect to South Africa's tax system in the last chapter of this mini-dissertation. Included in this study, specifically, are only taxes that are applicable to sole proprietors. Any other tax legislation that was not found to be applicable or relevant to a sole proprietor was not explored for further review.

1.2 RESEARCH QUESTION

What are the similarities (if any) of the tax treatment for sole proprietors in South Africa compared to that of Australia and the United Kingdom?.

1.3 RESEARCH OBJECTIVES

The aim of the study was to provide an analysis of the taxation legislation in South Africa applicable to sole proprietors with specific reference to the investigation into the treatment of sole proprietors in other countries; and to ascertain whether or not South Africa in particular is in line with the rest of the world.

The task of the study was to:

i. provide a detailed analysis of which taxes are triggered when trading as a sole proprietor;
ii. cover the total collected revenue that individual taxpayers contribute to each specific country's revenue composition, and where possible try and obtain the breakdown of the percentage contributions of sole proprietors to the revenue composition of each country; and
iii. provide a detailed comparison with South Africa and two other tax jurisdictions, largely reflecting the availability of comprehensive and comparable information on their tax systems specific to sole proprietors.

The study was not given the latitude to extend beyond the sole proprietor income tax aspects. This comparison will include some additional other mandatory taxes in which these comparable economies are entwined. If comparable information was readily available, it was compared and elaborated on. If other relevant issues were found to pertain to this mini-dissertation and thought that disclosure thereof would benefit this mini-dissertation to provide a broader analysis, they too were included.

1.3.1 Choosing the selected tax jurisdictions for the study

In 2001, South Africa began taxing its residents on a worldwide basis, thus reflecting that South Africa was starting to mirror international tax regimes (Manuel, 2002:6). For this mini-dissertation the selected tax jurisdictions have a similar tax regime when compared to South Africa, in that they tax their citizens on a worldwide basis of taxation too. This comparison has been limited to only two tax jurisdictions, namely the United Kingdom and Australia, as these two tax systems have a similar basis upon which the South African tax system is based.

1.4 DELIMITATION OF STUDY

The study had to confront some dissimilarity with reference to certain portions of each tax jurisdiction not being comparable at times. In each of the detailed chapters, where appropriate, these dissimilarities have been discussed.

1.4.1 General caveat and legal limitation

Background information for this mini-dissertation was collected to support this body of work. The information included is not designed to constitute the basis for any commercial decisions by individuals, as it does not take into account the circumstances of all and fully detailed aspects of each country's full income tax regime. Separate financial and legal advice should be obtained for decisions on any private commercial matters.

1.4.2 Up-to-date information

Although this mini-dissertation sought the most up-to-date information available regarding the taxation arrangements in other countries for sole proprietors, there may be instances where the information is not current at the time of the release of this mini-dissertation. This mini-dissertation also had to manage the differences in data availability across tax jurisdictions with some jurisdictions having more up-to-date data available than others. Given these circumstances, some comparisons are based on earlier data to provide a comparative benchmark, as much as possible, across the comparative tax jurisdictions. Given that each country has its own currency, all tables and rates are quoted in South African rands, and were translated using the South African Revenue Service's rate of exchange available on the SARS website. Table B was used, and the cut-off dates that were used were the relevant dates applicable to that specific country's tax periods.

1.4.3 Differing definitions

The differing definitions of sole proprietors in the comparative tax jurisdictions created some issues for comparison, but the broad definitions were used for comparison. One such contrast is the difference in the definition of a sole proprietor as defined in South African tax legislation compared to the definitions utilised in the United Kingdom and Australia respectively.

1.4.4 Broad legislation versus administrative practice

Even where countries' tax systems exhibit significant similarities in their designs, there may be differences in the detail in terms of the law or its administration, which makes these similarities more apparent than real. A balance was required between the level of detail that is to be explored and then the assurance that can be attributed to the accuracy of these comparisons.

1.4.5 Differing tax years

The tax year varies from country to country and this may have some effect on the comparisons. There is a considerable variation in the tax years among these three countries, for example:

- Australia – 1 July to 30 June;
- South Africa – 1 March to 28 February; and
- United Kingdom – 6 April to 5 April.

1.5 INTRODUCTION

Sole proprietors are the most common structures utilised by individuals trading on their own and operating under their own name or with a registered business name. Sole proprietors are subject to the same tax rates as individuals. This is a universal approach that is applied throughout the world by other tax jurisdictions as well. Such practices in many tax jurisdictions expect – and generally receive – some special treatment, concessions or arrangements regarding taxation compared to that of medium and large businesses (Pope: 2008).

For the purposes of this mini-dissertation, sole proprietors are included under the scope of the definition of sole traders as well. Furthermore, for purposes of continuity the term "sole trader" may be used interchangeably with "sole proprietor" where relevant to the specific tax jurisdiction making use of either term.

1.6 SELECTION OF COUNTRIES

South Africa, United Kingdom and Australia were selected and compared for this mini-dissertation. The rationale of this mini-dissertation depended on:

i. exploring a broad range of tax similarities from South Africa that could be found in the United Kingdom and Australia for sole proprietors, thus the choice of these countries were examined (primarily due to their tax policies being of a similar nature); and
ii. investigating any benchmarks that existed in the parameters of these tax jurisdictions with that of South Africa's tax system.

1.7 RESEARCH METHOD

This study comprises of a full-bodied literature review based on information and analysis drawn from these three countries' available tax legislations and other academic sources.

1.7.1 Information collection

A major task of the mini-dissertation was to collect literature review information about the important characteristics of the tax systems of the selected countries. This mini-dissertation is based on a mixture of publicly available data, and information sourced by the University of Johannesburg Library and Information Centre. The material relating to personal tax rules in other countries were sourced from four major tax publications and tax sources online, as well as information from the South African Revenue Service (SARS), the Bureau of Statistics of South Africa, the Bureau of Statistics of Australia; and the Bureau of Statistics of the United Kingdom. The national treasuries of each of the three countries were utilised as well. This information was made available on their websites for public usage as long as reported and information used was referenced accordingly, so as not to infringe upon copyright protocol.

Other sources of information about tax systems included the following:

i. Australian Taxation Office (ATO), South African Revenue Service (SARS) and HM Revenue and Customs (HMRC) of the United Kingdom;
ii. Bureau of Statistics and National Revenue Statistics; and
iii. Various academic studies and published texts.

1.7.2. Other measures used to inform the understanding of the tax burden

Other measures that were used to inform the understanding of the tax burden are as follows:

i. Tax per capita, which is the total taxation revenue translated into South African rands.
ii. Effective tax rates, which is the revenue from a particular tax divided by a measure of the relevant tax base.

1.8 DEFINITIONS OF TERMS AND CONCEPTS USED

1.8.1 Australian terms and concepts

ABS	Australian Bureau of Statistics
ATO	Australian Taxation Office
CGT	Capital Gains Tax
GST	Goods and Services Tax (similarly known as VAT in South Africa)
PAYE	Pay As You Earn
VAT	Value Added Tax

1.8.2 South African terms and concepts

CGT	Capital Gains Tax
Commissioner	Commissioner for the South African Revenue Service
PAYE	Pay As You Earn (Employees' Tax)
PIT	Personal Income Tax
SA	Republic of South Africa
SARS	South African Revenue Service
SDL	Skills Development Levy
SITE	Standard Income Tax on Employees
VAT Act	Value Added Tax Act, No. 89 of 1991

VAT	Value Added Tax

1.8.3 United Kingdom terms and concepts

Chargeable gain	If you are liable for income tax and you make a capital gain, that gain is known as a 'chargeable gain' (similarly known as CGT in South Africa)
Capital Gains Tax	See chargeable gain above
Filing date	The deadline by which your Company Tax Return must be delivered to HMRC – normally 12 months after the end of the accounting period; also known as statutory filing date.
HMRC	HM Revenue and Customs

1.9 SIGNIFICANCE OF STUDY

The significance of this study is to provide an informative comparison on how South Africa's taxing of sole proprietors compares with other tax jurisdictions, namely the United Kingdom and Australia. Some policy recommendations; judgments and conclusions have been made and this is detailed in Chapter 7 of this mini-dissertation.

Where possible, the study provides a limited comparison of South Africa's taxation system with the emphasis based purely on sole proprietors, and compared with the two other jurisdictions of the United Kingdom and Australia. The comparison of these three countries' taxation regimes was a challenging yet fruitful task in delivering a comparative analysis on how sole proprietors are taxed in their respective jurisdictions.

1.10 CONCLUSION

Chapter 1 has provided the background and introduction of the three tax jurisdictions that were selected, as well as the basis upon which this selection was made. These three jurisdictions under review will form the foundation of how a sole proprietor is considered from a taxation perspective and then compared to each jurisdiction. It was illustrated that there may be some constraints with reference to the availability of the up-to-date information of each jurisdiction due to timing differences of published information. It was noted that if these constraints gave rise to any significant difficulty in making the comparisons relevant to the tax jurisdiction under review, these constraints would be highlighted and dealt with in the relevant chapter.

Once the selection of the tax jurisdictions was made; the terms that each jurisdiction subscribes to were listed so the foundation was set for the upcoming chapters. It was noted that the term “sole proprietor” is not limited to only sole proprietor in each of the tax jurisdictions under review: it was illustrated that other tax jurisdictions may make use of the term “sole trader” as well, and therefore these two terms have the same meaning and may at times be used interchangeably. The use of either of the aforementioned terms (namely, “sole proprietor” or “sole trader”) does not generate any conflict within the upcoming chapters if used interchangeably.

Lastly, the significance of this study is to provide a detailed analysis of how a sole proprietor is taxed in each of the three tax jurisdictions mentioned above and how they ultimately compare to South Africa.

CHAPTER 2

DEFINING THE MEANING OF A SOLE PROPRIETOR

2.1 WHAT IS A SOLE PROPRIETOR?

The definition for a sole proprietor is not defined in The Concise Oxford Dictionary, but the words analysed separately paint a clear picture of what is meant by a sole proprietor. The term sole is defined as “one and only, single, exclusive (the sole reason; has the sole right)” (The Concise Oxford Dictionary, 1990:1157), and proprietor is defined as “the owner of a business, etc.” (The Concise Oxford Dictionary, 1990: 958).

Business dictionaries define a sole proprietor as “a business owned by a single individual. A sole proprietor pays no corporate income tax but has unlimited liability for business debts and obligations.” (Business Dictionary, 2012).

Legal dictionaries define a sole proprietor as “a business owned by one person, as distinguished from a partnership or corporation.” (Wests,1997:32).

From an income tax perspective, it is interesting to note that sole proprietors are not defined per say from a South African income tax perspective either. There are no tax cases that define what a sole proprietor is. Furthermore, each tax jurisdiction does not formalise a definition for a “sole proprietor” either. The literature indicates that one is to refer to that tax jurisdiction’s specific law of statute to obtain clarity on how the term is used within the ambit of each tax jurisdiction.

With reference to the Australian Taxation Office’s legal database, there was a miscellaneous taxation ruling MT 2006/1, that stated “…the meaning of an entity carrying on an enterprise for the purposes of entitlement to an Australian Business Number…where such terms are not defined they take their meaning from the general law (which in this Ruling it is used as the term for common law and Australian statute law…)”. Therefore to define the term, or to obtain an understanding of its meaning, the point of departure is to refer to the Australian common law definition of a sole trader (similarly known as a sole proprietor from a South African context). In the Australian common law, their statute does not define a sole proprietor (sole trader) and one is directed to make use of the Australian Taxation Office’s (ATO) definition of a sole proprietor (sole trader), which is defined as “A person running a business as an individual. This is the simplest business structure. If you operate your business as a sole trader, although you may decide to have employees, you trade, control and manage all aspects of your business” (Australian Taxation Office,2011,b).

From a United Kingdom tax perspective; sole proprietors are not legally defined either in their common law statute, according to the HM Revenue and Customs (HMRC) Decision Makers Guide it states that “...a sole trader is a person who owns a business for which that person alone has unlimited liability from personal assets for any business debts” (HMRC, 2012).

By the same token, South Africa also offers no definition in the South African Income Tax Act that defines a sole proprietor (South Africa, 1962: s 1). In section 1 of the Act there are terms that can support an interpretation of a sole proprietor from a South African income tax perspective. The terms are namely taxpayer and trade. Taxpayer is “…any person chargeable with any tax leviable under this Act and includes every person required by this Act to furnish any return” and trade means “every profession, trade, business, employment, calling, occupation or venture…” (South Africa, 1962: s 1). This provides some guidance as to how the income of a sole proprietor will be taxed.

The SARS Tax Guide for Small Businesses makes mention of sole proprietors as “a business that is owned and operated by a natural person (individual)…” (SARS, 2011: 2).

Therefore from the above, a sole proprietor in summary is an individual which conducts a business under his or her own name in the form of a sole proprietor business.

2.2 WHY WOULD AN INDIVIDUAL CHOOSE TO TRADE AS A SOLE PROPRIETOR RATHER THAN AS A REGISTERED COMPANY?

A sole proprietorship is the simplest kind of independent business, as it does not need to be registered as a legal entity. This option can be chosen if an individual is a single owner irrespective of whether or not such an individual employs or contracts other people during the course of work to be performed.

A sole proprietorship is often an ideal choice for a professional in private practice or perhaps a guesthouse owner, or the owner of a small craft business, for example. For many, the advantages outweigh the disadvantages, as long as the business is carefully managed (SARS, 2012, b).

Advantages of a sole proprietorship:

i. It is a simple format to set up and manage, as it does not have to be legally registered.
ii. It is suitable for a single owner, whether or not he or she employs or contracts other people.
iii. An individual can start trading under his or her own name or a trading name immediately.
iv. No audit costs are incurred, as this is not a legal entity.
v. Less administration fees are incurred.
vi. There are less tax costs for the individual in terms of declaring profits directly to the individual rather than by way of declaring a dividend and incurring the onslaught of dividends withholding tax.
vii. The individual does not have to separate his or her own finances from those of the business (since the individual is the business), and is thus taxed according to personal income tax rates.
viii. The only legal and financial obligations are those that the individual has towards himself or herself.

Disadvantages of a sole proprietorship:

i. There is no distinction between the business's assets and the owner's assets.
ii. An individual is responsible for paying any debts and liabilities incurred by the business.

This may seem that this business format is the easiest and quickest, but it is not necessarily appropriate for everyone. Making use of a sole proprietorship when one should be registered as some other legal entity (because of a high turnover, for example) could end up costing an individual money, and result in red tape along the line later.

The suggestion is that that individual conducts the necessary research for which business format is most suited to their prerequisites and liaise with a legal and tax professional in this area; to structure their personal and business assets in such a way that they will have some protection should their venture fail (SARS, 2012, b).

2.3 CONCLUSION

Chapter 2 focused on whether or not a sole proprietor is defined in each of the three tax jurisdictions under review. Each tax jurisdiction does not have specified and defined terms of sole proprietors in their statutes, nonetheless in each jurisdiction there were guidelines set out. These guidelines were set out by way of employing the statutes, or by way of certain guidelines issued by each tax jurisdiction's revenue authority that seemed to offer some guidance as to what constitutes a sole proprietor.

From the above it's clear that sole proprietorships are unincorporated small businesses – simply put, it is an individual who operates a business in his or her own name. Such individuals assume all the risks of the business which has no actual legal existence compared to that of a company as defined in the Income Tax Act. The sole proprietor must therefore impute all his or her income from such a business onto his or her tax return and is responsible for the payment of taxes thereon.

The next chapter delves into the assessment of what taxes are applicable to sole proprietors from each of the three tax jurisdictions' perspectives, commencing with South Africa.

CHAPTER 3

SOUTH AFRICA AND ITS TAX SYSTEM

3.1 BRIEF OVERVIEW

South Africa has a residence-based income tax system. This infers that residents of South Africa are subject to certain inclusions with respect to their worldwide income that will be imputed into determining their gross income for a tax year (Huxham & Haupt, 2011: 24).

This study will not encompass the scope of non-residents as such content does not fall within the scope of this mini-dissertation. Only local South African taxes, namely direct and indirect taxes, will be dealt with and no international tax implication will be discussed in this mini-dissertation.

Income tax is the government's main source of income and is levied in terms of the Income Tax Act. The figures below provide a picture of the South African tax base for the 2010/11 year of assessment.

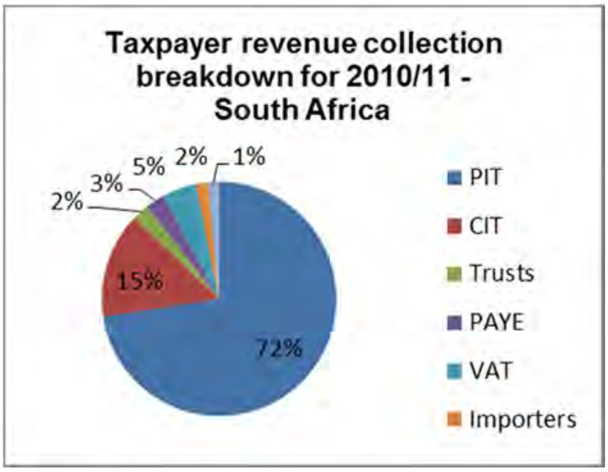
In South Africa, the taxpayer base for 2010/11 was as follows:

Taxpayer	Number of registered taxpayers
Companies	2.078 million
Individuals	10.34 million

Table 1: Breakdown of registered taxpayers

Source: Author's own conclusion

It is clear that personal income taxes are by far the clear forerunner when considering contributions to the largest tax revenue being collected in the South African economy (Statistics South Africa, 2011:8). The amount of tax revenue that was collected in the 2010/11 tax year, per the 2011 Statistics South Africa publication was just on R674,2 billion (Statistics South Africa, 2011:8). This is illustrated in the pie chart below, which breaks down the total revenue collected per category of taxpayer.



Pie Chart 1: Taxpayer revenue collection breakdown for the 2010/11 tax year

Source: Statistics South Africa, 2011:8

Personal income tax is still the principal portion of the revenue that is being collected by the South African Revenue Service (SARS) annually. It renders a weighty contribution to the government's revenue collection as depicted in the pie chart above (Statistics South Africa, 2011:9).

In South Africa, tax collected from sole proprietors will be included in personal income tax. The following point of departure is to conclude which taxes become applicable to sole proprietors in South Africa. This has been divided into what the brief administrative requirements are for a sole proprietor, followed by how the tax legislation ultimately determines a sole proprietor's tax liability, and finally the taxes a sole proprietor may encounter are discussed.

3.2 TAX ADMINISTRATION

There are some fundamental tax administrative issues that sole proprietors should be aware of when dealing with SARS in order to facilitate their registration as sole proprietors for income tax in South Africa.

3.2.1 Register as a taxpayer

Sole proprietors become liable for income tax as soon as they start trading or become liable to submit any return of income for all income received in any form, and must register as a taxpayer with SARS within sixty days by completing a tax registration form referred to as an IT 77 form (SARS, 2012, b).

3.2.2 Change of address

The ITA requires that a person whose address (which is normally used by the Commissioner for any correspondence with that person) changes, must, within sixty days after that change, notify SARS of the new address for future correspondence (SARS, 2012, b).

3.2.3 Year of assessment

The year of assessment for individuals (as these are the criteria under which a sole proprietor will be categorised) covers a period of twelve months and commences on the first day of March of a specific year and ends on the last day of February the following year. It is worth noting that individuals may be allowed to draw up their financial statements for their businesses to dates other than the end of February, but this deviation would need to be requested in writing to the Commissioner to acquire the necessary approval for the change in date (SARS, 2012, b).

3.2.4 Filing of tax returns

Income tax returns must be submitted manually or electronically by a specific date each year. This date is published for information to the general public and promoted by way of a filing campaign to encourage compliance in this regard.

Thus sole proprietors may seek to register themselves via the electronic avenue available to them as taxpayers by means of eFiling (SARS, 2012, b).

3.2.5 eFiling

eFiling is the electronic submission of tax-related returns that is made available to a registered taxpayer to encourage speedy submissions and payments. Taxpayers registered for eFiling can engage with SARS online for submission of returns and payments for the following taxes:

i. Value added tax (VAT)
ii. Income tax
iii. Provisional tax
iv. Pay As You Earn (PAYE)
v. Skills Development Levy (SDL)
vi. Unemployment Insurance Fund (UIF)

vii. Turnover tax

viii. Transfer Duty and Stamp Duty

3.2.6 Payments at banks

Payment of taxes can be made via the major banks in South Africa in terms of Internet facilities. Over-the-counter payment of taxes can also be done at these banks (SARS, 2012, b).

3.2.7 Assessment

SARS will raises an assessment given by the information supplied to SARS from the income furnished on the income tax return by the sole proprietor. The assessment will reflect income tax due by the sole proprietor (owing to SARS) or due to the sole proprietor (refundable by SARS) for that year of assessment (SARS, 2012, b).

3.3 HOW IS TAXABLE INCOME CALCULATED?

The Income Tax Act sets out a series of steps to be followed in calculating a taxpayer’s "taxable income". This then forms the foundation on which a tax liability is calculated. These steps are briefly set out below and are undertaken in greater detail in the explanations that follow.

3.3.1 Determine gross income

First determine your total receipts and accruals, or total income. These concepts are not defined in the Act, but they are implied by the wording of the definition of “gross income” in Section 1 of the Income Tax Act.

Deduct from "total income" those amounts that are excluded from the ambit of the definition of “gross income”. In other words, exclude accruals or receipts:

i. that are from a source outside South Africa for non-residents; or

ii. that are of a capital nature.

Gross income of residents

For any person who is a resident, gross income is the total amount of worldwide income (in cash or otherwise) received by, or accrued to, or in favour of, that person.

Capital receipts and accruals

Receipts or accruals of a capital nature are generally excluded from gross income as the Eighth Schedule covers these as capital gains and losses.

However, certain specific inclusions are incorporated in gross income, regardless of their nature. A taxpayer needs to include in gross income:

i. the general inclusions in terms of the general definition of "gross income" as contained in Section 1;
ii. the specific inclusions in terms of paragraphs (a) to (n) of the definition of "gross income" in Section 1; and
iii. deemed accruals (contained in Section 7), deemed interest (in Section 8E) and the accruals or receipts deemed to be from a source in South Africa (in Sections 9 and 9D).

3.3.2. Deduct exempt income

"Gross income" minus the exemptions set out in Section 10 is equal to "income". A taxpayer's "income" is therefore calculated by deducting from the taxpayer's gross income all amounts that are exempt from tax.

3.3.3. Deduct allowable deductions

The next step is to subtract certain allowable deductions from income, then add taxable gains and then subtract the other deductions, which leaves taxable income. These deductions include:

i. general deductions that qualify in terms of the general deductions formula contained in Sections 11(a) and 23(f) and (g);
ii. specific deductions contained in Sections 11(c) to (x); and
iii. allowances and other special deductions and rulings contained in Sections 11bis to 24L.

3.3.4. Multiply taxable income by tax rate

Once taxable income has been determined, the applicable tax rate is applied to determine tax liability. Individuals are considered "persons other than companies" and are taxed on a sliding scale.

3.3.5. Subtract rebates

The taxable income multiplied by the tax rate will leave a certain amount, from which must be subtracted:

i. rebates for natural persons set out in Section 6; and
ii. any applicable rebates for foreign taxes allowed by double-taxation agreements.

3.4 REGISTRATION OF TAX TYPES

From a South African income tax perspective; first and foremost the mandatory tax is income tax, and for individuals this is referred to as personal income tax.

3.4.1 Income tax

When a sole proprietor's business gets under way, an individual is required to register with his or her local SARS office in order to obtain an income tax reference number. The time frame for this registration is sixty days after the individual has commenced the sole proprietor business; this number is then applied for by completing an IT 77 income tax registration form, which is obtainable from the individual's local SARS office or from the SARS website.

3.4.2 Provisional tax

It is to be noted that provisional tax is not a separate tax; it is a provision for the taxpayer's final income tax liability for a year of assessment, which will be determined upon assessment (Huxham & Haupt, 2011: 9).

Once the individual is registered for income tax and a tax reference number has been obtained, the sole proprietor must notify SARS that he or she has now become liable to be registered for provisional tax. It would be impractical to expect taxpayers to pay tax as a large lump sum once a year. As a result, the Income Tax Act has provided two mechanisms to solve this problem. Provisional tax and employees' tax are available to make the payment of personal income tax annually. In this way, income tax is collected as soon as the taxpayer has earned the income and is offset against the final income tax that is due on assessment. The purpose of provisional tax is to allow a taxpayer to pre-pay income tax during the year in which the income is earned (SARS, 2010): Provisional tax – eFiling: Guide). The taxpayer has thirty days to affect this registration. This is not an automatic registration. The onus rests upon the individual to inform their SARS branch that he or she is to be updated as a provisional taxpayer. An IRP6 provisional tax form can be activated on eFiling or manually sent to the taxpayer when they become due bi-annually (SARS, 2010).

The reason for this registration as a provisional taxpayer is mainly due to the fact that the final income tax payable by a taxpayer can only be calculated once the total taxable income earned by the individual for the full year of assessment has been determined. This is normally only done after the end of the year of assessment, once a taxpayer's income tax return has been processed, and an assessment is issued. The sole proprietor will be deemed to be a provisional taxpayer, which is any person who derives income from the carrying on of any business (as stated in the comprehensive tax guide) (SARS, 2009:14).

This payment of provisional tax is intended to assist taxpayers in meeting their normal tax obligations. This occurs by way of two instalments of provisional tax payments in respect of taxable income received or accrued during the relevant tax year (SARS, 2009).

i. The first provisional tax payment must be made within six months of the year of assessment; this falls on 31 August of every year.
ii. The second payment must be made no later than the last working day of the year of assessment; this falls on 28 February at the end of the year of assessment.

The third optional payment is voluntary and may be made within seven months after the end of the tax year.

Once the sole proprietor is registered for income tax and provisional taxes, the next group of sub-class taxes that a sole proprietor may qualify to register for are employees' tax and value added tax.

3.4.3 Employees' tax

Employees' tax consists of three taxes, namely Pay As You Earn (PAYE); Skills Development Levy (SDL) and Unemployment Insurance Fund (UIF). These are detailed below.

Employees' tax – is not an additional tax for the sole proprietor per say, instead it is when a sole proprietor starts employing staff. If staff is employed, then the sole proprietor will have to avail himself or herself to the possibility of registering for employees' tax. Sole proprietors (known as the employers) will act as an agent for SARS by way of collecting these employees' taxes.

This is a system whereby an employer acts as an agent for the South African government, by deducting PAYE from the earnings of employees. This employee's tax is paid over to SARS on a monthly basis. This tax serves as a tax credit that will be set off against the final income tax liability of an employee, which is determined on an annual basis. In essence, a business (an employer) that pays salaries, wages and other remuneration to any of its employees must register with SARS for employees' tax.

Once a sole proprietor has registered for employees' tax, this employees' tax return is known as an EMP 201, and this return is required to be submitted monthly. The payment for the employees' tax liability is to be made by the seventh of each month. The employees' tax is collected and then paid over monthly to SARS on the seventh of the following month (SARS, 2012). From a sole proprietorship's point of view, PAYE is paid over on behalf of the employees and is not a cost per say for the employer.

There is a specific return that employers are required to submit monthly, known as an EMP 201 monthly return. This EMP 201 return encumbers the following taxes on the return, namely skills development levy (SDL) and unemployment insurance fund (UIF); these form part of the PAYE payments made to SARS monthly. There are specific rates that are used when calculating the employees' tax return and levies due and payable (SARS, 2009).

A breakdown of the taxes payable on a monthly basis is set out below.

Tax Name	**Pay As You Earn (PAYE)**	**Skills Development Levy (SDL)**	**Unemployment Insurance Fund (UIF)**
Rates	Tax tables issued annually by SARS	1% of remuneration paid to employees if payroll exceeds R500 000 per annum	1% contribution from employee and; 1% contribution from employer (maximum threshold for UIF is R12 487 per month)

Table 2: Breakdown of the taxes payable via an EMP 201

Skills Development Levy – this is levied on the payroll monthly. This levy is for the purpose of financing the development of skills in the country and added to that is the vision of trying to enhance productivity in the workforce.

As stated in table 1, this is calculated at a rate of 1% of the total payroll. A sole proprietor can take cognisance of the detail: if sole proprietors specifically provide training to employees they may be entitled to receive grants from the Sector Education and Training Authorities ("SETAs") in terms of this initiative as set out by government (SETA, 2011).

This is an additional cost to the sole proprietorship, as this is paid over by the employer, and not collected from the employee.

Unemployment Insurance Fund – is an additional levy that is administered by SARS on behalf of the UIF department, thus they receive the bulk of the unemployment insurance fund contributions as paid over by employers.

UIF is the financial security to workers when they become unemployed and are no longer in a position to receive income due to not being able to find employment. They receive a portion of their earnings, but not the full income paid to them. A person may claim UIF for every six days they have worked and receive one day's credit up to a maximum of 238 days.

These contributions are thus then collected from employers on a monthly basis. The total amount collected monthly from the employer is equal to 2% of the remuneration paid or payable by the employer to the employee, and consists of:

i. a contribution made by an employee equal to 1% of the remuneration paid or payable by the employer to the employee during any month; and
ii. an amount equal to the amount made by the employee as above.

UIF contributions do not apply to remuneration paid or payable by an employer to an employee on remuneration above:

- R12 478 per month (R149 736 annually); or
- R2 879.53 per week.

All of the above are compulsory should the sole proprietor employ staff.

If a sole proprietor runs any business and has employees earning more than the monthly tax threshold, the sole proprietor will need to register for PAYE. If all employees earn less than the tax threshold the sole proprietor will still need to be registered for UIF. The tax threshold for the 2013 financial year is R63 556 annually or R5 296 monthly (amount where no tax needs to be deducted). If the business owner draws a salary from the business he or she will also need to pay over PAYE and UIF except if the business is run as a sole proprietor, as the sole proprietor would be registered for provisional tax and is thus liable to make prepayment of normal income taxes with the assistance of provisional taxes. This does not stop the sole proprietor from making PAYE payments on their monthly earnings if they so wish; it is an allowable practice to make use of the PAYE system and to pay their PAYE monthly, and to divert from the provisional taxes payable bi-annually.

3.4.4 Value added tax (VAT)

This is an indirect tax levied in terms of the Value Added Tax Act No. 89 of 1991, and will be referred to as VAT hereafter.

VAT is presently levied at a standard rate of 14%. The registration for VAT is compulsory if any taxpayer carries on an enterprise and their taxable turnover exceeds R1 million per annum. VAT is levied by the national government in terms of the VAT Act. The sole proprietor will again act as an agent for SARS and, as a result of this registration, can in turn claim VAT inputs paid against the VAT outputs charged (SARS, 2012, b).

VAT in South Africa is based on a destination consumption basis and is levied on:

i. the supply of goods and services made by the vendor;
ii. the importation of any goods into South Africa by an person; and
iii. the supply of imported services by any person.

VAT is levied on an all-inclusive basis, which means VAT has to be included in all prices on products, price lists, advertisements and quotations. VAT is levied on all supplies made by vendors in the course or the furtherance of their enterprises. Only a VAT vendor may levy VAT. If a VAT vendor is making exempt supplies for VAT purposes, they may therefore not charge VAT and may not claim back VAT borne by the enterprise (Huxham & Haupt, 2011: 4).

Other forms of tax and duties that may be applicable during the course of the sole proprietorship are:

i. Capital gains tax (CGT);
ii. Duties – industry specific; and
iii. Estate duty.

3.4.5 Capital gains tax (CGT)

Capital gains tax (hereafter referred to as CGT) forms part of normal income tax. A sole proprietor need not register separately for CGT if such a person is already registered for income tax (Haupt, 2012: 5).

This CGT is only triggered when the taxpayer disposes of an asset. The taxable gain forms part of the taxpayer's taxable income and must be declared in the income tax return for the year of assessment in which the asset was disposed of.

A capital gain arises when the proceeds from the disposal of an asset exceed the base cost of that asset. A capital loss occurs when an asset is disposed of and the base cost of that asset exceeds the proceeds from that disposal (Haupt, 2012: 829).

The rate of tax that would be applicable to a gain is 33.33% of the net capital gain – this is included in the sole proprietor's taxable income and is then subject to the marginal rate of tax of that individual. An individual is allowed an annual exclusion for any capital gains made, and this is factored into the calculation when determining what the net capital gain will be (PWC, 2012:2).

The effective tax rate of a gain (assuming the top marginal rate of tax) is 13.3%. (40% x 33.33%) (PWC, 2012:2).

A capital loss may only be offset against capital gains. Any capital loss that is not used in the current year of assessment is carried forward to the next year of assessment as an assessed capital loss, and may be offset against any capital gains in that year of assessment.

There are some exclusions to be borne in mind for capital gains and/or losses:

i. Up to R2 million gain or capital loss determined on the disposal of a primary residence must be disregarded when calculating an individual's aggregate capital gain or loss.
ii. A person who operates a small business, such as a sole proprietor, (subject to certain conditions) is entitled to a concession which excludes a capital gain of up to R1,8 million (during the person's lifetime) on the disposal of the active business assets when the person attains the age of 55 years or the disposal is in consequence of ill-health, other infirmity, superannuation or death.
iii. Most personal belongings which are not used for the carrying on of a trade are excluded from capital gains tax.

3.4.6 Duties – industry specific

There are other duties that a sole proprietor may be liable for that are business specific based on various industries. These industry-specific duties need a brief mention as set out below.

In South Africa, the national government also levies certain other duties:
i. Donations tax
ii. Turnover tax

3.4.7 Donations tax

Donations tax is tax payable on the value of property disposed of by a resident by means of a donation. Donations tax is levied at a flat rate of 20% on the value of the property donated. A taxpayer, in this case the sole proprietor, is entitled to make donations annually up to R100 000 per annum donations tax free (Haupt, 2012: 734).

In terms of section 56(2) of the Income Tax Act, donations tax shall not be payable in respect of so much of the sum of the values of all property disposed of under donations by a donor who is a natural person and does not during any year of assessment exceed R100 000 (Haupt, 2012: 735).

If any property has been disposed of, for a consideration that, in the opinion of the Commissioner, is not an adequate consideration, that property is treated as having been disposed of by donation. The donor is liable for the payment of the donations tax. If the donor fails to pay the tax within the prescribed period, the donor and the donee are jointly and severally liable for the tax.

Donations tax is applicable to all taxpayers and the rate applicable to individuals is 20% (Haupt, 2012: 6).

3.4.8 Turnover taxes

As part of the government's broader mandate to encourage entrepreneurship and create an enabling environment for small businesses to survive and grow, a presumptive tax has been introduced as from 1 March 2009 to reduce the tax compliance burden on micro businesses with a turnover of up to R1 million per annum. This simplified tax system is essentially an alternative to the current income tax and VAT systems. This enables a micro business to still have the option to make use of the conventional tax system (Haupt, 2012: 725).

Turnover tax is a simple presumptive tax that is calculated for a year of assessment by applying a tax rate to the turnover of a business. (A year of assessment runs from the first day of March to the last day of February of the following year, this is the same as for individuals.) The main difference in this tax is that deductions are not taken into account, which means that it is not necessary to determine which expenses are tax deductible and how to claim them. The importance of detailed recordkeeping is therefore not necessary for turnover tax, unlike that of the standard tax system. To compensate for not taking deductions into account, the turnover tax rates are far lower than the tax rates used in the standard tax. Based on the progressive turnover tax rates, some businesses will not be liable for turnover tax. In addition, the taxable turnover of a qualifying business is ringfenced from other taxable income, e.g. a tax assessment for a year of assessment will not combine the employment income of a person with the taxable turnover from a flea market stall that he or she runs on the weekend – these income streams will be assessed separately, which effectively means less tax payable than on the combined income (Haupt, 2012: 726).

Turnover tax is available to individuals (sole proprietors), partnerships, close corporations, companies and co-operatives and it is elective, i.e. qualifying small businesses can choose to register for the standard tax system or for turnover tax.

The turnover tax liability of a business for a year of assessment is determined on assessment of a turnover tax return. This return must be submitted annually to SARS by a specific due date that will be announced by SARS as part of its annual Filing Season campaigns. The liability determined on assessment should be settled by means of two estimated interim payments that are payable in the middle of the year of assessment and at the end of the year of assessment, e.g. for the 2011/12 year of assessment, a liable business must make interim payments by the last day of August 2011 and by the last day of February 2012 respectively (SARS, 2012, b).

Existing small businesses can apply for turnover tax registration for a year of assessment before the beginning of that year of assessment, i.e. 1 March, whilst new businesses can apply for registration at any point as long as it is within two months from commencing business activities (SARS, 2012, b).

3.5 FILING

The tax year for individuals covers twelve months and commences on 1 March of a specific year and ends on the last day of February of the following year (South Africa, 1962: s5)

3.6 TAX RETURNS

Income tax returns must be submitted manually or electronically by a specific date each year, as available from the SARS website.

3.7 TAX RATES

Sole traders are subject to income tax on their taxable income according to tax rates applicable to individual taxpayers. Income tax (normal tax) is levied at progressive rates ranging from 18% to 40%. For the 2012/13 tax year, the maximum marginal rate of 40% applies to taxable income exceeding R617 001 (SARS, 2012, b).

Below is a summary of the different tax rates and rebates, where applicable, as they apply to individuals. The period under review is for the tax year ending 28 February 2013, or otherwise specified.

Taxable income	Tax rate
R0 - R160 000	18%
R160 001 - R250 000	R28 800 + 25% of each R1 above R150 000
R250 001 - R346 000	R51 300 + 30% of the amount above R250 000
R346 001 - R484 000	R80 100 + 38% of the amount above R346 000
R484 001 - R617 000	R128 400 + 38% of the amount above R 484 000
R617 001 and above	R178 940 + 40% of the amount above R 617 000

Table 3: Tax rates for individuals, deceased or insolvent estates for the tax year commencing 1 March 2012.

Source: SARS, 2012, a.

Primary rebate	R11 440
Secondary rebate (Persons 65 and older)	R6 390
Tertiary rebate (Persons 75 and older)	R2 130

Table 4: Tax rebates for individuals, deceased or insolvent estates for the tax year commencing 1 March 2012.

Source: SARS, 2012, a.

Turnover	Marginal rates (R)
R0 - R150 000	0%
R150 001 - R300 000	1% of each R1 above R150 000
R300 001 - R500 000	R1 500 + 2% of the amount above R300 000

R500 001 - R750 000	R5 500 + 4% of the amount above R500 000
R750 001 and above	R15 500 + 6% of the amount above R750 000

Table 5: Tax rates for turnover taxes for the tax year commencing 1 March 2012.

Source: SARS, 2012, a.

Tax year commencing on	Annual exclusion	Inclusion rate
1 March 2011	R 30 000	33.33% of net capital gain
On death	R 300 000	33.33% of net capital gain
On disposal of small business, when a person is over 55 years of age R1.8 million		

Table 6: Capital gains tax (CGT) rates for individuals for the tax year commencing 1 March 2012.

Source: SARS, 2012, a.

3.8 CONCLUSION

Chapter 3 focused on illustrating a brief overview of South Africa's tax system by way of an analysis in the form of a pie chart indicating the percentage revenue contributions made by individuals to the annual revenue collection cycle. The second portion of this chapter focused on the administration aspects that a sole proprietor would need to be aware of in terms of the specific taxes that a sole proprietor may or may not be liable for when carrying on a trade in his or her personal capacity in South Africa.

The taxes mentioned above are not all the taxes strictly applicable to a sole proprietor. The taxes discussed above have formed the minimum basic structure for the taxes to which a sole proprietor in South Africa could be exposed. There may be other taxes that a sole proprietor could be liable for that have not been mentioned here that could arise from certain other transactions.

It is highly recommended that a sole proprietor seeks the council of a tax expert or his or her local SARS office to dispense the necessary tax advice where such transactions may attract other taxes.

South Africa has formed the basis against which the other two tax jurisdictions will be weighed. The next jurisdiction to be considered is the United Kingdom.

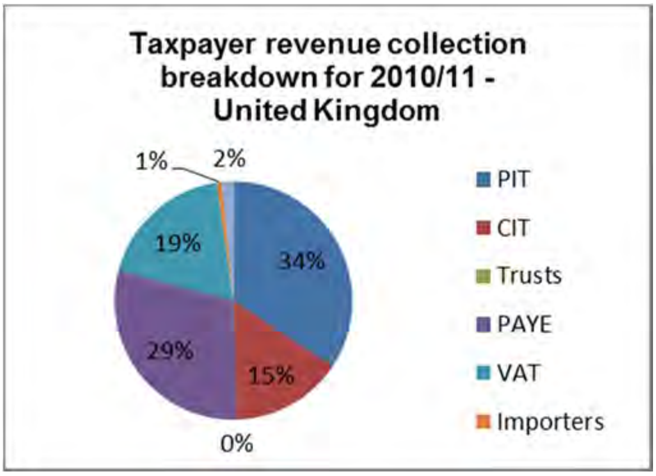
CHAPTER 4

UNITED KINGDOM AND ITS TAX SYSTEM

4.1 BRIEF OVERVIEW

In the United Kingdom (UK), like South Africa (SA), personal income tax yields the bulk of revenue collected by the government. The second largest source of government revenue is the National Insurance Contributions (hereafter referred to as NIC). The third largest source of revenue collected by government is VAT, and then lastly the fourth largest is corporation's tax (Adam, S & Browne, J. 2009:5).

As illustrated in the SA tax analysis perspective, herewith is a similar breakdown as depicted in Chapter 3, this is with reference to the total tax revenue collected by the HM Revenue and Customs (HMRC) offices for the 2010/11 tax year. The motive for making use of the 2010/11 summaries are due to the fact that at the time of this mini-dissertation the tax year-end of the UK for 2011/12 had not yet ended, as the tax year ends on 5 April. The percentages below have been translated into South African rands based on the rand/pound average monthly exchange rates for 28 February 2012 as per the SARS exchange rates (Table B available from www.sars.gov.za). The date of 28 February 2012 was utilised to coincide with the SA tax year-end. Below is a summary of the taxpayer revenue collection breakdown for the 2010/11 tax years for the UK (UK Statistics, 2012).



Pie Chart 2: Taxpayer revenue collection breakdown for the 2010/11 tax year
Source: Statistics UK, 2012

The HM Revenue & Customs collected R5,3 trillion for 2010/11, and this revenue is made up of:

i.	Personal Income tax	R1.83 trillion
ii.	Corporate income tax	R0.81 trillion
iii.	PAYE	R1.58 trillion
iv.	Value added tax	R1.00 trillion
v.	Importers	R0.35 trillion
vi.	Other taxes	R0.84 trillion

Akin to SA, the UK's personal income tax contributes the most to the total tax revenue collection in the UK (UK Statistics, 2012).

4.2 TAX ADMINISTRATION

In the UK, your residence position is one of the factors that determine what UK tax you need to pay on what types of income and gains. If you are a resident and ordinary resident in the UK, you will be liable to UK tax on all your income wherever it arises (unless you claim the remittance basis because you are not UK domiciled). This includes earned income from employment and self-employment, as well as your UK investment income, such as dividends or interest from a bank or building society. You will also pay capital gains tax on any gains you have from the disposal of certain assets which belong to you (United Kingdom, 2007: s1).

Even if you are a resident (or ordinary resident) in another country you may also be resident (or ordinary resident) in the UK. This is sometimes referred to as dual residence (United Kingdom, 2007: s1).

The terms of a double-taxation agreement might affect an individual's final tax position in the UK. But as stated in Chapter 3 that dealt with SA, this study shall exclusively deal with tax issues from a domestic UK tax viewpoint.

The same questions will be posed as in Chapter 3, if one were a sole proprietor wishing to embark on earning income in the UK and the necessary residence tests were met, the question then is what would a sole proprietor's taxation obligations be in order to submit a personal income tax return in the UK as a sole proprietor?

There are some fundamental tax administrative issues that were dealt with in Chapter 3 with regard to SA tax administration. This chapter will be based on the same format as Chapter 3 and will serve as an analysis of the UK tax administrative issues for a sole proprietor.

4.2.1 Register as a taxpayer

As a self-employed person in the United Kingdom, it is an individual's responsibility to pay their own tax and National Insurance Contributions (hereafter referred to as NIC) on their earnings. HMRC requires an individual to register as being self-employed within three months of starting up as a self-employed individual (HMRC, 2011).

The registration procedure can be done online or by calling the HMRC and it is noted that one may be directed by an HMRC representative who will inform the individual accordingly that a Self-Assessment Form needs to be completed (HMRC, 2011).

Before one completes a tax return for the first time, a self-employed individual must register for Self-Assessment to give HMRC the information they need to set up the right records. This assists and ensures that the individual pays the correct amount of tax and NIC at the due dates. If the self-employed individual had already completed a tax return and had become self-employed (as a sole trader or partner in a partnership), that individual is to make use of the same registration forms to inform the HMRC of the change in his or her tax status, which in turn will update his or her tax and NIC records. (HMRC, 2011).

The latest date an individual can register by is 5 October, after the end of the tax year (the UK tax year commences on 6 April of one year and ends on 5 April the following year). The form to be used to register is called a CW1; this is referred to as becoming self-employed and registering for NICs. There is a restriction in that before this form can be completed, an individual must ensure that he or she is registered and possess a National Insurance number (NI) when completing this CW1. It seems that if the individual, for whatever reason, does not have an NI number then he or she is required to apply for an NI number at a Jobcentre Plus (HMRC, 2011).

If a self-employed individual fails register or is late in doing so, a penalty will have to be paid. This penalty is a fine of £100 which is currently equivalent to R1 162,40 (HMRC, 2011).

4.2.2 Change of address

The HMRC website states that “accurate records” are to be maintained, and under this section it is mentioned that in keeping accurate records that includes ensuring all details are updated where necessary with the HMRC. A time frame is not indicated; however it states clearly that self-employed individuals need to ensure that they inform the HMRC timeously regarding any changes (HMRC, 2011).

4.2.3 Year of assessment

The year of assessment for individuals (as this is the criteria that a sole trader/sole proprietor will be categorised as) covers a period of twelve months and runs from 6 April one year to 5 April the next. So if, for example, you have tax to pay on rent from a property in the 2010/11 tax years, you need to let HMRC know by 5 October. This is clear that should your tax status change, you have until 5 October of that year to notify the HMRC (HMRC, 2012).

4.2.4 Filing of tax returns

Income tax returns must be submitted manually or electronically by a specific date each year. This date is published for information to the general public and promoted by way of a filing campaign to encourage compliance in this regard (HMRC, 2012).

Thus sole proprietors may seek to register themselves via the electronic option available to them as taxpayers by means of eFiling.

4.2.5 eFiling (known as online filing in the UK)

One can send the main Self-Assessment Tax Return (which is referred to as a SA100) online free of charge using the HMRC Self-Assessment service. This service supports the following:

i. Employment
ii. Self-employment
iii. Partnerships
iv. UK property
v. Capital gains tax

Bear in mind that the free HMRC Self-Assessment service only covers the tax return and pages listed above. If one wants to send other tax returns online, for example the Estates Tax Return, or other supplementary pages, one will have to make use of commercial software (PWC, 2012).

4.2.6 Payments at banks

HMRC recommends that taxpayers make their Self-Assessment payments electronically (HMRC, 2012).

4.2.7 Assessment

From the income furnished on the taxpayer's income tax return, HMRC will issue the taxpayer with an assessment and this will determine whether the taxpayer has paid enough income tax on his or her earnings and it will supply the taxpayer with a date of final payment.

4.3 HOW IS TAXABLE INCOME CALCULATED?

In the Finance Act 2011 of the United Kingdom, it states that income tax is a tax paid on income earned by the individual throughout the relevant year of assessment. In summary it is paid by employees, i.e. those individuals that are employed by a business, and by people who are self-employed. It must be noted that it may also be payable if individuals are not working, if for example, income is earned from a pension fund or savings account (HRMC, 2011).

It is to be noted that not all types of income is taxable (as is the case with SA, there are certain exempt incomes within the Income Tax Act of SA) and it will seldom be the case that all income is taxed. There is no minimum age at which a person becomes liable to pay income tax in the UK. What does matter, as is the case in SA, is the amount of the taxable income.

If the income is below a certain level, there will be no tax payable. In a brief summary below, income that is generally considered taxable in the UK would usually include:

i. income from employment, including any benefits of any kind;
ii. income from self-employment;
iii. most pensions income, including state, occupational and personal pensions;
iv. some social security benefits;

v. interest on most savings;
vi. income from shares (dividends);
vii. rental income; and
viii. income from a trust.

4.3.1. Determining total income

To calculate the taxes payable in a year of assessment, one needs to ascertain the total gross income of the taxpayer for a particular tax year. It is noted that gross income is not defined in the UK Finance Act, and that this term is generally referred to as income that must be included in its totality (HMRC, 2011).

There are basic steps that have been outlined by HMRC in order to illustrate the process for determining gross income and then the income tax payable for a taxpayer. (For the purposes of this study, this encompasses a sole proprietor.)

The income tax rules are complex for the UK, and this will not necessarily provide a precise answer or set out precise steps to be followed. This will serve only to illustrate, by way of a step-by-step methodology, the way taxable income is determined in the UK.

To determine total income, add together all taxable income, before tax, from all sources, including employed earnings and self-employed profits, taxable social security benefits, income from renting out accommodation, pensions and interest from bank and building society accounts, for that year. Exclude non-taxable income such as housing benefit, pension credit, maternity allowance, child benefit, child tax credit and working tax credit, disability living allowance, premium bond prizes and lottery winnings. Gross amounts are to be utilised only in this step 1, that is, the amount of taxable income before any tax was deducted (HMRC, 2011).

4.3.2 Deduction: to claim tax relief

Examine whether there is a claim for tax relief for amounts that may have been spent over the year. For example, the contributions paid towards a retirement annuity. These amounts should all be deducted at this step 2. If one is a sole proprietor, business expenses are deducted before reaching the final taxable profit (HMRC, 2011).

4.3.3 Deduction: tax allowances applicable

Examine which tax allowances a sole proprietor will be entitled to. If the sole proprietor resides in the UK on a day-to-day basis, they are entitled to a personal allowance, unless their income is over R1 110 380 (£100 000) per annum. These allowances are deducted at this stage in the calculation, leaving an amount of income on which tax is payable. This amount is called the taxable income (HMRC, 2012).

4.3.4 Multiply ‘taxable income’ by tax rate

Once the taxable income has been determined, the applicable tax rate is applied to determine the tax liability. Sole proprietors are considered individuals and are taxed per the taxable bands and tax rates (known as tax tables in South Africa) (HMRC, 2011).

4.3.5 Other: additional allowances may be applicable

If the sole proprietor is married or in a civil partnership, and the sole proprietor was born before 6 April 1935, the Married Couple's Allowance will be due. For marriages before 5 December 2005, the husband should claim the allowance, for marriages and civil partnerships made on or after 5 December 2005, the spouse or civil partner with the higher income should claim it. (It is possible for spouses or civil partners to share the minimum part of the allowance but, unless the sole proprietor was married or registered the civil partnership during the tax year, they should have contacted the HMRC about this before the start of the tax year.) If claiming this allowance, then 10% of the Married Couple's Allowance is deducted from the sole proprietor’s tax liability at this stage (HMRC, 2011).

As with the South African tax system, if the sole proprietor were an employee, they would be taxed under Pay As You Earn (PAYE), the personal allowances will then be spread throughout the year, so that each week or month the sole proprietor will have a certain amount of tax-free income and then pay tax on the remainder thereof (HMRC, 2012).

Tax reliefs

In addition to personal tax allowances, income spent on certain things, for example, professional subscriptions or the cost of the tools for the sole proprietor’s trade; these can be deducted when calculating the tax payable. This is known as tax relief on outgoings. These reliefs reduce the amount of the sole proprietor's taxable income so less tax is paid (HMRC, 2012).

Tax reliefs for self-employed people, and people who have taxable income but are not working, are taken into account when their tax bill is calculated, but again only after they have sent in their annual tax return to be able to have a repayment claim (HMRC, 2012).

4.3.6 Taxes already paid

When calculating the tax due, it needs to be determined whether or not income has been received on which any tax has already been paid on income. For example, interest on a savings in a building society or bank account, where such interest is paid, the bank/building society would have taken the tax off that received amount already. Payments received from employment or an occupational pension may also have been withheld before the payment was made (HMRC, 2012).

When determining the total tax due for the year, it needs to be noted and ascertained that tax may have already been paid on this income. The gross amount of this income is taken into account when calculating the total taxable income before personal allowances and tax reliefs are set off (HMRC, 2012).

4.4 REGISTRATION OF TAX TYPES

From the United Kingdom income tax perspective; a sole proprietor will need to register for Self-Assessment for individuals who are self-employed. The tax reference number that the HMRC will assign to the sole proprietor consists of a ten-digit number (HMRC, 2012).

4.4.1 Income tax

The HMRC states that it is best to register with HMRC as soon as circumstances change, i.e. when one becomes a sole proprietor. The latest one can register is by 5 October after the end of the tax year for which you need a tax return. The tax year runs from 6 April of one year to 5 April of the next. Furthermore, it is the responsibility of the sole proprietor to pay any Income Tax and NICs that may be due. Depending on how much is earned from being self-employed, a sole proprietor may have to pay Class 2 and Class 4 national insurance contributions (HMRC, 2012). Classes are explained as follows, Class 2 are the NIC contributions that are payable by self-employed individuals. This applies only to people who are aged 16 or over but remains below the State Pension age. The amount payable is set at a fixed weekly amount, regardless of earnings. Class 4 refers to self-employed workers and calculated as a percentage of their annual taxable profits. This applies only to people who are aged 16 or over but remains below the State Pension age.

4.4.2 Interim payments (known as provisional tax in South Africa)

Payments on account of income tax and Class 4 NIC will be due on 31 January and 31 July. These interim payments will be based on one half of the total liability (less any tax deducted at source). A taxpayer will have the right to reduce payments on account if they believe the income tax for the current year is less than the previous year. Payments on account of income tax and Class 4 NIC will be due on 31 January and 31 July. These interim payments will be based on one half of the total liability (less any tax deducted at source). You will have the right to reduce payments on account if you believe the income tax for the current year is less than the previous year (HMRC, 2012).

Once a sole proprietor is registered for income tax and for the above class contributions (known similarly as provisional tax in South Africa), there are also some additional taxes that a sole proprietor may be liable for as well in the United Kingdom. The additional taxes that a sole proprietor may qualify for are:

i. Employees' tax (PAYE);
ii. National income contributions (NICs); and
iii. Value added tax (VAT).

This is discussed in detail below.

4.4.3 Employee's tax

4.4.3.1 Pay As You Earn (PAYE)

By the tax law that governs the United Kingdom, anyone making payments to employees or members of occupational pension schemes are obliged to operate a PAYE system. This means that they must deduct income tax and Class 1 national insurance contributions from the payments that they make, and submit these figures to HMRC. The HMRC has split up the PAYE system into four categories for sole traders and/or anyone who employs people (HMRC, 2012).

i. The micro-employer: For people who employ one or more people but fewer than five. If a person has fewer than five people working for them, then they are classified as “micro-employers”. Should the sole proprietor have an excess of more than five employees, then the sole proprietor would not be able to register under the micro-employer registration and would have to seek registration under normal employer registrations.
ii. A Simplified PAYE scheme with more than ten employees.
iii. A limited company with more than nine directors.
iv. Partnership with more than ten partners.

Points ii, iii and iv are PAYE systems that employers can make use of when registering for PAYE; a sole proprietor more often than not will make use of the micro-employer registration.

The threshold for employers to be registered as “employers” means that if you pay an employee the equivalent of more than R1 239 per week (this is the employee’s earnings threshold) then the sole trader must (HMRC, 2011):

i. be registered as an employer with HMRC;
ii. operate the PAYE system; this means that you must deduct income tax and Class 1 national insurance contributions from your employees’ pay and send it to HMRC;
iii. keep records of deductions made in your tax return to the HMRC every year; and
iv. give your employees a written payslip each payday, showing their gross pay and how much has been deducted for tax and national insurance.

With regard to the information required for the registration process, HMRC will ask the employer for these two pieces of information:

i. An Employer PAYE reference.
ii. An Accounts Office reference.

Once the sole trader has obtained their PAYE registration numbers, the sole trader will have to be registered in order to file any PAYE forms online – including the Employer Annual Return (form P35 and form P14), which almost all employers are required to file online (HMRC, 2012).

PAYE and Class 1 NICs payment deadlines are as follows:

Payment method	Deadline	If the deadline falls on a weekend or bank holiday
Electronic	22nd of the following month	Cleared payment must reach HMRC's bank account no later than the last bank working day before the 22nd.
Post	19th of the following month	Cheque must reach HMRC's Accounts Office by the 19th.

Table 7: PAYE and Class 1 NICs payment deadlines.

Source: HMRC, 2012

4.4.3.2 National insurance contributions (NIC is similar to SA's UIF)

National insurance contributions are paid if you are an employee or self-employed and you are aged 16 and over, as long as your earnings are more than a certain level. If you are employed, you stop paying national insurance contributions as soon as you reach state pension age. If you are self-employed, you stop paying Class 2 contributions as soon as you reach state pension age, and Class 4 contributions from the start of the tax year after the one in which you reach state pension age.

State pension age is 65 for men born before 6 April 1959, and 60 for women born before 6 April 1950. But it will gradually increase to 65 for women between 2010 and 2020.

Some people also pay voluntary national insurance contributions. For example, you might choose to pay them if you:

i. are not working and are not claiming state benefits;
ii. have not paid sufficient national insurance contributions in a year to count for the state pension or other long-term state benefit; or

iii. live abroad and want to maintain your state benefit entitlement.

These payments made to NIC will entitle the individual to certain state benefits and the amount they can get depends on their NICs on record. (In some cases it depends on your spouse or civil partner's contributions.) These benefits include:

i. State Pension.
ii. Contribution-based Jobseeker's Allowance.
iii. Bereavement Allowance.
iv. Contribution-based Employment and Support Allowance.

4.4.4 Value added tax (VAT)

This VAT is also seen in the South African tax system, and it is not surprising that VAT is to be found in the UK's tax system as well. A sole proprietor may only register for VAT if it is a business. The HMRC defines a business as "a continuing activity involving getting paid for providing goods or services – in money or another form of payment such as in kind or barter...". Thus one is a business when one earns an income from carrying on a trade, vocation or profession by being self-employed or through another entity such as a limited company (HMRC, 2011).

The threshold for a VAT registration is a turnover of R876 000 on VAT taxable goods and services supplied within the UK for the previous 12 months. The VAT rate is 20% (HMRC Reference: VAT Info Sheet 16/11).

A sole proprietor is to use a VAT 1 form to register for VAT. A sole proprietor makes use of this VAT 1 form should one be starting a new business, registering an existing business, or acquiring an existing business (HMRC, 2011).

The UK tax authorities have also focused on small business and have a "Flat Rate Scheme turnover" (HMRC: VAT Regulations 1995, regulations 55A-55V, 57A and 69A). This Flat Rate Scheme is designed to help small businesses by way of making it easier to record VAT taxable sales and purchases. If this scheme is used, a single percentage is applied to the total flat rate turnover in a VAT period, and the result is the VAT that is payable. The flat rate that is used depends on the business sector that one would belong in, and this is published annually by the HMRC. VAT returns are due quarterly on the 7th day of the month after the quarter period ends (HMRC, 2011).

4.4.5 Capital gains tax (CGT)

Capital Gains Tax (CGT) was first introduced in the UK in 1965. This is a tax that is levied when proceeds from the disposal of an asset exceed the base cost of that asset. This forms the same format as can be found in CGT for SA tax purposes. A capital loss also occurs when an asset is disposed of and the base cost of that asset exceeds the proceeds from that disposal. This CGT is only triggered when the taxpayer disposes of an asset. The taxable gain forms part of the taxpayer's taxable income and must be declared in the income tax return for the year of assessment in which the asset was disposed of (HMRC, 2012).

A person who is already registered for income tax in the UK, need not register for CGT separately, as is similar in SA. Most assets in the UK are liable for CGT when they are sold or disposed of, and it does not matter if they are disposed of locally or abroad (HMRC, 2012).

Some assets are exempt, such as cars, personal possessions disposed of equivalent to R65 584 or less, and then your personal residence (HRMC, 2012).

Many events can trigger CGT in the UK, besides the obvious one of selling an asset. The following are very likely to attract CGT:

i. Gifts
ii. Inheriting assets
iii. Divorce, separation or dissolving a civil partnership

The annual tax-free allowance for CGT is known as the Annual Exemption Amount. The annual exemption amount for 2011/12 is R117 744 for each individual and the rate for CGT is a flat rate of 18%.

There is one last additional relief available to sole proprietors and this is known as the "Entrepreneurs Relief" which may be available to sole proprietors on the disposals of certain business assets, including the sale of a business or the sale of qualifying (5%) shareholding in a trading company or holding company of a group. This additional relief came into effect from 6 April 2010 (HMRC, 2012).

4.4.6 Donations tax

Detailed in Chapter 2 and section 413 of the Income Tax Act of the UK, there are specific provisions for donations known as "gifts". The scope of this mini-dissertation is not to delve into donations tax; but it is mentioned to be representative of the taxes that may be applicable to a sole proprietor (HMRC, 2012).

4.4.7 Duties – industry specific and other

These have been broken down as:

i. Gift Aid and Payroll Giving; and
ii. Stamp Duty on land.

4.4.7.1. Gift Aid

Any individual UK taxpayer can apply for Gift Aid on any payment made to a UK charity, regardless of the amount involved. The payments are treated as made after the deduction of the basic rate (currently at 20%) and then the charity is able to recover this from the HMRC themselves. If the sole proprietor is at a higher rate, the sole proprietor can claim relief equal to the difference between the higher and basic rates applied to the gross-up equivalent of the amount paid (HMRC, 2012).

Gift Aid is subject to certain provisions:

i. In respect of any particular tax year, the individual concerned must pay or bear UK income tax or capital gains tax at least equal to the total tax deemed to be deducted from their donations. If they do not, they may face an assessment to recover the shortfall.

    a) The donation must be a sum of money that belongs to the donor. These payments must be outright donation payments to charities in return for services. Rights or goods are not eligible.
    b) A valid Gift Aid certificate must be issued; if verbal (or made online) rather than in a written format, the charity must provide the donor with a written record of the declaration so that the taxpayer can claim the deduction.

4.4.7.1.1 Gifts via your tax return

Since 2004 it has been possible for those who complete Self-Assessment Tax Returns to nominate a charity and receive all or part of any tax repayment due to them. The resulting donation is treated as within Gift Aid and the charity automatically receives the basic rate; and again if the higher rate relief is due, this can be claimed for in the tax year ending in which the Tax Return is filed.

It is vital to note that only charities who have registered to take part in the scheme may have donations made to them. It is the taxpayer's responsibility to ensure that the charity they are donating to has met the necessary requirements (HMRC, 2012).

4.4.7.1.2 Payroll giving

This is if an individual is employed and would like to make one or more donations to specific charities; this can be facilitated through something called "payroll giving". Deductions are then made directly from their pay and paid over to the charity. The tax relief is given at source, but unlike Gift Aid, the benefit of relief passes wholly to the individual (HMRC, 2012).

4.4.7.2. Stamp Duty Land Rates and Thresholds

Stamp Duty Land Tax (SDLT) is charged on land and property transactions in the UK. The tax is charged at different rates and has different thresholds for different types of property and different values of transaction (HMRC, 2012).

The tax rate and payment threshold can vary according to whether the property is in residential or non-residential use, and also whether it is freehold or leasehold. The SDLT relief is available for certain kinds of property transactions.

4.4.8 Personal allowance (similarly known as annual rebates in SA)

Each taxpayer is entitled to a "personal allowance" and this amount depends on:

i. age; and
ii. total income in the tax year applicable.

Total income means everything you receive from all taxable sources. That means you need to include things like pensions and interest on your savings in a building society before the tax has been deducted (HMRC, 2012).

There are three levels of personal allowance:

Personal allowance	2012/13
Basic	R97 260
Age 65 to74	R126 000
Age 75 and over	R127 920

Table 8: Personal allowances 2012/13 tax year.

Source: HMRC, 2012

(*) The average of exchange for a tax year, Table A was used as at 28 February 2012 @ R12.00 to the British pound.

4.4.8.1 Income Tax Allowance Tables

Income tax allowances	2012/13
Personal Allowance	R97 260
Income limit for Personal Allowance	R1 200 000
Personal Allowance for people aged 65 to 74	R126 000
Personal Allowance for people aged 75 and over	R127 920
Married Couple’s Allowance (born before 6 April 1935 and aged 75 and over)	R92 460
Income limit for age-related allowances	R304 800
Minimum amount of Married Couple's Allowance	R35 520
Blind Person's Allowance	R25 200
Starting rate for limit savings	R32 520
Basic rate limited	R412440
Higher rate limited	R1 800 000

Table 9: Income tax allowance tables 2012/13 tax year.

Source: HMRC, 2012

(*) The average of exchange for a tax year, Table A was used as at 28 February 2012 @ R12.00 to the British pound.

4.4.8.2 Income Tax Rates and Taxable Bands

Rate	2012/13
Starting rate for savings: 10%*	R 0 - R27 484
Basic rate: 20%	R 0 - R388780
Higher rate: 40%	R388 791 - R1 666 200
Additional rate: 50% - over	Over R 1 666 211

Table 10: Income Tax rates and taxable bands 2012/13.

Source: HMRC, 2012

(*) The average of exchange for a tax year, Table A was used as at 28 February 2012 @ R12.00 to the British pound.

4.4.9 Income tax deducted at source from savings income

Interest on most savings has 20% withholding tax deducted before one receives it. If you are a basic rate taxpayer there is no further tax to pay. If you are a non-taxpayer you may be able to claim some tax back. If you are a higher or additional rate taxpayer, there will be more tax to pay.

Some taxpayers may need to fill in a tax return or a P810 Tax Review Form to make sure they are paying the right amount of tax (HMRC, 2012).

4.4.10 Tax by self-assessment

Income tax will have to be paid to HMRC directly through the Self-Assessment system. Self-Assessment is applicable to “profits from self-employment” as well as the any of the following other income that a sole trader may earn (HMRC, 2012).

i. Rental income from property.
ii. Interest received gross, for example, on National Savings investments accounts.
iii. Income from overseas.
iv. Employment-related benefits of any kind.

When making this payment, it is noted the sole proprietor must fill in an annual tax return. The HMRC will calculate the sole proprietor's tax bill based on the figures in his or her annually submitted tax return. (This can also be calculated by the sole proprietors themselves.)

Payment of this Self-Assessment is made as follows:

i. If a manual tax return was submitted by the filing date of 31 October, a tax calculation will be sent to the sole proprietor by the HMRC. This is a statement of account, and then there will be the final tax assessment where payment will be due by 31 January.
ii. If the tax return was submitted by the sole proprietor online on the filing date, the due date will be the same: 31 January following the end of the tax year.

4.5 FILING

The UK's financial year begins on 6 April and concludes on 5 April of the following year. This applies for personal income tax (HMRC,2012).

4.6 TAX RETURNS

The UK's income tax system works on a self-assessment principle. This means that the HMRC accepts the information that has been provided via a tax return as accurate and thus the taxes liable are worked out on this disclosed information.

Returns are primarily submitted electronically and there are some manual submissions. These dates for income tax return submissions are announced annually by the UK tax offices (HMRC,2012).

4.7 TAX RATES

Sole proprietors are subject to income tax on their taxable income. The income tax on personal income is a progressive tax. These are reflected in detail under Table 9 within this chapter.

4.8 CONCLUSION

Chapter 4 focused on illustrating an overview of the UK tax system and how it would be applied to a sole proprietor. This chapter commenced with a brief summary of the impact and contribution that individual income revenue collections make to the overall tax revenue collections. This was found to be similar to SA, in that individuals are still the largest source of income tax being collected in the UK.

This chapter proceeded to outline the ways in which taxable income is taxed in the UK and further highlighted the various taxes that a sole proprietor would be exposed to in the UK.

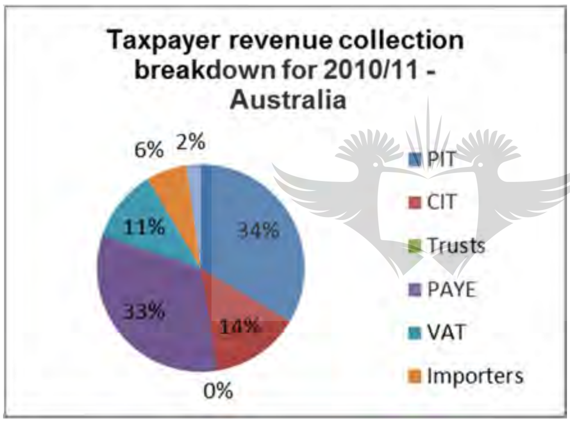
Tax systems will always vary, due to their social and economic requirements, but it can be deduced that comparatively sole proprietors are taxed similarly to sole proprietors in SA.

CHAPTER 5

AUSTRALIA AND ITS TAX SYSTEM

5.1 BRIEF OVERVIEW

Akin to South Africa and the United Kingdom, Australia's taxpayer revenue collection pie chart indicates the same trend as seen in the two previous jurisdictions. Personal income tax which is at 34% is the predominant contributor to the total revenue collection in Australia. There are 19 million Australians; of whom12 million are individual registered taxpayers who are required to file returns annually. The net collections for the 2010/11 period amounted to R2,17 trillion. This number includes personal income tax, corporate income tax, Pay As You Earn (known as PAYG in Australia), Value Added Tax (VAT), (known as Goods and Services Tax (GST)), Importers and lastly other taxes (Australian Bureau, 2012).



Pie Chart 3: Taxpayer revenue collection breakdown for the 2010/11 tax year
Source: Statistics Australia, 2012

The basis upon which Australians are taxed is worldwide income earned. For non-residents of Australia, tax is usually levied on Australian 'source' income, (Futuretax, 2012).

There are many forms of taxation in Australia. Individuals and companies in Australia may be required to pay taxes to all levels of the government, namely to the local, state, and federal governments. Taxes are collected to pay for public services and transfer payments as is the case and the basis for all tax collection (Australian Tax Office, 2012).

Income taxes are the most significant form of taxation in Australia, and they are collected by the federal government through the Australian Taxation Office (ATO, 2012). Australian VAT (known as GST in Australia) revenue is collected by the Federal government (which is the same as the national government that charges SARS with the responsibility to collect tax revenue in South Africa), and then it is paid to the states under a distribution formula determined by the Commonwealth Grants Commission (Australian Tax Office, 2012).

The Australian Income Tax Assessment Act of 1997 does not define a sole trader or the term sole proprietor either within its tax legislation, but it does categorise sole traders as individuals in the eyes of the Australian Income Tax Act. When one looks at the Income Tax Act, a sole proprietor is treated as a natural person and is thus charged to make use of the individual tax tables whereby taxes are levied at progressive rates ranging from 15% to 45% (Australian Tax Office, 2012).

Income taxes on individuals are imposed at the federal level as well, as is the same for the collection of VAT. This is the most significant source of tax revenue collection in Australia. The state governments do not impose any income taxes, and have not done so since World War II (Australian Tax Office, 2012).

5.2 TAX ADMINISTRATION

Personal income taxes in Australia are imposed on the personal income of each person on a progressive basis, with higher rates applying to higher income levels. Individuals are also taxed on their share of any partnership or trust profits to which they are entitled for the financial year.

5.2.1. Register as a taxpayer

A taxpayer would need to obtain an application form to register for an Australian business number (ABN). This ABN number will be their tax number and it will be used in conjunction with a GST number if the sole proprietor becomes liable for GST. Basically this ABN will become the taxpayers' GST registration number as well.

A sole proprietor has the following options available for registration:

i. Online registration.

ii. By calling the appropriate number at an ATO to obtain the appropriate form known as a NAT 2938.
iii. By asking a tax agent for assistance; these tax agents are registered professionals in practice.

After the registration has been completed, the ATO will notify the taxpayer in writing of their registration details, including the date of when their registration becomes effective. An ABN can be obtained almost immediately once the sole proprietor has registered (Australian Tax Office, 2012).

5.2.2 Change of address

The options available to a sole proprietor to update their details at the ATO can usually be done by:

i. telephonic means;
ii. post or mail; or
iii. in person.

The responsibility rests with the sole proprietor to ensure that their details are kept up to date. There are no specific penalties that are mentioned or could be ascertained, but it generally infers that it is the sole responsibility of the sole proprietor to ensure that all personal details are updated with ATO (Australian Tax Office, 2012).

5.2.3 Year of assessment

The year of assessment for individuals in Australia runs from 1 July to 30 June of the following year. This covers a 12-month period and commences on 1 July of a specific year and ends on the last day of June the following year. There are no noted deviations for sole proprietors in the Australian tax legislation which state that individuals may be allowed (as is the case in South Africa) to draw up their financial statements for their businesses to dates other than the end of June (Australian Tax Office, 2012).

5.2.4 Filing of tax returns

An Australian taxpayer has various mediums in which they may submit their personal income tax return. The options that are available to sole proprietors are as follows:

i. Preparing and lodging their tax return online;
ii. By mail or by using a registered tax agent; or
iii. It was found that taxpayers with simple tax affairs may be eligible to lodge their return telephonically.

5.2.5 E-tax (known as eFiling in South Africa)

E-tax allows the sole proprietor to prepare, view and lodge their personal income tax return. Should the sole proprietor wish to view a previous year's tax return or claim, they would need a copy of the *e-tax* software from that year. However, they will not be able to lodge online or amend any prior year's tax return using e-tax. Another restriction is that the prior year's *e-tax* software is not available for download once the tax year has ended and is closed.

E-tax is the electronic submission of tax-related returns that is made available to a registered taxpayer to encourage speedy submissions and payments. Taxpayers registered for e-tax can also engage with ATO online for submission of returns and payments. The e-payment facilitates payment of direct taxes online by taxpayers. To utilise this facility, the taxpayer is required to have a net-banking account with any of the authorised banks in Australia. The e-tax facilitates payments for:

i. Value added tax (VAT);
ii. Income tax; and
iii. Pay As You Go (PAYG).

5.2.6 Payments at banks

Should the sole proprietor elect to make tax payments via the bank, these payments can be made via the major banks in Australia by way of Internet banking; additionally, they have the option of over-the-counter transactions (Australian Tax Office, 2012).

5.2.7 Assessments

This is a notice of assessment that will be sent to the sole proprietor as an itemised account of the amount of tax they will owe on their taxable income. It also contains other details that are not part of the assessment, such as the amount of credit for tax the taxpayer has already paid throughout the income year. When a sole proprietor receives their notice of assessment, the onus is on the sole proprietor to ensure that the furnished information received on the assessment is correct. The notice of assessment is known as NOA. Unless the sole proprietor makes use of electronic fund transfers (EFT), the bottom section of their notice of assessment will be either their refund cheque or, if they owe tax, their payment advice (Australian Tax Office, 2012).

A statement of account could be sent with a notice of assessment and this usually transpires when the taxpayers' account balance is different to the outcome of their assessment. This can happen in the following instances:

i. The taxpayer has a penalty or general interest charge.
ii. The ATO credited interest amounts to the taxpayer.
iii. The ATO has offset credits to other tax debts (or debts the taxpayer may have with other government agencies).
iv. The taxpayer has an account opening balance that is not zero.
v. The taxpayer lodged his or her returns for multiple financial years on the same day.

5.3 HOW IS INCOME CALCULATED?

In Australia, taxable income is the assessable income (known similarly as gross income in South Africa) for tax purposes minus all deductions allowed under Division 8 of the Income Tax Assessment Act of 1997. These deductions would include any loss or expenses incurred in gaining or producing gross income, or that were necessarily incurred in running a business for the purpose of producing the sole proprietor's taxable income (Centrelink, 2012).

This includes allowances and benefits, capital gains, dividends and bonuses, foreign income, income from partnerships or trusts, interest, lump-sum payments, pensions, rental income, salary or wages, and termination payments. The tax law in Australia makes a basic distinction between income and capital receipts (Australian Tax Office, 2012).

As in SA, in Australia there too exists income that is exempt from income tax. Specifically mentioned are defence and United Nations payments, education payments, certain pensions, and social security allowances and payments. Other income that is exempt from income tax is payments such as family payments, certain scholarships, bursaries and other educational allowances, and the income of certain non-profit organisations.

Most government pensions are subject to tax, although a system of rebates ensures that no tax is paid by a pensioner who earns only a small amount of other income. Special provisions deal with other types of income, including lump-sum payments received on retirement, non-cash benefits, irregular income earned by artists, sportsmen, etc., and the income of farmers (Australian Tax Office, 2012).

Sole proprietors with irregular income are permitted to average their earnings out over five years; the tax payable is calculated according to a complicated formula, which nonetheless is available to the sole proprietor (Australian Tax Office, 2012).

5.3.1 Determine gross income

As seen with the two previous tax jurisdictions, the first steps in order to determine gross income is to determine the total receipts and accruals. The income is made up of the following:

Employment income

A sole proprietor must show employment income on their tax return if this was earned over and above their sole proprietor's income and this includes *inter alia*:

i. salary and wages;
ii. allowances and other employment income; and
iii. lump-sum payments.

Pensions, annuities and government payments

A sole proprietor must also reflect payments on their tax return, including:

i. pensions paid as a superannuation income stream;
ii. annuities you purchased with a lump-sum payment from a life insurance company; and
iii. government payments, such as the age pension and Newstart allowance. (A Newstart allowance is an unemployment benefit, which is paid in the form of a payment for people between 22 and 64 and is given to those who apply for the benefit and are unemployed and are seeking work.)

Investment income

A sole proprietor must then reflect any investment income on their tax return, including:

i. interest, including children's savings accounts and life insurance bonuses;
ii. dividends the taxpayer is paid as a shareholder;
iii. rent and rent-related payments that may be received, or become entitled to; and
iv. income or credits received from any trust investment product.

Income from capital gains

A sole proprietor must reflect income from capital gains on their tax return, including capital gains from selling real estate, shares and managed fund investments.

Business, partnership and trust income

A sole proprietor must reflect their business income on their tax return, including:

i. business income, including income you make as a sole proprietor;
ii. partnership income; and
iii. trust income.

Foreign income

If the taxpayer is an Australian resident, they are taxed on their worldwide income. Similarly to SA and the UK, which again means they must declare all their income they receive from foreign sources in their tax return. If they are not an Australian resident for tax purposes, they may not need to declare income received from outside Australia in their tax return. As stated, this will not be covered within the scope of this mini-dissertation. It is presumed the taxpayer is an Australian resident for income tax purposes.

Other income

A taxpayer must declare all their income from:

i. compensation or insurance payments received for lost income;
ii. discounted shares or rights (including options) to acquire shares; and

iii. prizes or awards associated with employment or investments, depending on the circumstances.

Amounts not included as income

During a tax year there may be amounts received that need not be included as income, although these amounts may be used in other calculations on the tax return.

These could include exempt income, non-assessable non-exempt income or other amounts that no tax is payable on, such as most child support and spouse maintenance payments.

5.3.2 Claiming deductions

When completing a tax return, taxpayers are entitled to claim deductions for some expenses that are directly related to earning their income. However, they cannot claim the cost of normal domestic and private expenses. It is noted that different rules apply to different deductions. For most work-related expenses, a taxpayer must have written evidence to prove their claims if the total claims exceed R2 277. Records must be kept to prove the total amount, not just the amount over R2 277. Herewith a brief list of expenses that may be deducted: caution is advised that each of these expenses listed below, has their own stipulations and rules, thus the list below serves merely as a brief indication of the type of expenses a sole proprietor can claim (Australian Tax Office, 2012).

Examples of some allowable deductions are work-related car expenses; home office expenses; work-related clothing, laundry and dry cleaning expenses and other work-related expenses. In summary, similarly to South Africa, expenses that are in the production of your income are allowed as deductions.

The next step is to determine the tax payable on the taxable income. The additional deductions listed below will be the final deductions or tax credit offset to get to the final taxable income amount.

Some other additional deductions that may be allowed are tax credits that are made up of Pay As You Go (PAYG) instalments; taxes withheld; credits from tax file number amounts; credit for interest on early payments of tax; 30% private health insurance tax offset; franking tax offset (imputation credit); credit for Foreign resident withholding; national rental affordability scheme tax offset; and education tax refund.

Once these deductions have been taken off the gross income earned, what a sole proprietor is left with is their final taxable income amount. This amount is then multiplied by the tax rate (Australian Tax Office, 2012).

5.3.3 Multiply taxable income by the tax rate

Once the sole proprietor has deducted the allowable deductions from their gross income, the taxable income has been determined. The taxable income figure is then multiplied by the rate applicable in terms of the thresholds. Sole proprietors are taxed as individuals, and thus are not taxed at corporate tax rates. These tax rates are based on a progressive basis, the higher the income the higher the tax rate.

5.4 REGISTRATION OF TAX TYPES

Similar to South Africa and the United Kingdom, income tax registration is the main tax for which a taxpayer (who is a sole proprietor) should register. This is often referred to simply as “income tax” from the Australian tax authority’s perspective (Australian Tax Office, 2012).

5.4.1 Income tax

Similar to South Africa and the United Kingdom, the person running a business, i.e. the sole proprietor, makes use of a Tax File Number (TFN) in order to apply for an Australian Business Number (ABN) through the ATO for the sole proprietor’s business dealings (Australian Tax Office, 2012).

The ABN is a public number that gives businesses in Australia a single identification number to use when dealing with a range of government departments and agencies. The ABN can be applied for at the ATO. To obtain a TFN, the taxpayer will need to provide evidence of their identity to ATO. The taxpayer will then need to complete a form to apply for a TFN, this application or enquiry is for individuals. The form that the taxpayer must make use of is a NAT 1432 form. A taxpayer can get a copy of this form through the following avenues:

i. from online ordering;
ii. by phoning 1300 720 092: 24 hours a day, seven days a week; or

iii. from one of selected shop fronts or selected newsagents.

The form must be accompanied by original documents which prove the taxpayer's identity. The TFN will not be processed without the necessary documents. The taxpayer has 28 days in which to apply for a TFN through ATO. Failure to register for income tax could result in severe penalties, these are determined by the ATO, but these penalties can exceed R15 000 should the sole proprietor not register for income tax (Taxpayers Association, 2012).

5.4.2 Pay As You Go (known as provisional tax in South Africa)

This is a similar system to those used in SA and the UK, whereby the paying of instalments is essentially a prepayment and or an advance payment towards your final tax liability at the end of the tax year. The actual tax liability is worked out at the end of the income tax year when the annual income tax return is assessed. The PAYG instalments for the year are then credited against the assessment to determine whether any more taxes are owed at the end of the tax year or if a taxpayer will be afforded a refund. The ATO will inform the taxpayer if the taxpayer is to pay PAYG instalments or not (Australian Tax Office, 2012).

PAYG are amounts a sole proprietor will be required to pay each period if they choose to pay instalment amounts calculated by the ATO. A taxpayer pays instalments either quarterly or twice a year, depending on their circumstances. The amount that the ATO calculates for the taxpayer takes into account likely growth in their business and investment income (based on growth in Australia's gross domestic product – GDP) (Australian Tax Office, 2012).

Once the sole proprietor is registered for income tax and PAYG, there are similar taxes that a sole proprietor could be liable for, again very similar to South Africa and the United Kingdom.

i. Payroll taxes:
ii. Pay As You Go withholding (PAYG withholding);
iii. Fringe benefits tax;
iv. GST (goods and services tax), known as VAT in South Africa.

5.4.3 Payroll taxes (known as employees' tax in South Africa)

If a taxpayer is a sole proprietor and has employees, or pays employees of another business, they are to withhold an amount from payments that are made to them. If they operate a business as a sole proprietor, these amounts are required to be withheld from payments made to individuals and this also specifically includes payments to other workers such as contractors (Australian Tax Office, 2011b).

The sole proprietor is also obliged to withhold an amount from payments made to other businesses. If such businesses do not quote an ABN to the sole proprietor on an invoice or other document if required; a sole proprietor is to report this and send all amounts that have been withheld under PAYG withholding to ATO – this is referred to as the 'withholding' of pay as you go (Australian Tax Office, 2011b).

Under PAYG withholding, the sole proprietor making the payment is called the 'payer' and the individual or business receiving the payment is called the 'payee'. Under PAYG withholding, if the sole proprietor is an employer or operates a business and payments are made, they shall be subject to register for this PAYG withholding tax and are expected to then:

i. register for PAYG withholding;
ii. work out the status of their workers (if applicable);
iii. become familiar with the types of payments that are required to be withheld;
iv. work out the amount to withhold;
v. report and pay withheld amounts to ATO; and
vi. provide payment summaries and lodge an annual report after the end of each income year.

The registration procedure is that a taxpayer will need to add "a new business account" to their ABN. This can be done online via the Australian Business Register (ABR).

The amounts are payable quarterly (for small businesses) or monthly when your activity statement is due which is determinable by the ATO. Lastly, a taxpayer may have to make a balancing payment when their annual PAYG payment summary statements are due by 14 August of every year; this is similar to the SARS PAYE quarterly reconciliations that have recently been introduced by SARS for employers to reconcile their PAYE.

5.4.4. Fringe benefits tax

A sole proprietor may have to register for fringe benefits tax only if they provide benefits to employees, thus becoming liable to register and to pay fringe benefits tax. If this becomes applicable they may be required to lodge:

i. an annual fringe benefits tax return; and
ii. pay quarterly instalments on their activity statement.

5.4.5 Goods and services tax (GST), (known as VAT in South Africa)

The Australian goods and services tax (GST) was introduced in July 2000. It is similar to the European Union's VAT system, requiring re-calculation and payments to the tax authorities at each transaction point in the onward sales chain. The Australian GST rate is currently levied at 10% (Australian Tax Office, 2012).

5.4.5.1 GST for all business types

If a sole proprietor carries on a business (enterprise) they must be registered for GST if either of the following applies:

i. Your current projected annual GST turnover is R569 250 or more.
ii. If your annual GST turnover is below R569 250 – a sole proprietor may make a voluntary application to register for GST.

The above registration takes place on the ABN form referred to as a NAT 2938, which contains a section for registering for GST.

In addition to the GST registration, certain businesses (such as sole proprietors) may qualify for something called an entrepreneur's tax offset (ETO). This is a tax offset equal to 25% of the income tax liability attributable to the net small business income of a small business entity with an aggregated turnover of R379 500 or less. This tax offset starts to phase out when the small business entity's aggregated turnover exceeds R379 500 and ceases when the aggregated turnover reaches R569 350 (Australian Tax Office, 2012).

The ATO will automatically calculate a sole proprietor's ETO from the information that is provided at this item and at other items on the taxpayer's tax return (Australian Tax Office, 2012).

It seems that a taxpayer who is a sole proprietor may be eligible for more than one tax offset. For example, if they are a sole proprietor carrying on a business and they were also a partner in a separate business partnership, they may be entitled to a tax offset for the income as a sole proprietor and also for their share of the nett small business income from the partnership. A taxpayer would need to work out their sole trader aggregated turnover separately from the aggregated turnover of the partnership (Australian Tax Office, 2012).

Where a taxpayer as a sole proprietor receives income from a partnership or a trust, the ETO entitlement reduces when the income for ETO purposes exceeds:

i. R531 300 if the sole proprietor was single with no qualifying dependant; or
ii. R910 800 if the sole proprietor had a qualifying dependant on any day during 2010/11, or a spouse on 30 June 2011.

If the income for ETO purposes is above the relevant income threshold of R569 350 then the tax offset (worked out after applying the aggregated turnover test) is reduced by R1.51 for every R7.59 over that threshold.

The ETO can only reduce tax payable, it cannot:

i. get a refund of this tax offset;
ii. defer all or part of this tax offset to reduce the tax payable in a later income year; or
iii. transfer this tax offset to another taxpayer to reduce their tax payable.

Other forms of taxes and duties that may be once again applicable from an Australian tax perspective to a sole proprietor are:

i. Capital Gains Tax (CGT);
ii. Property Tax;
iii. Gift Tax/Inheritance Tax; and
iv. Superannuation Taxes.

5.4.6 Capital gains tax (CGT)

Capital gains tax in Australia applies when a profit is made on the disposal of a capital asset that was acquired after 20 September 1985. Capital assets are defined in the legislation to be “any kind of property” or “a legal or equitable right that is not property.” (Australian Tax Office, 2012).

There are some disposals that will be subject to CGT exemptions, the most common of these being the main residence exemption. The total gain of a taxpayer is the total profit made from the sale of an asset. The total profit is obtained by subtracting the cost base from the capital proceeds (Australian Tax Office, 2012).

Once the total gain has been worked out, the nett gain is worked out by applying any capital losses, then applying the CGT discount if applicable.

After calculating nett capital gain, the taxpayer who disposed of the property includes the nett capital gain in his or her assessable income when their tax returns are lodged.

5.4.6.1 CGT Concession for small business

There is a specific piece of legislation for small businesses that deals with CGT concessions for four small businesses. The concessions reduce the capital gain on business assets that you must include in your assessable income. The sole proprietor must first satisfy the basic conditions that apply to all the CGT concessions for small businesses. They are to satisfy any additional conditions that apply specifically to these specific individual concessions. The sole proprietor can apply for as many concessions as they are entitled until the capital gain is reduced to nil. This choice allows the sole proprietor to achieve the best possible tax results for their circumstances. The four small business concessions are:

i. Small business 15-year exemption
   If the business has owned an asset for 15 years and the taxpayer is aged 55 years or over and is retiring, or if the taxpayer has been permanently incapacitated, the taxpayer will not have an assessable capital gain when the asset is sold.

ii. Small business 50% active asset reduction

The capital gain on an active business can be reduced by an (active) asset by 50%. An active asset is usually a small business asset.

iii. Small business retirement exemption

A capital gain from the sale of a business asset will be exempt up to a lifetime limit of R3 795 000. If the taxpayer is less than 55 years of age then the exempt amount must be paid into a complying superannuation fund or a retirement savings account to obtain this exemption.

iv. Small business roll-over

If a sole proprietor sells a small business asset, they can defer their capital gain until a later year. This means that they do not include the gain in their income until a change in circumstances causes a CGT event to happen that crystallises the gain. For example, if the sole proprietor does not acquire a replacement asset within the required period, or if the sole proprietor later sells that replacement asset or stops using it in their business. When a CGT event crystallises the gain that was previously deferred, all or part of the gain that was deferred will become taxable (Australian Tax Office, 2012).

5.4.7 Property tax

Local governments are typically funded largely by taxes on land value (council rates) on residential, industrial and commercial properties. In addition, some State governments levy tax on land values for investors and primary residences of high value. The State governments also levy stamp duties on transfers of land and other similar transactions. It is to be noted that these rates are different per each state (Australian Tax Office, 2012).

5.4.8 Gift tax or inheritance tax

Australia is one of two OECD-10 countries that do not impose any inheritance and gift taxes.

There is no inheritance tax in Australia, with Australia abolishing what was known as death duties in 1979 (estate duty taxes). However, assets acquired from the estate may become subject to CGT. When assets are inherited by a beneficiary of the estate from the person who died on or after 20 September 1985, specific records are to be kept.

If the asset was acquired by the deceased person before 20 September 1985, the sole proprietor will need to know the market value of the asset at the date of the person's death and any relevant costs incurred by the executor or trustee. This is the amount that the asset is taken to have cost you. If the executor or trustee has a valuation of the asset, ask for a copy of that valuation report to prevent obtaining a new valuation (Australian Tax Office, 2012).

If the asset you inherit was acquired by the deceased person on or after 20 September 1985, you need to know full details of all relevant costs incurred by the deceased person and by the executor or trustee. Request those details from the executor or trustee. Even if the sole proprietor inherits a house that was the family home of the deceased person, they are to keep records of costs paid by the deceased person in case they are not able to claim a full exemption for the house after it was inherited (Australian Tax Office, 2012).

5.4.9 Superannuation taxes

Private pensions (known as superannuation in Australia) may be taxed at up to three points, depending on the circumstances: at the point of contribution to a fund, on investment income, and at the time benefits are received. In some circumstances, no tax is applicable at all.

The compulsory nature of Australian superannuation means that it is sometimes regarded as being similar to social security taxes levied in other nations. This is more frequently the case when comparisons are being made between the tax burdens of respective nations (Australian Tax Office, 2012).

5.5 FILING

The Australian government's financial year begins on July 1 and concludes on June 30 of the following year. This applies for personal income tax (Australian Tax Office, 2012).

5.6 TAX RETURNS

Australia’s income tax system works on a self-assessment principle. This means that the ATO accepts the information that has been provided via a tax return as accurate and thus the taxes liable are worked out on this disclosed information.

Returns are primarily submitted electronically and there are some manual submissions. These dates for income tax return submissions are announced annually by the Australian Government (Australian Tax Office, 2012).

5.7 TAX RATES

Sole proprietors are subject to income tax on their taxable income. The income tax on personal income is a progressive tax. The current tax-free threshold is R138 138 and the highest marginal rate for individuals is 45%. In addition, most Australians are liable to pay the Medicare levy (the Medicare Levy is a 1.5% tax levied on most Australian taxpayers to pay for the public healthcare system; in addition, there is also a levy surcharge for higher income individuals and families who do not have private insurance coverage) of which the standard is 1.5% of taxable income or 2.5% if eligible private healthcare is not maintained (Australian Tax Office, 2012).

Tax rates 2012/13 Taxable income	Tax on this income
R0 - R138 138	Nil
R138 138 - R280 830	R1.44 for each R7.59 over R138 138
R280 830 - R607 200	R27 111 plus R2.46 for each R7.59 over R280 830
R607 200 - R1 366 200	R133 182 plus R2.80 for each R7.59 over R607 200
R1 366 200 and over	R414 012 plus R 3.41 for each R7.59 over R1 366 300

Table 11: Tax Rates 2012/13.

Source: Australia, 2012

(*) R7.59 to the Australian dollar; making use of the SARS Table A exchange rates as at 28 February 2012.

5.8 CONCLUSION

Chapter 5 has focused on illustrating an overview of the Australian tax system and how it would be applied to a sole proprietor. This chapter commenced with a brief summary of the impact and contribution that individual income revenue collections contribute to the overall tax revenue collections. This was found to be similar to SA and the UK, in that individuals are still the largest source of income tax being collected in Australia.

This chapter proceeded to outline the ways in which taxable income is taxed in Australia and further highlighted the various taxes that a sole proprietor would be exposed to in Australia.

It is thus once again judicious to state that Australia has similar taxing methods that are akin to both SA and the UK. The noticeable main difference in this tax system is that Australia tax system has the entrepreneur's tax offset (hereafter referred to as ETO) for small business which was not present in either SA or the UK.

There is no doubt – as seen from this chapter and the two preceding chapters – that tax systems will always vary, due to their social and economic requirements, but it can be deduced that comparatively that sole proprietors are taxed similarly to sole proprietors in SA.

In the chapter to follow; a detailed analysis will highlight the minor and major differences that were found in the three tax jurisdictions under review in Chapters 3 through 5.

CHAPTER 6

COMPARISON AND SUMMARY OF THE THREE TAX JURISDICTIONS ANALYSED

6.1 BRIEF OVERVIEW

The preceding chapters have evaluated how a sole proprietor is taxed in the three tax jurisdictions, namely South Africa (SA), the United Kingdom (UK) and Australia. This chapter serves to undertake a comparison of all three tax jurisdictions that have been analysed in the preceding chapters.

6.2 THE BASIS OF TAXATION

South Africa has a residence-based tax system, which means that residents of SA are subject to certain inclusions with respect to their worldwide income which is imputed into determining their gross income for a tax year.

In the UK, the residence position of a taxpayer is one of the factors that determine what UK tax is payable on income that is earned. If an individual is an ordinary resident in the UK, an individual will be liable for UK tax on all his or her income wherever it may arise.

Lastly in Australia, a residence-based tax system is also in existence bringing income of residents from foreign sources into the taxation base, as is similar to both SA and the UK.

The basis of taxation in each of the above tax jurisdictions are exactly the same, all three levy tax based on a residence-based tax system.

6.3 REVENUE COLLECTION ANALYSIS

In SA, personal income tax makes up 72% of tax revenue collection. In the UK 34% of personal income tax makes up the total tax revenue collection. Finally in Australia 34% was the percentage of personal income tax that made up the total tax revenue collection in the 2010/11 tax year.

It is interesting to note that both the UK and Australia's personal income tax collection ranges amounted to 34%, whilst there was a noticeable disparity with SA, representing 72% of the total tax revenue being collected from individual taxpayers. Before concluding that SA's tax revenue relies heavily on individuals based on the abovementioned percentage, one cannot help but want to venture into comparing the revenue collected by individual taxpayers versus the country's populations. I believe it has provided (as stated below) an interesting comparative for these three jurisdictions.

There is a reported 5.9 million registered individual tax payers in SA with a population of 50 million people, as was estimated by Statistics SA in mid-July 2011. This means that 11% of the people in SA carry the costs of running a country by way of paying tax (Statistics South Africa, 2011).

In Australia, the population is a reported 22 million (compared to SA's 50 million) resulting in 12 million registered taxpayers, which equates to 54% of Australia's population contributing to their country's tax base (Australian Bureau of Statistics, 2011).

Lastly in the UK there are 29 million registered tax payers with a population of 62 million, this equates to 46% of the population being registered for income tax (HMRC, 2011).

South Africa trails poorly behind Australia and the UK in terms of the ratio of contributions to the tax base, with only 11% of the population in SA making tax contributions annually. This 11% is compared to the UK and Australia that reflect contributions of 46% or more of their populations that contribute to their respective tax bases.

This has always been a very topical subject matter in SA: the disparity between the percentages of taxpayers who pay income tax versus the total population of the country. As previously mentioned, only 11% of SA's population is contributing to the tax base. It should not be a complicated issue but nonetheless an issue that leaves either side of the scales always emotionally charged. The poor feel that they do not have the money to pay the taxes, and the more financial adept feel they pay too much tax. Whichever view is taken, the SA government – whether it is now or in the near future – will have to tackle this disparity by way of devising a taxation system that all citizens of SA are to pay their fair share of the tax bill.

It is duly noted and understood that everyone does not earn the same earnings; nonetheless it is arguable that the spread of the tax burden is not evenly spread.

Economists tend to disagree over the level of taxes that individuals should pay, in respect of who should pay the taxes, and what effects taxes have on their lives, and what form taxes should take. A US economist Arthur Laffer became well known for his famous graph (the Laffer Curve) that suggests that there is a “tax rate level beyond which total taxes tend to decline rather than increase when the rate is raised”. According to his theory, when there is a shifting of taxes, by implication the tax rates are increased on the high-income earners and his view is that this tends to be counterproductive. He suggests that reducing the tax rates does result in increased tax income for the tax jurisdiction. This was demonstrated by Ronald Reagan's administration in the 1980s, when the administration reduced tax rates of individual income tax rates, also by introducing the expensing of depreciable property, and there were also incentives for savings for small businesses which all resulted in more revenue being collected. This era was known as ERTA “The Economic Recovery Tax Act of 1981” or "Kemp-Roth Tax Cut".

The Laffer Curve phenomenon puts forward that higher after-tax income increases incentives and productivity, that money saved from lower taxes is to be invested to increase production, and lastly that taxpayers spend less time on tax avoidance schemes and more on growing their incomes. Whatever the reason or justification, some governments have implemented low-tax regimes with positive results, as was mentioned in Ronald Reagan's administration back in the 1980s. Unfortunately, the lessons learnt are soon forgotten and calls for higher tax rates are once again making the headlines in current times. President Barak Obama of the United States of America has been calling for higher tax rates for the rich (Burke, 2012).

6.4 TAX ADMINISTRATION AND FILING OF RETURNS

The fundamental tax administrative procedures are very similar for all three jurisdictions, with the exception of the years of assessment that differ. In SA the tax year commences on 1 March of one year and terminates the following year in February. For the UK, the tax year commences on 6 April of one year and terminates 5 April of the following year. Australia’s tax year commences on 1 July of the one year and terminates on 30 June of the following year.

There is a noticeable difference in the years of assessments for each jurisdiction. For the balance of the administration issues, *inter alia*, all three taxation jurisdiction have online tax submission systems in place that expedite the process of tax return submissions and assessments. In SA this system is known as eFiling, in the UK it is known as online filing, and in Australia it is known e-tax. The focus from the tax authorities is to spend less time on manual assessing and more time on tax compliance. This is an overall sentiment from all three taxation authorities.

6.5 HOW IS INCOME CALCULATED?

A table below has been set out for a detailed analysis of how income is calculated in each tax jurisdiction. SA is the first jurisdiction in the table as set out below, as SA is the main basis for this comparison with the other two jurisdictions. In determining taxable income, SA's model is used, and where applicable information is inserted to compare a likeness to South Africa or not.

Gross income	**South Africa – "taxable income"**	**United Kingdom – "taxable income"**	**Australia – "assessable income"**
Determine the gross income by way of all receipts and accruals due to taxpayer in year of assessment	Yes	Yes	Yes
Separate inclusion of resident income	Yes	Yes	Yes
Separate inclusion of non-resident income	Yes	Yes	Yes
Inclusion of capital gain/(loss) – receipts of a capital nature	Yes	Yes	Yes
Deduct exempt income	Yes	Yes	Yes
Deduct allowable deductions, such as: Incurred in the production of income Other specific deductions	 Yes Yes	 Yes Yes	 Yes Yes
Multiply taxable income by applicable tax rate	Yes	Yes	Yes
Subtract certain allowable rebates for individual and any foreign taxes incurred	Yes	Yes	Yes

Gross income	South Africa – "taxable income"	United Kingdom – "taxable income"	Australia – "assessable income"
Deduct taxes paid in advance by way of PAYE/provisional taxes	Yes	Yes	Yes

Table 12: Calculation of taxable income across all three jurisdictions

From the above table, it is clear that all three tax jurisdictions follow a relatively comparable structure when it comes to determining their taxable income. There are subtle differences in the way certain expenses are claimed in each jurisdiction, but this does not fall within the scope of this mini-dissertation, as this would be too detailed for this comparison at present. The comparison above is a very light analysis for an easy comparison on the basics of how taxable income is determined.

6.6 REGSITRATION OF TAX TYPES FOR A SOLE PROPRIETOR

There are many taxes that a sole proprietor could be liable for. In SA alone, notwithstanding the usual suspects of income tax, there are other superfluous taxes for which a sole proprietor may become liable. These have again been tabled below, from an SA tax perspective to ensure comparability.

Compulsory tax registrations	South Africa	United Kingdom	Australia
1) Income Tax (personal income tax) – taxed at a progressive tax rate	Yes	Yes	Yes
2) Provisional tax	Yes	Yes known as interim payments	Yes known as Pay As You Go
Additional taxes a sole proprietor may be liable for:			

Compulsory tax registrations	South Africa	United Kingdom	Australia
3) Employees' tax (PAYE)	Yes	Yes known as Pay As You Earn	Yes known as Pay As You Go
4) Skills Development Levy (SDL)	Yes	None	None
5) Unemployment Insurance Fund (UIF)	Yes	Yes known as national insurance contribution	Yes known as superannuati on taxes
6) Value added tax (VAT)	Yes	Yes	Yes known as goods and services tax
Other duties or taxes that a sole proprietor may become liable for:			
7) Capital gains tax (CGT)	Yes	Yes	Yes
8) Donations tax	Yes	Yes known as gift aid	None
Other tax specific tax options available for small business like relief for sole traders:			
9) Turnover tax	Yes	None	None
10) Stamp duty on land	Yes	Yes	Yes known as property tax
11) Entrepreneur's tax offset (ETO)	No	No	Yes

Table 13: Compulsory tax registrations across all three jurisdictions analysed

From the table above, it can be seen that there are very few taxes within the SA tax legislation that are not already contained in the two other jurisdictions. This will be discussed below.

Personal Income Tax

In SA, tax rates work on a progressive system of taxing. The higher the income of an individual, the higher their percentage tax rate is. In SA the rate of tax ranges from 18% to a maximum of 40%. In the UK, taxpayers are also taxed on a progressive basis with their tax rate commencing at 10% to a maximum of 50%. Australia's tax rates are also progressive and commence at 15% to a maximum of 45%. The UK displays the highest tax rate (that being 50%) that a taxpayer can be taxed on. One needs to bear in mind that although 50% may seem exceedingly high in the UK compared to that of SA and Australia, it is important to note that this rate becomes applicable to individuals earning income well in excess of R1.6 million.

According to recent surveys conducted in the UK by Prof John Van Reenen, director of the Centre for Economic Performance in the United Kingdom, he states that an individual making more than R1.6 million a year is considered to be among the top 1% of UK earners who pay the highest tax rate of 50%. It is interesting to note that the UK has set this standard in their income tax rates by specifically identifying what "high income" earners' income thresholds are. Whereas both SA and Australia have left the top end of the tax rates maxed out at only 45%.

The starting tax rates for both SA and Australia commence at more or less 15% and up, whilst in the UK the rate commences at 10%. This, in essence, means that in SA for instance, you need to earn in excess of R5 300 per month to start paying income tax at 18%. In Australia, an individual only starts paying income tax on income earned in excess of R8 222 per month and a rate of tax of 15% is levied thereon. In the UK, an individual starts paying income tax on income earned from R7 200 per month and will pay income tax at a rate of 10% onwards.

It seems that although SA (also due to exchange rate differences) taxes an individual from the starting level of R5 300 onwards, it seems comparable to both the UK and Australia that the lower income individuals seem to be similarly taxed.

Provisional Tax

All three tax jurisdictions have similar concepts with provisional taxes, even though the terms are phrased differently; in effect they perform the same function as provisional tax does in South Africa. It is a system of prepayment of assessed taxes for a sole proprietor.

Employees' Tax

All three tax jurisdictions have similar concepts as far as employees' tax is concerned, albeit small differences in the way the terms are phrased; in effect they perform the same function as employees' tax does in SA. It is a system of monthly payroll taxes from employees and paid over to the respective revenue authorities.

Skills Development Levy

Only South Africa has a skills development levy in place that forms part of the payroll taxes. There was no indication from either the UK or Australia that their payroll taxes have this or a similar tax.

Unemployment Insurance Fund

All three jurisdictions seem to parallel the sense of an unemployment insurance fund. This is to be clarified, that in the UK as well as Australia, this tends to feel more like pension contribution, rather than a loss of income as is the intention of UIF in SA. In SA, UIF serves as a kind of insurance if an employee is unemployed – it provides short-term relief to workers when they become unemployed, or are unable to work because of illness, maternity or adoption leave, and also to provide relief to the dependants of the deceased contributor. An individual may only claim UIF for 238 days. If they have been contributing for a shorter period, then they can claim one day for every six days that they worked while they were contributing to the UIF per Section 15 of the Unemployment Insurance Act.

For the other two jurisdictions, these taxes are more for retirement purposes (when a taxpayer ceases to work due to retirement age). Therefore, even though these deductions form part of the payroll taxes for an individual taxpayer, they essentially go towards retirement benefits.

Value Added Tax

All three jurisdictions have VAT and if a sole proprietor reaches the ceiling limit then they are obliged to register for VAT. In summary in SA the annual limit is R1 million if the amount of the taxable supplies reaches this limit. In the UK, the threshold is R924 000 per annum. In Australia the VAT limit is R569 250 per annum before a sole proprietor is required to register for GST, similarly known as VAT in SA.

It is interesting to note that both the UK and SA have the thresholds close to R1 million, whereas the threshold is much lower in Australia.

Capital Gains Tax

All three jurisdictions have CGT and in essence form the basis of why CGT is in existence: namely to tax capital profits. It is interesting to note that SA's CGT has only been in place for just a little over 11 years, whereas in Australia and the UK, CGT has been in place for a relatively lengthy period. In the UK it has been in operation since 1965, whereas in Australia it has been in operation since 1985. SA has trailed behind in CGT tax being introduced into its tax legislation for many years, but seemingly the SA Treasury department had decided that this was a form of revenue that could add to the fiscus and thus the introduction of CGT on 1 October 2001. As the legislation stands, the inclusion rate for an individual is 33.33% of the gain (PWC, 2012).

In the UK, the inclusion rate for an individual is not determined on an inclusion rate per say, but rather different tax rates for each class of taxpayer (HMRC, 2011b).

In Australia, the inclusion rate for an individual is 50% of the gain. In addition to the exemptions and rollovers that are more widely available, there are concessions that may allow a sole proprietor to disregard or defer some of, or all of, a capital gain from an active asset that was made use of in their small business. A taxpayer, in this case the sole proprietor, may also be eligible for the 50% CGT discount, if the asset owned was held for at least 12 months before disposing of it (Australian Tax Office, 2012).

Exemptions

Lastly on CGT, each jurisdiction has an annual exclusion for an aggregate capital gain: SA's is R20 000 annually, in the UK it is R127 200 annually, and finally for Australia the annual exclusion rate is R75 900 annually. These are the annual exemptions, there are many other rules (such as rollover provision and the qualification of certain further other concessions) that taxpayers may also qualify for, but this mini-dissertation will not cover the technical aspects of capital gains tax in each jurisdiction.

From the above, it is apparent that there is a distinct difference in the way in which the UK determines the rate at which taxpayers are taxed on their capital gains. Whilst it would appear that SA – when the SA Treasury looked at introducing CGT tax into the SA taxation legislation – investigated various jurisdictions for what package would best suit their needs. It seems Australia had a strong influence on the SA Treasury opting for the inclusion rate for CGT purposes, rather than CGT tax rates on the class of the taxpayer as is the case in the UK.

Donations Tax

SA and the UK are both tax jurisdictions that have donations tax, known as gift aid in the UK, whereas Australia has none.

Turnover Tax

SA is the only tax jurisdiction that offers this turnover tax. Whilst both Australia and the UK offer some additional reliefs for small businesses, they do not have a specific tax similar to that which SA offers small businesses.

Entrepreneur's Tax Offset (ETO)

Neither SA nor the UK has anything similar to the ETO as observed in Australia. SA has turnover tax present in its taxation legislation, but not a mechanism such as what is in on offer in terms of the ETO in Australia. Essentially to recap, this is an entrepreneur's tax offset, which is equal to 25% of the income tax liability attributable to the nett small business income with an aggregated turnover of R569 350 or less. Furthermore, an Australian sole proprietor may be eligible for more than one tax offset: if they were in a separate partnership business, they could possibly be entitled to a further tax offset for their share of the nett small business income from the partnership. No such further concessions are available in SA or the UK.

6.7 CONCLUSION

As seen from the above sections, there are many similar taxing practices in each tax jurisdiction that at times are very analogous and at others are fairly dissimilar. The comparison made leads one to pose the question: are there certain aspects of the SA taxation legislation that could perhaps be overhauled based on the comparisons performed with Australia and the UK to better align the SA taxation legislation with that of a first-world economy? By way of an answer to this question, Chapter 7 will follow with the recommendations.

CHAPTER 7

CONCLUSION AND RECOMMENDATIONS

7.1 INTRODUCTION

In this chapter the noteworthy findings from the literature study in Chapters 2 to 6 will be summarised.

7.2 SOLE PROPRIETOR

7.2.1 From the literature study

The literature study signposted in Chapter 2 that a sole proprietor was not defined in any of three tax jurisdiction under review. The findings concluded that each tax jurisdiction did not have a specified or defined term for a sole proprietor per say, however in each jurisdiction there were established parameters that employed the respective statutes, as well as certain guidelines as set out by each revenue authority.

Furthermore, it should be noted that the term sole proprietor was known as a sole trader in both the United Kingdom and Australia. In South Africa, the term sole proprietor is used.

7.3 COMPARING THE THREE TAX SYSTEMS

7.3.1 From the literature study

The literature study indicated that, throughout the analysis of the three tax jurisdictions examined, it is clear that some countries have very dissimilar taxes contained within in their revenue collection system, but at the same time possess some very similar taxes. Chapter 6 outlined these differences in detail to provide a clear idea of how and where these differences occur. This chapter will not repeat the comparisons performed in Chapter 6, but will draw conclusions from this chapter and where necessary make a recommendation.

It is apparent that from an SA tax perspective:

i. Sole proprietors are taxed in a very similar way in comparison to the other two jurisdictions that have been included this literature study.

ii. It is worthy to note that in SA newly introduced pieces of taxation legislation seem to encourage growth for small businesses. This can be seen by the introduction of the turnover tax in SA.

As seen in the literature study, Australia and the UK have similar types of concessions in their tax legislation for small businesses. Both these tax jurisdictions have looked at the two main sources of tax collection, namely income tax and VAT. In Australia there is the CGT concession for small businesses, and in the UK there is the Flat Rate Scheme turnover for small businesses. It is worthwhile to mention that SA did have a Small Retailers VAT package, but this was retracted on1 March 2010 (Gazette 32994 Notice R.169: 2010).

This Small Retailers VAT package was withdrawn due to the introduction of the turnover tax system into SA taxation legislation, which many felt was a duplication of the two systems.

Therefore it is my view that this is a welcoming trend from each of the revenue authorities. By encouraging growth of small businesses, the tax legislation of each jurisdiction needs to take cognisance of trying to assist small businesses, as this can only contribute to fostering growth in the self-employment sector, which can lead to big business ideas being initiated and developed to grow into large businesses, which will ultimately lead to higher tax contributions in the future as they move from sole proprietorships to larger corporations.

However, there are certain pieces of taxation legislation that SA still has in its clutches: namely estate duty, and whether or not SA is doing enough for small business growth with the newly introduced turnover tax. Both these subjects have been an area under debate for many years.

Small Business Concessions

As was announced by the Finance Minister, Mr Pravin Gordhan, in his 2012 budget speech this year, that the budget had announced certain incentives for employment in the small business sectors with regard to some learnership allowances, and that some more incentives were being negotiated. These other incentives being negotiated had not been elaborated upon, so it remains to be seen if there would be any worthwhile and or weighty incentives for small business (Pickworth, 2012).

Many have the view that the Finance Minister has given tax relief to small businesses and micro-enterprises, but there still remains very little incentive to start up and grow a business in SA. It is celebrated that tax relief in any form is always welcome, but at the current level it seems that it will not necessarily encourage small businesses and micro-enterprises to grow at the rate required to stimulate the local economy (Lester, M & Bote,C: 2012).

In SA, in some cases, it may even be beneficial for small businesses to remain at their current size in order to keep qualifying for the reduced tax. That is why it is imperative that tax incentives are tailored to foster growth in the SME sector. In terms of the new budget, the tax-free threshold for small business corporations has increased to R63 556, the 10% rate has been reduced to 7% and the threshold to which this rate applies has been increased to R350 000. For taxable income above R350 000, the normal 28% corporate rate applies (Lester, M & Bote,C: 2012).

A taxable income of less than R350 000 is a very small business. Professor Matthew Lester from Sanlam is of the view that "…there should rather be a complete tax holiday for the first three to five years of business and a rebate should be paid for sustainable jobs created over this period of growth".

The SA Finance Minister (Gordhan) also announced that qualifying micro-businesses, within the R1 million turnover limit, will be able to pay turnover tax, VAT and employees' tax twice a year. This means that the number of returns and payments a year will be reduced from about 18 to just two. Although this is positive from a red-tape perspective, the turnover of R1 million is minimal, and formally registered businesses within the manufacturing, construction, and retail sectors will receive very little benefit from this as their turnovers should exceed R1 million to remain sustainable (Lester, M & Bote,C: 2012).

There is a new competitiveness enhancement programme, which has been initiated as part of the industrial policy action plan, building on existing production incentives in the automotive, clothing and textile sectors; this is a positive step, as these sectors are known as key job creators and are mainly run by small businesses. The automotive industry has various tiers of manufacturers, and it is often small and medium-sized enterprises that do most of the component manufacturing. The objectives of government's draft National Development Plan and vision for 2030 will also effectively support job creation and SME development (National Development Plan 2030, 2011).

Therefore, although the latest budget has outlined a positive vision for the growth of Small Medium Enterprises (SMEs), more needs to be done practically for small businesses by the SA revenue authority. If one is to look at the options available to SA, the ETO system that is present in the Australia tax system is an attractive option for SARS to investigate and see whether this could be an additional incentive as mentioned by the Finance Minister and whether or not it would be viable in SA.

7.4 RECOMMENDATION

7.4.1 Future tax reforms

There is no denying that there have been some major tax reforms over the last ten years in SA that National Treasury have come with. One cannot question that these changes have encompassed some substantial changes to our legislation, but whether any or some of these changes have been decent or debauched is perhaps for the scope of another mini-dissertation. Nonetheless these changes, to some extent, have yielded some positive results in the form of improved tax administration, increased tax collections, additional anti-avoidance provisions and targeted tax incentives (SARS, 2010b).

If one is to look at the SA tax legislation as it currently stands, it is my view that it is categorically comparable with that of the two other tax jurisdictions. Similarly, in view of sole proprietors, again there are very similar features in our tax treatments of sole proprietors compared with that of the UK and Australia as depicted clearly in Chapter 6's analysis. But can one expect that any future reforms may encompass the abolishment of estate duty tax and possibly new incentives for SMEs?

One can expect that, apart from the on-going calls for further incentives for SMEs, I am of the view that if there are going to be any further reforms, SARS will most probably focus on anti-avoidance issues.

It is my view that if these anti-avoidance issues could be the sole focus for National Treasury, it would stand them in good stead to reflect on the tax systems of the UK and Australia (as they have so often relied upon in the past), and to rely on these tax authorities again for guidance within the scope of SA tax.

The likelihood of SA introducing a similar system as the ETO system for small businesses in this country remains to be seen. However, there is no doubt that there is pressure being felt by National Treasury to do more for small businesses such as those that trade as sole proprietors with the result of more tax breaks and incentives to grow these small entrepreneurial business. The only way to achieve this is for SARS and National Treasury to align their objectives and by not only focusing on anti-avoidance apprehensions, but fostering and encouraging small entrepreneurial business growth.

This is an area that will require further study, because SARS and National Treasury to date have not committed to set a time frame to investigate additional tax breaks by way of the introduction of more incentives to grow small businesses.

7.5 CONCLUSION

The study investigated three tax jurisdictions and how sole proprietors are taxed in each of these jurisdictions. The study has highlighted that the most important difference was the fact that SA's tax system is very similar to that of both Australia and the United Kingdom, with the noticeable differences being the further concessions for small businesses that seem to be lacking within the scope of the SA's tax system. The tax reforms by SARS and National Treasury in recent years has managed to align SA to be similar to their first-world tax peers, however there still seems some aversion to addressing an on-going redundant tax, namely the straggling tax incentives for small businesses. Lastly, SARS and National Treasury can invest more time and effort in remedying SA's tax incentives for small businesses to be more meaningful for small businesses. Only time will tell what further tax incentives will be introduced for small businesses in the near future. The answer to these questions could lie in the budget speech for 2013/14, but at this stage there are no indications if there will be any vibrant tax incentives for small businesses in the near future.

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