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CORPORATE SOCIAL RESPONSIBILITY EXPENDITURE AND ITS DEDUCTIBILITY FOR INCOME TAX PURPOSES: A SOUTH AFRICAN PERSPECTIVE

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─Abstract ─

Awareness has been raised globally in the past 15 years by governments and corporate communities about the impact that a company's operations may have on a community as well as on the environment. Reporting on community and environmental sustainability performance is governed by rules and regulations. Existing literature indicates that it is the government's and the public sectors' joint responsibility to contribute towards corporate social responsibility (CSR) expenditure. It also reports that the public sector might be reluctant to contribute if there is no financial benefit. The fiscal incentive of tax relief is one of the most effective instruments to encourage corporate spending. In South Africa CSR is addressed only by the King codes, namely King II and III. King IV is silent in this regard, and therefore one has to revert to King III and II. The South African Income Tax Act 58 of 1962 (ITA) provides no specific incentive with regard to CSR expenditure, where it does not directly pertain to business income earning operations. The literature also indicates that a few countries do allow a tax deduction for non-income earning CSR expenditure, resulting in financial benefit for companies. The implementation of the 'Employment Tax Incentive' (ETI) has resulted in financial benefits for South African companies and led to an increase in youth employment. This study investigates ETI as well as other tax incentives used in other countries as possible means of encouraging CSR expenditure.

This is a comparative study, qualitative in nature, that utilises document analysis as a method of analysing and interpreting results. Content and thematic analysis is conducted with the central issue of the deductibility of CSR expenditure kept in mind throughout.

The goal of this study is to determine whether a change in legislation to the effect of allowing CSR expenditure as a deduction might show a similar increase in CSR expenditure as was achieved by the implementation of ETI. The findings indicate that CSR expenses will not qualify for a deduction in terms of section 11(a), read with section 23(g) of the ITA, if the requirement of 'in the production of income' is considered. If CSR expenditure is identified as a donation to a 'public benefit organisation' (PBO) as defined, section 18A would allow the company a deduction, provided that the requirements are met.

It can be concluded that the South African government should consider the legislation applied by other countries, as well as the result achieved with the implementation of ETI as a tax incentive. Government should also consider expanding the provisions of the current ITA specifically to encourage CSR expenditure.

Key Words:

Corporate Social Responsibility, tax deductions, employment incentive tax.

JEL Classification: K22, K33

1. INTRODUCTION AND BACKGROUND

Corporate social responsibility (hereafter abbreviated as CSR) is not a new notion, and has been researched in many ways in the social sciences: from a communication to a corporate governance perspective; or from elaborate business models in the field of commerce to the theoretical substratum of its legal dimension. Suffice it to say that CSR is a well-researched and still highly relevant field of study, given its numerous dimensions.[1]

Many have attempt to define it.[2] Jacobs (2015) explored these definitions and came to the conclusion that there is no universal definition. This article will also avoid engaging in the fruitless task of attempting to arrive at a definitive description of CSR, but since it will be discussed mainly from a South African (SAn) perspective, it is worth mentioning that Jacobs' definition stressed that the CSR activity engaged in should hold "some sort of benefit for the said business" (2015:18).

Over time, CSR has been established as a crucial component of corporate culture, and as one of the pillars of good corporate governance (Jamali, Safieddine and Rabbath, 2008). Businesses are encouraged to become involved in CSR initiatives and make a meaningful contribution to the upliftment and empowerment of the societies in which they operate.[3] The pressure to act in a socially responsible way is predominantly societal, and consequently voluntary for the most part. Business are therefore left to decide on their own whether or not to adhere to this so-called soft law (Alavi, Habek and Cierna, 2016; Dentchev, Van Balen and Haezendonck 2015), or according to Eijsbouts (2017) to adhere to corporate codes. There are limited consequences for 'non-compliance' and there is also scant explicit encouragement from governments for business to act in a socially responsible

[1] EbscoHost was used to search for relevant literature. The results on this topic for the period 1953 to 2018 for full text, peer reviewed documents indicated that 278 798 documents exist. Of this number 256 162 were published in Academic Journals. Of these journal articles 79 180 can be link directly to corporate planning, etc. This search was refined further to directly link with the topic of taxation. http://eds.a.ebscohost.com.nwulib.nwu.ac.za/eds/results?vid=1&sid=80acf29f-77f9-4384-a959-3af1ea9da34c%40sessionmgr4009&bquery=(%2527corporate%2bAND%2bsocial%2bAND%2bresponsibility%2527)&bdata=JnR5cGU9MCZzaXRlPWVkcy1saXZl

[2] International scholars such as Bowen (1953), Davis (1967), and Frederick (1960). In a South African context, the following documents defined or embedded CSR: The King II and III reports (2002 and 2009) and The Broad-Based Black Economic Empowerment Act No 53 of 2003 (BBBEE – Act).

[3] Public-Private Partnerships (PPP) is a well-researched topic. EbscoHost was again used to find relevant resources on this topic. The period 2015 up to 2018 was used. 95 866 relevant documents were identified, of which 34 861 were published academic journal articles. The search was further refined to SA only. 663 Journal articles were identified. http://eds.b.ebscohost.com.nwulib.nwu.ac.za/eds/results?vid=0&sid=02195217-3e28-4e23-93be-5f94ed61a643%40sessionmgr102&bquery=(Public%2bAND%2bPrivate%2bAND%2bpartnership%2bAND%2bPPP%2bAND%2b%2522is%2522%2bAND%2bSouth%2bAND%2bAfrica)&bdata=JnR5cGU9MCZzaXRlPWVkcy1saXZl

manner. In South Africa (SA) this is also the case. No formal legislation is to be found, and the advisory codes on corporate governance, the so-called King[4] II and King III reports/codes, are the main source of guidance, written with the purpose to "promote the highest standards of corporate governance in South Africa" (King II, 2002).

With reference to Jacobs' definition, as referred to above, the opinion is voiced that businesses would be more willing to partake in good CSR practices if they were to gain something from their generosity. One of the most effective instruments at a government's disposal in framing a CSR policy is the use of fiscal incentives such as taxes. Through the use of taxes governments are in a position either to punish social irresponsibility or to reward and incentivise socially responsible practices (Batchelder, Goldberg and Orszag, 2006; Buss, 2001; Hall and Van Reenen, 2000[5]; Surry, 1970). In SA, however, it seems as if none of the above is applicable with regard to good CSR behaviour, if the current provisions of the Income Tax Act 58 of 1962 (ITA) are to be considered.

This study explores the deductibility of CSR expenditure specifically for income tax purposes[6], but also considers the possibility of the use of tax incentives such as the 'Employment Tax Incentive' (ETI) as the way to ensure that companies benefit financially from their generosity. Tax incentives as an alternative were not researched in any of the two named dissertations or in any other literature found.

In the following paragraphs, the questions below will be used to answer the main research question, namely: What legislation options are available, which might be considered in the drafting of legislation to allow CSR expenditure as a deduction against taxable income, or to be refunded to the expending company?

1) What are CSR activities and the resulting expenditure?

2) Is CSR expenditure deductible under current income tax legislation in SA?

3) Foreign legislation (tax and other)

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4 King Report on Corporate Governance for South Africa.

5 Hall and Van Reenen (2000) reported extensively on the use of tax incentives to encourage investments in research and development (R&D).

6 It should be noted that Pretorius addressed the matter of the treatment of CSR for VAT purposes (Pretorius, 2014).

a. Will CSR expenditure be deductible for tax purposes?

b. Should other tax incentives be considered?

2. LITERATURE REVIEW

2.1 CSR activities and related expenses

In the previous paragraph a few questions were asked as aids to the attempt to answer the main research question. The first question to be addressed is: what are CSR activities and the related expenditure?

In the introduction to this piece it is said that numerous definitions of CSR exist. According to Kloppers and Kloppers (2018) a number of commonalities can be identified in the variety of international and local definitions. They suggest that CSR should:

a) Address social needs;

b) Contribute to sustainable development and operating responsibly in society;

c) Contribute to transformation and primarily benefit previously disadvantaged communities or individuals;

in such a manner as to benefit both business and society as a whole.

With this in mind, a wide range of CSR-related areas[7] and issues can be identified, namely “plant closures, employee relations, human rights, corporate ethics, community relations, and the environment” (Moir, 2001:2).

From the literature studied it is evident that not all companies are willingly partaking in CSR practices and activities. According to Podbury, the finance director of Travelport, most companies will proclaim that they are CSR compliant but “in actuality [they] take the path of least resistance and don’t walk this talk” (2015:1). Podbury (2015) gives a few reasons for making this statement, one of

[7] “[W]orkplace (employees), marketplace (customers, suppliers), environment, community, ethics, and human rights” (Moir, 2001:2).

which is that companies are still of the opinion that CSR will be too expensive, and does not generate profit. According to Sprinkle and Mains (2010)[8] the CSR cost for a company can be expressed as the direct cost associated with the CSR activities but also the cost of loss. This cost of loss is the cost relating to activities which the company was unable to undertake due to the fact that the CSR activities took up all or some of the resources. Sprinkle and Mains explain this type of cost with the following example: "… the $2 million contribution to Doctors Without Borders could be used for another project that generates a 12% return" (2010: 448). Another example is the case in which employees volunteer business time to a worthy public course, where the cost will be a reduction in productivity. A further cost flowing from this situation is that additional employees might have to be hired to make up lost production (productivity) time, which would result in a loss of profit. To convert your traditional production processes into green, more environmental friendly, processes can initially prove to be very costly[9].

The opinion is held that it is fair to say that all of the above will also be applicable to SAn businesses. In the following paragraph the study will explore whether or not the related costs of CSR behaviour or activities will be deductible in terms of SA's income tax legislation, thereby addressing the second question.

2.2 CSR: A South African perspective

It is common knowledge that the SA government is finding it more and more difficult to allocate its limited financial resources in such a way as to provide for the needs of the public and socio-economic development. Collaboration between Government and the private sector to make available more funding for infrastructure and socio-economic development is being seen more frequently (Budget, 2018). This type of agreement is called a public-private partnership (PPP). Such partnerships can prove to be very expensive for both government and the private sector.

In paragraph 2.2.1 the deductibility of CSR expenditure will be considered in terms of the so-called 'General Deductions Formula'. Thereafter, in paragraph

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8 Also refer to Podbury (2016).
9 Podbury (2016) called the last two types of costs "sunk cost" and "recurrent cost", and provided insightful examples.

2.2.2, the provisions of section 18A of the ITA will be considered in this regard. The deductibility of CSR expenditure in the BRICS countries is discussed in paragraph 4 hereunder. In paragraph 4 other tax incentive legislation is also investigated in order to determine whether similar legislation cannot be drafted that will encourage CSR expenditure, because it will be deductible for tax purposes.

2.2.1 South Africa: the deductibility of CSR expenditure for tax purposes

The ITA makes no specific reference to expenditure incurred on CSR programmes. Nor, for that matter, does it define the term expenditure. The Act simply refers to "expenditure in the production of income which is trade related" (sections 11(a) and 23(g)). In paragraph 2.1 above some of the general expenditure (the "normal" cost)[10] relating to CSR activities was discussed. Most of those costs, such as salaries paid to employees, directly relate to the income-earning operations of a business and would therefore be deductible as expenditure against taxable income, by way of a section 11(a) deduction.[11] It is therefore necessary to identify possible characteristics of CSR expenditure instead of limiting it to a pre-set type of expenditure.

Based on the commonalities referred to in paragraph 2.1 above, this article argues that within the SAn context, qualifying CSR expenditure should in the first instance be limited to that expenditure that provides the business with a strategic benefit whilst addressing social needs and benefitting underprivileged individuals or communities.

2.2.1.1 Deductibility of CSR expenditure in terms of sections 11(a) and 23(g) of the ITA

Certain sections of the ITA must be considered in order to determine whether and to what extent CSR expenditure can be deducted from taxable income. The primary sections allowing expenses and allowances to be deducted from taxable

[10] By "normal" expenditure and costs the author means the day-to-day running costs and investment costs relating to a specific type of business.
[11] This will be discussed in more detail below.

income are sections 11, 12, 13,[12] 18A, 22 and 23. Most of the normal day-to-day expenses of a company will be deductible by virtue of the so-called general deduction formula (GDF) to be found in sections 11(a) and 23(g), where 11(a) identifies the amounts that may be deducted, and 23(g) those which are prohibited. In terms of these sections, only the following will be allowed as deductions against income: expenditure and losses actually incurred during the year of assessment in the production of income, which are not of a capital nature and are expended for the purposes of trade.[13] The main issue to be discussed in this paragraph is whether or not CSR expenditure and CSR activities will be identifiable as being in the 'production of income' and 'not of a capital nature'.[14]

In order to establish whether or not an amount was laid out in the production of income, the following details have to be the determined: Firstly, the purpose for which the expense was incurred (the action that gave rise to the expense); and secondly, whether the expense is linked closely enough (or related directly) with the production of income.[15] According to Venter, in discussing *Port Elizabeth Electric Tramway Company Ltd v CIR [1936] 8 SATC 13* (*PE Tramway* case) "it should be asked whether the expense is so closely connected with the income earned *that it may be regarded as part of the cost of performing it*" (Venter, 2015:123).[16] Secondly, it should be established whether or not the amount expended is of a capital nature. The ITA does not define the aspects of capital expenditure. Therefore, it was the prerogative of the judiciary to develop tests to determine the capital or revenue nature of specific expenditure. These include the "operations-vs-structure" test applied to establish whether the expenditure forms part of the income-producing operations or of its structure. If the expense is aimed at acquiring an income-producing concern, then the expenditure will be of a

[12] Sections 12 and 13 of the ITA allow a business to claim a capital allowance on assets acquired with which income will be generated/produced.

[13] For a comprehensive discussion of the general deduction formula, see Stighling (ed), *SILKE: South African Income Tax 2018* (LexisNexis 2018) 115-122; Venter (ed), *A Student's Approach to Income Tax – Natural Persons 2016* (LexisNexis 2015) 111-152.

[14] Since the main purposes of this study is to determine the deductibility of CSR expenditure, there is no need to consider all five requirements of the GDF. For a full discussion of the requirements as well as the related case law, please refer to SILKE chapter 6, (2017). Also refer to Jacobs (2015); Ostler (2013); Venter (2013).

[15] *Port Elizabeth Electric Tramway Company Ltd v CIR*

[16] Own emphasis.

capital nature.[17] (It is important at this stage to take note of the fact that most research and development costs (R&D costs) will fall into this category.) In *CIR v Pick 'n Pay Wholesalers (Pty) Ltd 1987 (3) SA 453 (A) 455* (*Pick 'n Pay* case) the court stated that: "Money spent as part of a long-term and ongoing business strategy to build up and maintain a particular image in order to create or sustain an income-producing concern must be classified as expenditure of a capital nature as envisaged by s11(a)."

The Pick 'n Pay case is of particular importance in the context of this research. The case focuses on the question whether a donation made to the Urban Foundation, an organisation focussing on social needs (especially the improvement of housing) qualifies as a deduction in terms of section 11(a) and the then section 23(g).[18] The donation was made "to 'promote the image' of the respondent as a socially responsible company and to secure publicity for itself in order to protect such image" (*Pick 'n Pay* case, 1987: 455B). The action was undertaken with a business objective in mind and resulted in a business advantage – the production of income. The court concluded that "the expenditure was aimed at neither establishing nor extending the business" (Pick 'n Pay Case, 1987: 459H) and thus was deemed to be not of a capital nature.

Another SA court case pertaining to CSR expenditure is *Warner Lambert SA (Pty) Ltd v C,SARS 2003 (5) SA 344 (SCA).*[19] The Court had to rule on the question whether or not CSR expenditure, in terms of foreign legislation, but incurred in SA, qualified as a deduction in terms of the GDF. The court concluded that

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[17] In *BP Southern Africa v CSARS [2000] 69 SATC 79* para 7, the test was explained as follow: "The purpose of expenditure is important and often decisive in assessing whether it is of a capital or revenue nature. Expenditure incurred for purposes of acquiring a capital asset of the business is capital expenditure whereas expenditure which is part of the cost incidental to the performance of the income-producing operations as distinct from the equipment of the income-producing machinery is revenue in nature". The question according to the court (para 15) is whether the expenditure in issue created or preserved any capital asset in the hands of the taxpayer. In the same paragraph the court concluded "[w]here no new asset for the enduring benefit of the taxpayer ... has been created, any questioned expenditure naturally tends to assume more of a revenue character."

[18] At the time of this judgment it was a required that expenditure would be deductible only if "wholly or exclusively laid out or expended for the purposes of trade". This is not the current position, where expenses with a dual purpose are not summarily disqualified.

[19] For further discussion of this case, and SARS's view, refer to Binding Class Ruling: BCR002.

because the company would be in contravention of foreign law[20] and because it had been laid out in performing the taxpayer's income-producing operation, it had met the requirements of the GDF, and would be deductible against taxable income.

2.2.1.2 CSR Contributions through donations to PBOs

This section will examine whether including donations to PBOs as part of the company's tax strategies provides any notable tax benefits with reference to its CSR expenditure.

Section 18A of the ITA regulates the deduction of donations[21] made to PBOs[22]. Sub-section (1) of section 18A provides for the deduction of amounts already paid which, in the absence of this section, would have been specifically prohibited in terms of section 23.[23] Should the requirements set out in section 18A(1) be met, the taxpayer (excluding a portfolio of a collective investment scheme) may deduct up to a maximum of 10 per cent of its calculated taxable income before allowing any deduction under the mentioned section.[24]

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[20] Under the USA "Comprehensive Anti-Apartheid Act" the USA parent companies were obliged to ensure that their SA subsidiaries complied with the Act. Failure to comply would result in fines in the USA and even the possibility of imprisonment for directors. The expenditure related to equal pay, the development of training programmes, or improving the quality of employees' lives outside the work environment

[21] Section 55(1) of the ITA defines a donation as a gratuitous disposal of property, where property includes any right in or to moveable or immovable, corporeal or incorporeal property. It should be noted that for the purposes of this article, the focus will be limited to a monetary donation. These donations should be motivated by "pure liberality" or "disinterested benevolence" (Stighling (ed) (2012:822).

[22] PBOs are defined in section 30 of the ITA. An in-depth discussion of this definition, is unfortunately not possible because of limitations of length. For a detailed discussion, refer to Section 30 of the ITA, which is to be found at http://www.usig.org/countryinfo/laws/South%20Africa/South%20Africa%20Income%20Tax%20Act%2030.pdf.; Stiglingh (ed), (2018) Chapter 5, Hefer (2013). It should further be noted that a deduction in terms of section 18A of the ITA will be allowed only if the company is in possession of a receipt that meets certain requirements.

[23] It should be noted that any donations made to any PBO which conducts public-benefit activities relating to religion, belief or philosophy; culture; research and consumer rights; and sport will not be regarded as a qualifying payment under section 18A.

[24] If a donation exceeds the 10% ceiling; the excess amount can be carried over as a deductible donation in the following year of assessment (s18A(1)(B) of the ITA).

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It would therefore appear that a business can make a ‘strategic contribution’ to a PBO where the donor receives a ‘spin-off’ (or an indirect benefit) from the donation.[25]

So it can be concluded that unless the CSR expenses relate to donations to PBOs, or directly to the income earning operations of his business, or were incurred to adhere to specific other legislation, a company will not be allowed a deduction against its taxable income for such expenses.

3. METHODOLOGY AND BACKGROUND OF THE STUDY

This study is qualitative in nature and utilised document analysis as a systematic method to find, evaluate and review all literature (Bowen, 2009). The literature was first sourced by making use of the two search engines EbscoHost and Google Scholar. ‘Corporate social responsibility’, ‘Tax deduction for corporate social responsibility’ and ‘CSR’ were some of the search terms used. The following documents were sourced: legislation, government publications and rulings, academic journal articles, reports and other internet sources. Document analysis was used to develop an understanding of the data gathered from this literature relevant to the research question.

The study also utilised thematic and content analysis as a method to further analyse the date and identify and report on certain themes or patterns within the data (Braun and Clarke, 2016).

All of the above was done with the question of the deductibility of CSR expenditure for tax purposes in mind.

When doing the thematic and content analysis, it was found that the tax incentive schemes and tax deductions allowed differs vastly among different countries. It was decided to rather investigate and analyse the data relating to the BRICS

[25] In the *Pick ’n Pay* case, the spin-off, which the company received in return for its donation to the Urban Foundation was indirect marketing which promoted the brand as a socially responsible company.

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countries[26], of which SA is one. The findings of the document analysis are discussed accordingly.

4. FINDINGS AND RESULTS

In this paragraph the deductibility of CRS expenditure for income tax purposes in other countries will be considered. Legislation relating to the R&D tax incentives as well as the ETI found in SA and other related tax incentives will be considered. The last two questions, as stated in paragraph 1, will therefore be considered. The aim is to determine whether or not similar legislation can be drafted to enable businesses to get a tax benefit for CSR expenditure incurred.

4.1 Deductibility of CSR against taxable income

Scholarly literature on the deductibility of CSR expenditure for income tax purposes in other countries is extremely limited.

Of all the literature studied relating to the BRICS countries, it was found that only India, which is a developing country like SA, specifically mentions CSR in its companies act as well as in its income tax act. The following table breaks down and summarises the relevant legislation:

[26] Brics countries: Brazil, Russia, India, China and South Africa.

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Table 1: Legislation of India

Act and Section:	CSR expenses and deductions:
Companies Act 18 of 2013, section 135(5)	Indian companies are obliged to spend at least two per cent of their profit towards CSR.
Income-tax Act 1961 (India) (IITA)	The ITTA allows for a 100% deduction for environment and pollution control equipment installed in the same year the expenditure was incurred, due to the company's compliance with the various pollution control and environmental Acts (Verma and Kumar, 2014).
S 80G(2) of the IITA	Regulates tax deductions for donations of money amounts to certain funds and charitable institutions (refer to Explanation 5).
S 80G(1)(2)	If an amount was donated to any of the listed 'entities', 100% of such sum, plus fifty per cent of the balance of such aggregate sums donated, will be deductible from the taxpayer's total income:
sub-section (2)(a)(iii)	Prime Minister's Drought Relief Fund
sub-section (2)(a)(iii*a*)	Prime Minister's National Relief Fund
sub-sections (2)(a)(iii*aa*) to (iii*hf*)	Other similar funds set up by the State Government, and children's funds.
sub-section (2)(a)(iiihg)	The National Sports Fund
sub-section (2)(a)(iii*hh*)	The National Cultural Fund
sub-section (2)(a)(iii*hi)*	The Fund for Technology Development and Application
sub-section (2)(a)(iii*hl*)	Where the taxpayer (the assessee) contributed towards the Clean Ganga Fund, the Government does not regard the contribution as part of the company's two per cent CSR as prescribed under section 135(5) of the Companies Act (as referred to above), and therefore a deduction will be allowed.
S 13 of the IITA	The section under 'Explanation 2' makes it very clear that any expenditure relating to CSR activities expended in terms of section 135 of the Companies Act (2013) will not be allowed as a deduction, because it is deemed not to be incurred by the taxpayer for business purposes

[Resources: (India) Companies Act 18 of 2013; Income-tax Act 1961]

Notes:

1) Section 13 of the IITA is very similar to section 11(a) of SA's ITA.
2) Many of the funds and related donations stipulated under S80G above could qualify as CSR expenditure.

4.2 Tax incentives – other countries

According to Buss (2001) tax incentive schemes should be considered by governments to encourage public accountability, and per implication CSR activities. The World Bank stresses that tax incentives which tend to lower the cost of investment would often be preferred over profit-based tax incentives (OECD, 2015).

In the table below it should be noted that cost-based incentives link more closely with CSR expenditure.

The difference between profit-based and cost-based incentives can be summarised as follows:

Table 2: types of incentives (definitions)

Type of Incentive:	Definition:
Cost -based	"Specific allowances linked to investment expenses, such as accelerated depreciation schemes and special tax deductions and credits. They are targeted at lowering the cost of capital and so make a greater number of investment projects more profitable at the margin – that is, may generate investments that would not otherwise have been made."
Profit-based	Incentives which "generally reduce the tax rate applicable to taxable income; examples include tax holidays, preferential tax rates or income exemptions. One effect is thus to forego government revenue in order to make even more profitable investment projects that would be profitable, and hence undertaken, even without the incentive."

[Resource: OECD, 2015:20)]

4.2.1 R&D tax incentives

In the process of identifying related articles, it was found that far more articles have been written on R&D tax incentives than on CSR tax incentives. The following table summarise the legislation relating to R&D[27] tax deductions and incentives for each of the BRICS-countries.

Table 3: R&D tax incentives and allowances (foreign countries)

Brazil	A deduction from taxable income. The super deduction volume-based rate varies between 60% (base) and 100%. If the entity increases the number of researchers exclusively dedicated to research projects by up to 5% in a given year, the super deduction rate increases to 70%; and if the headcount increases more than 5% in a given year, the super deduction rate increases to 80% of the qualified expenses. Employees who relocated internally to work exclusively in research projects may also be considered in the increase of the number of researchers. An extra 20% deduction is allowed for the qualifying costs incurred in developing a patent or cultivar, but the super deduction is allowed only when a patent/cultivar is registered.	Pages[28] 31 and 32
Russia	Volume-based rate: 100% (full VAT exemption, since 2003 applicable at a rate of 18%) or 44% (reduction of VAT rate from 18% to 10%) depending on the activity and type of good; partial to full exemption of property tax The R&D tax credit is not taxable.	Pages 173-181
China	Volume-based rate applicable: 50% allowance for large business. 75% allowance for small/medium enterprises (SMEs). 100% allowance with regards to R&D capital investments. R&D allowances are not taxable. Also available for sub-contractors, but a ceiling of 80% applicable as well as specific rules.	Pages 50-56

[Resource: R&D Tax incentives – Compendium (OECD) (2017)]

[27] For a detailed definition of R&D in relation to tax, refer to section 11D(1) of the ITA.
[28] All pages in this table refer to the pages in the document R&D Tax incentives – Compendium (OECD, 2017).

Table 4: R&D tax incentives and allowances (India)

India	India started to phase out R&D tax incentives as from March 2017. Currently a weighted tax deduction applies and the active tax benefit is Rs. 17 (at the rate of 150% weighted tax deduction) on R&D expenditure of Rs. 100.

[Resource: DSIR (Date unknown); EY, (2014)]

With regards to SA, the following tax allowances are available to companies conducting R&D activities:

Table 5: R&D tax allowances (SA)

S 11D of the ITA[29]	From taxable income a company may deduct an amount to the total of the cost multiplied by the applicable percentage: a) Plant and Machinery: of Cost, 50% in year 1; 30% in year 2; and 20% in year 3. b) Buildings, 5% per financial year. c) Other related R&D costs, up to 150% of cost. d) It should be noted that government grants received will be taxable.

[Resource: South Africa ITA]

Note: From the above it is clear that there are huge differences between the type of allowances, method of calculation and percentage of deductions available among the different countries. Some of the stipulations of India and SA correspond.

4.2.2 ETI as a tax incentive

The high unemployment rate, sustainable economic growth and job creation are still, after 24 years of democracy, great concerns for the SA government (Budget, 2018; Lewis, 2001). In an effort to address unemployment, especially with regards to unskilled unemployed youth, and to encourage job creation, Government enacted the ETI Act on 17 December 2013 (Ranchhod and Finn, 2014).[30] The ETI allows qualifying employers to deduct from their employees' taxes due (in terms of the Fourth Schedule to the ITA) a portion of the salary/wage paid to the

[29] For further reference refer to SILKE (2018) (chapter 13, pp.384-389), OECD (2017:192-195).
[30] The policy was originally intended to be in place for only three years, but is currently still in effect.

qualifying employee (section 10 of the ETI Act).[31] Section 7 of the ETI Act stipulates and provides the rules to determine the amount to be allowed as a deduction.

Table 6: Provisions of section 7 of the ETI

Section 7 sub-section:	Provisions:
7(1)	The incentive should be calculated for each qualifying employee separately.
7(2)	The incentive period is divided between the first 12 months of employment and thereafter the second 12 months from the date of employment.
7(2)(a) to 7(2)(d)	The incentive is calculated on the monthly remuneration of the employee. The lower the employee's remuneration the higher the deduction. For example, if the remuneration is R2 000 or less per month, the allowance will be 50% thereof. For an amount between R2 000 and R4 000, a deduction of R1 000 is allowed. Between R4 000 and R6 000 it is less than R1 000 and will be determined by a formula. Over R6 000 there is no deduction.
7(3)	For the second 12-month period, the incentives described above will be halved.

[Resource: South Africa ETI Act]

5. INTERPRETATION AND FINDINGS

The ETI Act became operational as from 1 January 2014, and has therefore been in use now for a mere four years. Unfortunately, most of the data collected on the success (or lack of success) of this act was for the first 14 months. For the first six months after implementation Ranchhod and Finn (2014) could find no evidence that the ETI had in fact generated a substantial number of new job opportunities for the unemployed youth. In 2016 Ebrahim, Leibbrandt and Ranchhod (2017) again conducted a study for the period of 14 months since the implementation of the ETI Act. They concluded that very few new jobs had been created, and that the "deadweight loss appears to be very high" (2017:19). The positive was that it

[31] This is done by claiming back this ETI credit on the IRP501 employees' tax reconciliation done every six months. SARS will then refund the employer by using the EFT method. http://www.sars.gov.za/TaxTypes/PAYE/ETI/Pages/Employment-Incentive-Tax-(ETI)-Refund-Process.aspx [Assessed 02/07/2018].

was confirmed that companies employing up to 200 workers had in fact employed more workers, both youth and non-youth. In August 2016 Treasury (ETI Report, 2016) reported on the same 14-month period ending with the 2014/2015 tax years. The firms which participated in the scheme represented 15% of the "firms in the tax database with eligible employees" (2016:2). The estimate in 2011 was that at least 178 000 new job opportunities would have been created. It was found that 645 973 individuals' employment was supported by ETI. This represented more or less 17% of youth employment (ages 18 to 29).

If employment incentive schemes are considered in general, it was determined that these schemes would be more successful if they were implemented as part of a more comprehensive programme that included a facet of training (Ranchhod and Finn, 2014). On this point it should be noted that the ETI Act makes no provision for the training of employees. In 2016 Visser (SAIT, 2016) referred to a study done by Singizi Consulting which indicated that although no training was linked to the qualifying requirements of the employer, the youth employed did acquire the necessary skills in the first year, and that the firms continued to employ these youngsters in the second year despite the fact that the incentives halved after the first 12 months.

Roux (2015), which investigated employment incentive schemes all over the world, concluded that it seems that such incentives do create some employment opportunities, but unfortunately also had to conclude that it seems that it will be unlikely that "the large number of employment opportunities needed to substantially reduce national unemployment levels" will be created (2015:49).

If one considers the data reported on R&D incentives, allowances and deductions, it is evident that the definition of R&D is very important and will dictate whether or not the company would be allowed an allowance. In comparison with the other BRICS countries, South Africa's R&D allowances are very generous, except with regard to buildings. The other countries in general allow a flat-rate allowance of the expenses incurred.

India, as was indicated above, is the only one of the BRICS countries that governs CSR in its Companies Act. Unfortunately, no data could be found to determine whether or not there has been an increase in CSR in India since this act came into operation. Verma and Kumar (2014) conducted a study of the CSR expenditure of 30 Indian companies for a period of 12 years before the implementation of the Companies Act. It is notable that despite the above tax deductions available under the IITA. The average CSR expenditure by these companies was less than one per cent of profit. It is therefore understandable that the Indian government implemented the two per cent rule.

In conclusion, the World Bank found that there is still substantial scope for "low income countries" to "improve the effectiveness and efficiency of their investment tax incentives" (OECD, 2015:32).

6. RECOMMENDATIONS

It is recommended that the SA Government should consider tax incentives and deductions similar to those discussed above. Government should also take note of the private sector's perception that the private sector can utilise resources much more efficient than the public sector, because of the drag of legislative policies, government bureaucracy and red-tape (Davis *et al*, 2016). It is not clear, however, whether or not a change in legislation allowing non trade-related CSR expenditure as a tax deduction would indeed increase CSR contributions by companies.

This study did not research examples of specific CSR activities engaged in by SAn companies and the relating cost thereof. It would be fruitful as a further study to explore this field of data, and to build a model to determine whether or not similar tax incentives (like tax allowances provided under sections 11D (R&D), 12 and 13 (capital allowances) of the ITA, found in the IITA and ETF) would encourage CSR and indeed save companies' tax.

This study also has not determined whether or not R&D incentives really contribute to the doing of more R&D.

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