

Gender and Personal Income Taxes in South Africa

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Introduction

Background

This report has been written as part of a larger multi-country study examining taxation from a gender perspective. For each country, the study incorporates a paper such as this, together with a more quantitative analysis of tax incidence.

This report, unlike that for most other countries participating in the project, consists primarily of a literature review rather than original research and analysis. The reason for this difference is that there already exist several previous papers which have analysed the South African taxation system from a gender perspective. The first paper (Hartzenburg, 1996) was a chapter of the first publication of the South African Women's Budget Initiative. The research was done in 1995, one year after the first democratic elections in the country. In the fifth year of the Women's Budget Initiative, Smith (2002) wrote a second paper, which updated and expanded upon Hartzenburg's work. In particular, it expanded the scope of the investigation to include capital transfer taxes, taxation of non-profit organisations, transfer duties, the fuel levy and the demutualisation levy, and the new national lottery. It also examined changes in respect of the status of the South African Revenue Services (SARS). As part of the same series, Goldman (2002) examined customs and excise from a gender perspective, while Sikhander Coopoo did the same in respect of local government taxation. This paper draws on all these previous papers except the work by Coopoo, as the focus here is on taxes imposed at the national level. The paper moves beyond these papers to the extent that there have been further changes in taxation other than inflation adjustments since Smith's paper.

In addition to papers focusing on gender aspects, work done by Woolard and colleagues is also useful for its discussion of other equity-related aspects of the South African taxation system. This discussion is important, firstly, because gender inequalities need to be considered together with other inequalities if analysis is to be helpful for the promotion of a society which is more equitable overall. It is also important because some of the issues raised have implicit gender implications.

In addition to these analytical pieces, a range of documents issued by the National Treasury and South African Revenue Service (SARS) were consulted.

Formal and substantive equality

The paper proceeds from the basis that our aim is to achieve a society in which there is substantive rather than simply formal equality. This is in line both with the 1996 Constitution of South Africa and with the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). Formal equality treats all people as if they are the same, and is generally synonymous with equality of opportunity. Substantive equality recognises that people are not all the same, and that equal treatment might therefore often not be "fair" (equitable). Substantive equality is more focused on equality of outcome than equality of opportunity, and requires that treatment of different individuals/groups be adjusted to increase the chances of equal outcome.

The substantive equality approach allows for affirmative action (positive discrimination). These temporary measures might be necessary when there are historical reasons why one group has been disadvantaged relative to another and therefore requires special assistance. Different treatment might also be necessary in respect of characteristics or situations that are not only historical, but can be expected to continue into the foreseeable future. The fact that women bear children while men do not is one such difference.

The South African Constitution aligns itself with substantive equality by outlawing “unfair” discrimination, but explicitly providing for affirmative action as follows:

To promote the achievement of equality, legislative and other measures designed to protect or advance persons, or categories or persons, disadvantaged by unfair discrimination may be taken (Section 9(2)).

The Constitution provides for different treatment when it prohibits the implicit discrimination which may occur as a result of the assumption that all people are the same. It does this by stating that neither the state nor a person may discriminate “directly or indirectly” against anyone on grounds such as race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth (Section 9(3) and (4)). A tax-related example of indirect gender-related discrimination would be where the tax regime imposes a greater tax burden on part-time workers in a situation where women are more likely than men to work part-time.

The previous paragraph illustrates that the South African Constitution provides protection against discrimination on a wide range of bases alongside gender and sex. None of the named bases relate directly to wealth or income, which is a common basis of (fair or unfair) discrimination in the tax regime to the extent that taxation is seen as a vehicle for redistribution. CEDAW places even less emphasis than the Constitution on other bases of discrimination, aside from special provisions in relation to rural women, presumably on the basis that they tend to be more disadvantaged than urban women in most countries. Elson (2006: 89) notes, however, that the CEDAW Committee has recognised the many other grounds of discrimination that can affect women.

Despite these silences in the Constitution and CEDAW, this report sees comparison of the treatment of richer and poorer people as an essential element of judging whether a tax regime is fair or unfair. We acknowledge upfront that there is no single objective measure of fairness in this respect as it depends on one’s political outlook. At the extreme, one person might say that a fair tax regime would be that which left everyone with equal ability to satisfy their needs. At the other extreme, another might say that a fair tax regime is one that does not “distort” the outcome that the free market would deliver.

Wealth and income differences cannot be ignored when analysing tax, even if our main focus is something else. Where the main focus is gender, the need to look at how the tax regime differentially treats richer and poorer people is especially important as (a) women’s individual income tends to be less than that of men; and (b) women are somewhat more likely than men to live in poor households. The first aspect of this gendered income disadvantage is discussed further below when assessing PIT. The second is illustrated by data from Statistics South Africa’s general household survey of 2005 which show 45% of women aged 18 years

and above living in households with incomes below R800 per month (the level used by municipalities in determining indigency), compared to 44% of men of this age.

Outline of the report

The next section of the report provides the background for the analysis of the specific tax instruments. It notes the various government investigations that affected the tax regime, as well as the underlying macro-economic approach. It briefly discusses how these influenced changes in the overall profile of taxes in the country. It also refers to aspects of the socio-economic setup in the country relevant to this paper.

The main body of this report is organised according to the different tax instruments. Personal income tax and value added tax (VAT) receive the most attention. This reflects the bias of the literature referred to above. It also reflects the focus of the Levy Institute project. The report does, however, also consider other forms of taxation imposed at the national level. These national taxes account for the overwhelming burden of taxation in the country.

The report ends with a brief conclusion.

Background

Factors influencing the approach to taxation

As noted, this paper covers the post-apartheid period from 1994 onwards. As far back as 1986, the apartheid government had set up the Margo Commission of Inquiry into Certain Aspects of the Tax Structure in South Africa. Smith (2002) briefly describes how a number of changes of particular importance from a gender perspective were subsequently phased in. Thus from 1988 the earnings of a married woman whose earnings were subject only to the Standard Income Tax on Employees (SITE) (see below) were taxed separately from the income of her husband; from 1990 the trading income of married women was taxed separately from her husband's income; and from 1991 the investment income of married women was separately taxed. Smith points out that only the first of these steps affected those with low incomes – and even then only those women fortunate enough to have paid employment.

Very soon after coming into power, in 1994 the new government tasked the Katz Commission with undertaking further investigations and developing further recommendations. The terms of reference of the Katz Commission explicitly emphasised equity considerations, including the “gender issue” in personal income tax. Many of the Katz Commission recommendations were in line with those of the earlier Margo Commission. Like the Margo Commission, the Katz one was very influential and many of the changes undertaken subsequently were recommended by it.

Taxation forms part of a government's overall macro-economic policy. For the first few years of the new democracy, the Reconstruction and Development Programme (RDP) was the overarching policy document for this country. This document was ambiguous in its macro-economic stance, but placed much emphasis on redistribution. In 1996, to the surprise of many, and without the consultation that was at that time accompanying the

development of a host of other policies, the government announced the Growth, Employment and Redistribution (GEAR) strategy. Despite the third noun in its name, this policy placed the emphasis squarely on fiscal discipline and saw growth as the route to redistribution rather than vice versa.

Hartzenburg notes that the commitment to fiscal discipline was reflected in attempts to limit government expenditure to 29% of gross domestic product (GDP) and government revenue to approximately 25% of GDP. Further, because the new government was eager to create an investor-friendly climate, it was reluctant to increase direct taxation (personal income and company taxation) and tended, instead, to shift the burden from direct to indirect taxation. The latter shift was supported, among others, by the Margo Commission of 1986.

An important factor in understanding revenue issues in the post-apartheid period is the remarkable performance of the South African Revenue Services (SARS). Not only was SARS able to restructure itself from a moribund apartheid institution lacking any legitimacy among the population, but the agency has also significantly improved tax administration and tax morality in South Africa. SARS tax collections have repeatedly exceeded government targets, opening up the possibilities for increased social expenditures.

Composition of tax revenue

The Katz Commission recommendations were in line with the earlier Margo Commission in recommending increased emphasis on indirect as opposed to direct taxation. In particular, the Commission proposed a reduction in PIT and corporate taxes. But the Katz Commission also noted that a more equal distribution of income was a prerequisite for greater emphasis on indirect taxation. It relied on the RDP and other social expenditure programmes to provide the poverty relief that would result in this more equal distribution. As Hartzenburg (2006) notes, this was a “very dangerous assumption”.

As noted above, however, the ANC government did not increase rates of indirect taxation. Table 1, below, illustrates the shifts in tax composition from 1988/9 to 2008/9. We note a pattern, over the initial period of a greater contribution from direct taxes collected from individuals and a corresponding decrease in the proportion collected from the corporate sector. The trend is, however, reversed in the latter period. Importantly, the proportion collected from indirect taxes remains stable over the period. There seem to be two factors that can explain this trend. In the initial period immediately after the 1994 political transition, the ANC government quickly reduced corporate taxes, in line with its objective of creating an investor-friendly environment. This, together with a fall in the profit rate, explains the reduction in collections from the corporate sector and the proportionate increase in the contribution of direct taxes collected from individuals. In the latter period, after 1999, the government reduced personal income tax rates and increased the tax threshold, with many low income-earners now falling outside this threshold. This, together with rapid increases in the rate of profit, helps explain the reversal evident in the latter period.

Table 1 Composition of tax revenue: 1988 to 2008

Tax/Source of revenue	1988/89		1998/99		2008/09	
	Revenue raised in R'm	% of total Tax Revenue	Revenue Raised in R'm	% of total tax Revenue	Revenue raised in R'm	% of total tax revenue
Individuals	14 910	30%	76 400	42%	191 046	30%
Companies	11 244	22%	23 330	13%	176 471	27%
Other	657	1%	5 558	3%	23 978	4%
Total – direct taxes	26 811	53%	105 288	58%	391 495	61%
VAT/GST	13 123	26%	43 600	24%	167 028	26%
Excise duties	2 508	5%	8 338	5%	22 083	3%
Fuel levy	2 555	5%	13 600	8%	26 434	4%
Customs duties	2 466	5%	6 200	3%	31 473	5%
Other	3 054	6%	4 044,1	2%	3 755	1%
Total – indirect taxes	23 707	47%	75 782	42%	250 773	39%
Total tax revenue	50 518	100%	181 070	100%	642 268	100%

(Source: Authors' calculations from National Revenue Account, National Treasury, South Africa)

It is interesting to compare the post-apartheid trends with those of the earlier periods. Hartzenburg (1996) presents a longer-term picture, with a table showing that in 1976 taxation on gold mines and other companies accounted for 35% of total tax revenue, compared to only 12,5% in 1995, individual tax meanwhile increased from 24,7% to 40,9% of the total, and sales tax increased from 0% to 26,4%. Comparing 1990 and 1995, company tax decreases from 19,4% to 12,5%, individual tax increases from 30,4% to 40,9% and sales tax is more or less constant at around 27%.

Tax and redistribution

Both Woolard et al (2006) and Hartzenburg discuss – if briefly – the extent to which taxation should be expected to contribute to redistribution rather than serving the primary purpose of raising money for government expenditure. Hartzenburg does not see redistribution as a primary goal of taxation. She acknowledges that taxation can have a direct redistributive impact, but notes that this is limited to those falling within the tax base, and that the impact can be reduced through avoidance and evasion. She suggests that taxation can also affect investment decisions, thus affecting inter-generational distribution.

Woolard et al (2006) had the explicit brief, from the National Treasury, of investigating the redistributive impact of the tax system in 1995 and 2000 as part of a larger study on fiscal incidence. A similar grouping of authors (Simkins et al, 2000: 2) in an earlier paper make a strong claim for the redistributive role of taxations, as follows: “Although many government activities alter the distribution of income, taxation and state expenditure are the Government’s main instruments for redistribution.”

One of Woolard et al’s products involved an analysis of the changes in the underlying income distribution between 1995 and 2001. These two years were chosen because income and expenditure surveys were available for these years which could be linked to labour market data for these years. The report notes the many difficulties with these data sources

but tries to overcome them as far as possible. The analysis does not take gender into account as it was done at the level of households. The paper is nevertheless important in pointing to the way measures of impact change if forms of taxation beyond PIT and VAT are included in the analysis. The fact that this paper was commissioned by the National Treasury also constitutes an implicit acknowledgement on their part of the role taxation can play in (positive or negative) redistribution. One especially interesting aspect of the paper is its attempt to assess the effect of job losses on the incidence of personal income tax. Unfortunately, however, here too the authors do not consider gender effects and impacts. Overall, Woolard et al suggest that taxes and transfers reduce the Gini coefficient by 0.11 in 1995 and 1.10 in 2000, and just more than half of this reduction is a result of tax.

Woolard et al's analysis is fairly comprehensive in that it looks at PIT, VAT, excise duties levied on alcohol, soft drinks, mineral water and tobacco; transfer duty, corporate taxes and the fuel levy. Together these taxes accounted for over 90% of all tax receipts at the time the analysis was done. Regional Services Council levies were not covered due to the complication of rates varying by region and lack of representivity of the survey data at this level. The exclusion of these levies is of limited importance for our purposes as the levies were abolished as of 1 July 2006. SARS (2006) notes that the abolition of these taxes represented a tax cut of approximately 2 per cent in corporate tax.

Beyond its gender blindness, a further caveat is important in respect of the work by Woolard et al. Simkin's (2004) appendix prepared as background for this work confirms that, even after adjusting for data quality problems, both poverty and inequality increases over the period 1995 to 2000. Thus the Gini coefficient rose from 0.608 to 0.669 between the 1995 and the 2000 IES, as adjusted. The Gini coefficient also increased between the censuses of 1996 and 2001. Similarly, comparison of four poverty measures between the 1995 and 2000 IES show a clear increase. While comparison of poverty measures between the 1996 and 2001 censuses show a mixed picture, Simkins concludes that "on balance" poverty probably worsened.

The period since 2000 has seen some economic upturn relatively to the 1995-2000 period, with sustained increase in economic growth as well as a decrease in unemployment, although unemployment levels have remained at levels far higher than most other countries. The shift in economic fortunes means that we cannot assume that the trends observed by Woolard et al for the period 1995 to 2000 have continued.

South African Revenue Services

Hartzenburg (1996), in line with thinking at that time and the findings of the Katz Commission, comments on the serious inefficiency of government in collecting taxes. The situation in this respect has undergone marked changes, with SARS currently consistently out-performing its own increased collection targets each year to the extent that one begins to wonder whether they either lack skills in prediction or are purposefully under-predicting so that they can be seen to have over-performed. The change was achieved, among others, by the granting of administrative independence to the agency in October 1987. This meant, among others, that it was not subject to standard public service arrangements in respect of salaries and related aspects. Capacity was also increased by upgrading of SARS' computer facilities at a cost of about R100 million (Smith, 2000). (At the time of writing, the now

legendary efficiency of SARS when compared to most other parts of government might be in danger as the agency is several months late in issuing the annual tax returns to tax-payers.)

The taxes

Personal income tax

In 1999, as a result of pressure from the Women’s Budget Initiative among others, SARS for the first time reported separately on the number of individual tax payers. As at October 1998, the total number of tax payers was 2 263 079, of whom 746 816 (33%) were women (reported in Smith, 2002). The above difference in numbers is expected given that more men than women are employed, and employed men are more likely than employed women to earn above the tax threshold. This is borne out by Table 2, which is based on labour force survey data from September 2005 and suggests that nearly three-quarters (73%) of employed women would not have to pay PIT, as compared to 65% of men.

Table 2 Distribution of employed people across tax brackets by sex, September 2005

Tax bracket	Male	Female	Total
No tax	65%	73%	68%
<R80000	20%	16%	19%
R80000-130000	8%	7%	8%
R130001-180000	3%	2%	3%
R180001-230000	1%	0%	1%
R230001-R300000	1%	1%	1%
R30001 plus	2%	1%	1%
Total	100%	100%	100%

Smith notes that, in fact, the difference between the actual contributions of women and men would be even larger than the difference between the numbers of taxpayers given the tendency for men to earn more. Calculations based on data from the labour force survey of September 2005 using the tax tables in operation at that point suggest that, in terms of amount paid, women account for 30% of total PIT. Smith argues that this difference does not constitute unfair discrimination against men in that:

- ♀ To be fair, tax regimes must be progressive and charge higher earners more than lower given the higher marginal utility of every rand for low earners;
- ♀ The figures above reflect only direct taxation and therefore cannot be used as the basis for an argument as to the overall fairness of the tax regime; and
- ♀ The figures do not take into account the contribution to society and production made mainly by women in the form of unpaid care work.

Smith later suggests that the individual income tax paid by men might also be downwardly biased compared to those for women because men are more likely to be able to benefit from allowances in respect of travel, accommodation and entertainment expenses as they are more likely to occupy jobs that provide these perks, and also likely to be more mobile. This constitutes an example of where the tax provisions satisfy the requirement of formal equality, but might not satisfy a requirement of substantive equality because women and men tend to occupy different positions.

Table 3 gives the PIT tax rates for the financial year 2007/08. The table illustrates the progressive nature of the tax i.e. that the percentage of income paid increases with increases in taxable income. The table shows that taxation is currently only imposed when personal income reaches a level of R40 000 per annum for those under 65 years and R65 000 for the older group. When just over this threshold, tax is charged at 18 cents in every rand. For the highest income group, any amount over R450 000 per year is taxed at 40 cents in the rand.

Table 3 Personal income tax rates for 2007/08

Taxable income (R)	Rates of tax (R)
1- 100 000	18% of each rand
100 001-180 000	20 250 + 25% of the amount above 112 500
180 001-250 000	37 125 + 30% of the amount above 180 000
250 001-350 000	58 125 + 35% of the amount above 250 000
350 001-450 00	93 125 + 38% of the amount above 350 000
450 001 and above	131 125 + 40% of the amount above 450 000
Rebates (individuals only)	
Under 65 years	7 740
65 years and older	12 420
Tax thresholds	
Under 65 years	43 000
65 years and older	69 000

Source: National Treasury, 2007: 197

In many respects the tax structure in 2007 is similar to that in 1994. Similarities include age-differentiated thresholds and rebates (although at different levels) as well as the progressive structure of the tax. There have, however, been some significant changes to the tax.

One of the changes introduced over the first post-apartheid years was a reduction in the number of tax brackets. Thus Hartzenburg (1996: 223) lists ten PIT brackets, as opposed to the six that are currently in place. Smith (2002) observes that this reduction helped reduce the impact of “bracket creep” whereby inflation-linked increases in earnings push people into a bracket that is taxed at a steeper rate than previously. Alongside this change there was an increase in the tax thresholds. Some of this increase reflected adjustment for inflation, but the adjustment went beyond this. Thus the top of the lowest bracket was R60 000 per annum in 1995/6 as against the current R100 000, whereas the current value of R60 000 in 2007 is about R87 000.

Nevertheless, Table 4 (from Smith) shows that those with annual incomes over R120 000, who constituted 7% of taxpayers in 1999/2000, received nearly 18% of the tax relief offered in that year. In contrast, however, Woolard et al’s analysis reveals that while all deciles benefited from substantial personal income tax relief in 2000 compared to 1995, this relief was greater at the lower end of the income distribution.

Table 4 Distribution of tax relief, 1999/2000

Income Category	Taxpayers per bracket (%)	Share of total tax (%)	% of tax relief
R0 – 60 000 p.a.	75,3%	16%	35,7%
R60 001 – 120 000 p.a.	18,1%	38,2%	46,8%
R120 001 and above.	6,6%	45,8%	17,5%

Woolard et al (2006) included as many components of PIT as possible when designing their model. There were, however, forced to exclude motor vehicle allowances and “perks” taxes on the use of company cars because of data problems. Both of these incomes are likely to accrue to substantially more men than women. Ignoring these exclusions, the authors find that the poorest four deciles pay less than 1% of PIT while the richest decile bore 66% of the burden of the tax in 1995 and 77% of the burden in 2000. PIT is thus confirmed as progressive.

Personal income tax is levied on income from a range of sources, with further tax levied on interest from investments. Because of lack of data on the latter, the analysis in this report focuses primarily in income earned from working.

Standard Income Tax on Employees

Tax on employees’ earnings is deducted at source by employers and sent on to SARS. The tax so deducted is divided into two categories. The tax deducted on earnings up to R60 000 is known as Standard Income on Employees (SITE). This tax is deducted for all employees earning above the tax threshold. Where an employee earns more than R60 000, the remainder of the earnings are subject to Pay As You Earn (PAYE).

For the higher earning employee, the distinction between SITE and PAYE is not all that important. For those who fall below the upper SITE cut-off, the difference is that they are not required to submit an individual tax return to SARS. This situation is more likely to be the case for women than men to the extent that women tend to earn less than men. Not having to submit a tax return can be seen as an advantage. But disadvantage is also possible where the person does not earn consistently over the year, as the tax will be deducted on the assumption of consistent monthly earnings.

Where tax fluctuates and the person submits a tax return, this would be corrected by SARS through requiring an additional tax payment or providing a refund. Where tax fluctuates and the person does not submit a tax return because only paying SITE, the employer is meant to make the adjustment at the end of the tax year. The danger lies in the fact that many employers will not do so, and many employees may be unaware of their rights in this respect, or unable to enforce their rights. For the most part, the error is likely to work against the employee – for example, where she did not work a full year. These workers will then have paid more than they should have out of already small earnings. Women might be more likely than men not to work a full year, among others because of reproductive demands.

The upper SITE threshold has remained at the level of R60 000 since 1998. Two factors would, since this time, have reduced the impact of SITE. First, many taxpayers, through inflation-related wage increases, would have migrated out of the SITE system. Women, who

are more likely than men to have low earnings, would have formed a significant proportion of these taxpayers. As a result, whereas in 1998, according to Smith (2002), women accounted for 33% of taxpayers above the SITE threshold, this increased to 42% in the 2008/09 tax year (National Treasury & the South African Revenue Service, 2008: 32). Secondly, while the upper SITE threshold has remained at R60 000, the lower threshold has not. In 2008/09 [correct?], at R54 200, it was very close to the SITE threshold. SITE is thus now paid on a very small band of income. Given that the gap between the SITE and tax thresholds is now so small, the Treasury is considering scrapping the SITE system and replacing it with a waiver on the requirement to submit a tax return for taxpayers with only one employer.

Non-standard employment

The tax rates shown in Table 3 are applied through SITE and PAYE to earnings of those in standard employment. For those who are not in this category, a flat rate of 25% must be deducted by the employer. Those in non-standard employment are then expected to submit a tax return and have any discrepancies corrected by SARS once total earnings have been checked against total tax paid. This rule applies even if the person earns below the tax threshold.

Standard employment encompasses those who are employed for at least 22 hours a week by the employer concerned. SARS (no date) provides the following examples of non-standard employment:

- ♀ Workers employed and physically paid on a daily basis;
- ♀ Workers receiving “casual” commissions;
- ♀ Casual workers providing irregular services;
- ♀ Part-time lecturers; and
- ♀ Office bearers of organisations in respect of their honoraria.

To the extent that women might be more likely than men to work part-time or more likely to take odd jobs to fit in with their unpaid care work responsibilities, they would be more likely to be classified as being in standard employment. The labour force survey of March 2006 suggests that 15% of employed women worked less than 22 hours in their main job in the preceding seven days, compared to only 8% of men. This provision thus can be considered an instance of indirect discrimination against women, including poor women who earn below the tax threshold.

Exclusions

A number of the items that are specifically excluded from the definition of remuneration theoretically would tend to benefit women. The first of these is government grants. Both of the major grants – the old age pension and child support grant – have far more female than male beneficiaries. The third largest grant in terms of beneficiaries – the disability grant – also benefits more women than men. The exclusion of these grants is largely theoretical because these grants are also subject to a means test, which would mean that virtually no beneficiaries would be liable for individual tax in the first place. The only exception is the foster care grant, where there is no means test in respect of the caregiver recipient.

A second excluded item that would tend to benefit more women than men involves allowances or advances paid in terms of a divorce order or similar. These will usually be paid

to women. Here again, however, it is only a relatively small number of women who would benefit. Further, these women would not tend to be among the poorest as maintenance in respect of spouses is generally only found in divorces of wealthier people.

Rebates

As discussed further below, in 1995/6 differential rebates on the basis of gender and marital status were removed. A further rebate removed in the same year related to children. It provided for a tax rebate of R100-R150 per child per year, depending on the number of children. Elson (2006) suggests that such tax credits or deductions are a useful way of promoting the “ability to pay” principle, but later notes that such allowances might not be useful as the main means of subsidising child care because they will not reach poor people. Smith (2002) notes that the Katz Commission recommended the abolition of this rebate on two grounds. Firstly, the Commission said that the rebate was not big enough to contribute effectively to the cost of raising children. Secondly, it provided this assistance only to those wealthy enough to pay tax, whereas the assistance was most needed by poorer people.

The second argument is especially sensible from a gender perspective given the large number of women who raise children alone, without the fathers, most of whom will not have enough income to pay tax and thus benefit from a rebate. It is far better that any money saved by not giving this rebate is used to contribute towards payment of the child support grant, which was introduced in 1998. It is, however, somewhat ironic that the child support grant was introduced at the rate of only R100 per month per child under seven years given that the Katz Commission had noted that the rebate of a similar amount would not serve an effective purpose.

Gender discrimination and equity

During the apartheid years the tax system discriminated explicitly between male and female in a range of different ways. In the background section to this paper, we describe the way some of these differences were phased out prior to 1994. At the time of the first democratic elections, a major element of such discrimination remained in that the tax schedules defined a “married person” in a way that essentially meant that all people in this category were male, with a separate category provided for “married women”. Married men were taxed at a lower rate than unmarried persons (who could be male or female). Unmarried persons were, in turn, taxed at a lower rate than married women. There were also different primary rebates for the three categories, and different provisions in respect of deduction of contributions to retirement annuity funds when calculating taxable income.

These provisions clearly constituted direct formal discrimination on grounds of both gender and marital status. Both of these were grounds on which discrimination was explicitly outlawed in terms of the Constitution. Thus from March 1995, in line with both the Constitution and the first report of the Katz Commission, a single tax structure was imposed on all individuals irrespective of gender or marital status, a single primary rebate (for those under 65 years) introduced, and the differences in retirement annuity deductions removed.

These provisions put an end to formal, direct gender discrimination in the tax system. Smith, however, questions whether by removing this feature of the tax regime, unfairness remained or was exacerbated. The distinction between married men and women was presumably based on assumptions that married couples would enjoy economies of scale, that a married

women's income would be an "extra" that could therefore be taxed at a higher rate, and that married couples would share their income equitably so the higher rate on the woman's income would be offset by the lower rate on the man's income. To cater for "unusual" families, provision was made for a married woman who was the main earner to have herself declared a "married person".

The assumption about economies of scale is almost certainly true. The assumption that a woman's income is "extra" is true in the simplistic sense that two incomes would generally be more than one. The assumption that there would be equitable sharing is open to question. Nevertheless, one can probably safely assume that most married men would share a significant part of their income with their spouse and the rest of the family.

Smith questions whether dropping the gender and marital discrimination results in a system which is overall more equitable by comparing two hypothetical households, both of which contain two adults and two children. The first household consists of a husband, wife and their two children. The husband earns R2 000 per month and the wife earns R1 000 per month. The second household consists of an employed woman who earns R3 000 per month, the woman's non-earning mother, and the woman's two children.

Smith illustrates that the earlier tax regime attempted to place these two households in more or less equal positions given their equal needs, but with some reduction in tax for the married couple so as not to discourage women's employment. The total tax that would have been paid in 1994/5 by the two households was thus R3 435 and R5 055 respectively. Already at this point the married couple is better off than the single woman and her mother. After removal of discrimination on the basis of gender and marital status, and using the 1999/2000 tax tables, however, the first household pays R850, while the second pays more than four times as much, at R3 460. What seems to have happened is that formal discrimination on the basis of gender and marital status has been replaced with more severe indirect discrimination against those who do not conform to a nuclear family model (whether formally married or not). The issue is not a minor one in a situation where only 50% of employed women aged 15 years and above are recorded as married or living together, with a further 36% never having been married according to the general household survey of 2005.

The solution is clearly not to reintroduce formal discrimination on the basis of either gender or marital status. Nevertheless, some way needs to be found to account for the fact that there is substantial pooling of income in most households. Expressed differently, the tax system needs to find some way to deal with the fact that individuals are not islands, but instead earn and provide for themselves in groups. Without this recognition, the system will not discriminate between male and female, but it will discriminate unfairly between different categories of women, often to the further disadvantage of those who are already disadvantaged.

Elson (2006) repeatedly acknowledges the tension between a joint filing system, which might be better able to promote equity between households, and an individual filing system, in which it is easier to ensure (formal) gender equality. She quotes Himmelweit, who notes that the regressivity of independent is heightened by the fact that incomes of partners are usually strongly correlated. In respect of the problem described by Smith, Elson suggests that ideally

one would want to distinguish between the case where the grandmother assists with child care, cooking and cleaning, and that where she is too old to do so (and perhaps herself needs care). In the first case, Elson argues, the household would have higher “real” income because of the unpaid care work done by the grandmother. Elson notes that, in practice, it would be difficult to implement a system that made such distinctions. Even if it were possible, it is difficult to believe that a fourfold difference in tax is justified. Her proposal also raises the question of why one should count the unpaid care work done by the grandmother as real income and not the same work if it done by the employed woman alongside her other work.

The claim that formal discrimination on the basis of marital status ended in 1995/6 is, in fact, untrue in that South Africa’s tax legislation still treats married couples differently from unmarried couples and individuals in some respects. The discrimination is, however, not necessarily unfair. For the purposes of these provisions, marriage is defined to include any relationship recognised as a marriage in terms of the law or any religion. This definition is wider than that used in some other legislation in that, for example, it would cover Muslim marriages (which are not yet legally recognised in South Africa) as well as unregistered marriages under customary law. The tax-related definition also includes permanent same-sex relationships.

One set of provisions in respect of married people is intended to clarify how income of those married in community of property should be treated.. For example income other than specified categories such as salary or retirement income from a third party is regarded as part of the joint estate and assumed to be shared equally between the spouses. SARS is clear that the provisions “must not in any way be seen as favouring spouses married in community of property over spouses married out of community of property” (SARS, 2005b). The tax law also tries to prevent splitting of income between spouses (whether married in or out of community of property) to avoid the one with the higher income being taxed at a higher rate than they would if not married. These distinctions in respect of married people are thus intended to promote equity rather than to disadvantage one or other group.

Unemployment insurance

There are several deductions that are made from employee earnings that can be considered a form of tax. Unemployment insurance is one such deduction that has existed from the apartheid period. At that time, the tax was imposed at a rate of 0,9% of earnings from the employee with a matching amount from the employer. The state contributed a further amount that assisted in covering both the costs of administration and the cost of benefits.

The post-apartheid government abandoned the practice of a government contribution, leaving the fund to be covered entirely from employer and employee contributions. Despite this change, today the fund is in a much healthier financial position than it was at the time of the democratic transition. The change in fortunes is explained, among others, by significant reforms in the rules of the fund and the conservatism of the fund’s actuaries.

The reforms were introduced through a major amendment to the Unemployment Insurance Act in 2001, which allowed for both immediate and phased-in changes. The contributions increased to 1% of earnings from both employers and employees. Far more important, however, was the fact that coverage was extended to include all non-state employees,

whatever their earnings, although with a cap on contributions above a certain level. This is in sharp contrast to the earlier position where higher-earning employees were excluded, and the fund thus lost out on significant income.

There have also been significant changes in respect of benefits. Previously these were pegged at 45% of previous earnings. Since the amendment, the percentage paid varies between 38% and 60% of previous earnings, with a higher percentage paid to low earners. This has made the fund more progressive than previously. The shift will have disproportionately benefited women to the extent that they are more likely to be among the lower earners. Overall, the change in coverage and progressive benefits result in cross-subsidisation of lower-earning by higher-earning workers and thus, implicitly, probably cross-subsidisation of women by men.

Also important for women was the extension of coverage to domestic workers and seasonal workers. The inclusion of domestic workers for the first time could mean that up to a million women now have this protection. (Registrations to date are lower than this number, but far higher than expected by the Department of Labour.) The fact that a minimum wage for domestic workers was introduced at about the same time would tend to increase the amount that employees will earn when they become unemployed.

An additional way in which unemployment insurance is friendly to women is that it provides for maternity as well as unemployment cover. Here again the amendment of the early 2000s brought an improvement. Prior to this date, a woman who claimed maternity benefits would have had these count against her if she later applied for “ordinary” unemployment benefits. Since 2001, the two benefits are not related. In essence, this means that men’s tax deductions for unemployment insurance contribute alongside those of women to cover at least part of the reproductive burden borne by women.

The changes in the fund, together with a concerted effort to improve the efficiency of administration, have created a situation in which the fund currently has a surplus. This constitutes a weakness, as the extra money could instead of sitting in the fund be used to pay higher benefits. The reluctance to increase benefits seems to reflect extreme caution on the part of the fund’s actuaries and presumably a fear that they might put government at some risk of having to fill a gap as it used to do in the past. This, in turn, reflects the conservative overall fiscal stance of the government, and is somewhat inappropriate in a situation where government is planning for a budget surplus in 2007/08.

Tax on retirement-related income

Retirement-related taxes are covered by both the Income Tax Act, 1962 and the Tax on Retirement Funds Act, 1996. There have been significant changes over the period under review in how retirement-related income is dealt with. In March 1996, for example, a tax of 17% was introduced on retirement fund incomes. The rate was subsequently increased to 25% from 1 March 1998, but by 2006 had dropped again to 9%. The tax applies to pension, provident, retirement annuity and untaxed policy holder funds of long-term assurance companies (SARS, 2006).

A recent discussion document produced by the Department of Social Development (2007) in relation to social security reform notes that tax can be levied (or subsidies provided) on retirement money at three different points – at the point where contributions are made, on

investment earnings of the funds, and when benefits are received. South Africa currently exempts contributions from tax, and taxes both investment earnings and benefits received. The Department's document notes, however, that the tax rate on retirement fund interest earnings was decreased substantially from 18% to 9% in 2006. It observes that this change "altered the balance significantly in favour of higher income groups" (Department of Social Development, 2007: 80).

More generally, the document estimates that the subsidy of contributions provided by the South African tax regime amounted to about R17,8bn net of deferred taxation in 2005. When the subsidy on retirement investment earnings is added, the amount was R28,5bn (Department of Social Development, 2007: 11). The Department notes that this amount is far larger than the R8bn that it would cost to universalise the old age pension by removing the means test. In essence, then, government is providing far greater assistance to wealthier people in respect of provision for retirement than it would provide if it dropped subsidies and universalised the old age grant. Thus subsidies that are generally motivated on the grounds that they will encourage people to save for their own cover rather than depending on government cost more than government provision would cost.

As noted above, contributions are exempt from tax, at least up to a certain amount. For contributions, the individual can deduct up to 7.5% of remuneration or R1 750 [], whichever is the greater, when calculating taxable income. Those contributing for themselves (and who are thus perhaps not employees) to retirement annuities can deduct up to 15% of taxable income, or R3 500 less current deductions to a pension fund, or R1 750. In essence, these deductions constitute subsidisation of retirement cover for the individuals concerned.

Surveys give some idea of the extent to coverage of employees when recording those for whom employers make contributions. In the labour force survey of March 2006, employers were said to make contributions to a pension or other retirement fund in respect of 55% of male employees, as opposed to 48% of female employees. In absolute terms the differences are even greater because a smaller number of women than men are employed overall. Thus employer contributions were made in respect of 3,2m male employees versus 1,9m female employees. This suggests that subsidies in respect of pension contributions would disproportionately benefit men.

Smith argues that simply looking at the direct member of retirement funds is misleading in that, because women tend to live longer than men, older women are often dependant on the pensions of the deceased spouses. He argues that it is then women who pay deferred taxes rather than men. Smith's reminder to avoid simplistic analysis is apt, and is especially important when assessing the differential gender impact of taxes imposed at different points in the retirement funding cycle. Nevertheless, overall it is almost certainly the direct member – and men – who will be harder hit by retirement taxes and enjoy greater benefit from subsidies than women. This is so because Smith's argument depends on the man being married, the couple remaining married, and the woman surviving longer than the man.

The gender impact of deductions in respect of contributions to medical schemes would be similar to those in respect of contributions to retirement schemes and are therefore not discussed in depth. Thus in March 2006, the labour force survey found 6% of male and 5% of female employees benefiting from employer contributions to medical schemes for

themselves, 17% of male and 13% of female benefiting from contributions for themselves and dependants. The fact that men were more likely to benefit from contributions in respect of dependents suggests bigger contributions from employers, and results in bigger deductions being allowed for tax purposes. As with retirement coverage, the percentages understate the male-female difference. In absolute terms, 1,6m male employees versus fewer than one million female employees benefited from employer contributions, and thus potentially from tax benefits in this respect. The gender disparity is particularly worrying in respect of medical benefits to the extent that women tend to have greater health needs than men because of their reproductive functions. Tax benefits in respect of male contributions for dependants will assist the wives of these men, but will not assist those who are not in a relationship. Married women would also have to remain in the relationship to benefit from the arrangement. While this might seem a small point, it should not be ignored in a society in which separation rights are high, as are rates of domestic violence.

With both medical schemes and retirement funds, in the past many employers and funds would have discriminated between men and women, offering better coverage to women on the basis that they were more likely to be responsible for the financial well-being of their family whereas women were only responsible for “pin-money” (if married) or themselves. Such discrimination should no longer exist as it would be contrary to the Constitution. There might, however, be some legacy of past discrimination with retirement funds given that there could be a long contribution period that stretches back into more discriminatory times.

Value-added tax

General sales tax was introduced in South Africa in 1978, at the rate of 4%. In 1991 this was replaced by VAT. The VAT rate has remained constant at 14% throughout the period under review, but there have been some other small-ish changes made in respect of this tax.

Currently, any vendor with turnover of more than R300 000 per annum must register for VAT. Those with turnover between R20 000 and R30 000 can choose whether or not to register voluntarily, whereas those with lower turnover cannot register.

South Africa’s VAT system includes both zero-rating and exemption. With zero-rating, VAT of 0% is levied on sales, but VAT incurred in producing the good or service can be reclaimed. With exemption, no VAT is levied and no input costs can be reclaimed.

SARS (2005) lists the following goods and services as being subject to zero-rating: brown bread; brown wheaten meal; maize (maize) meal; samp; mealie rice; dried mealies; dried beans; rice; lentils; fruit and vegetables; tinned pilchards; milk, cultured milk and milk and dairy powder; cooking oil; eggs; edible legumes; petrol, diesel and illuminating paraffin; certain agricultural goods supplied to qualifying VAT registered farmers; certain gold coins issued by the S A Reserve Bank; international transport services; payments by public and local authorities to welfare organisations; exports where the vendor is liable for the transport of the goods; and services supplied outside South Africa.

The bulk of these items constitute basic foods that are important in the diets of the poor, although many are also consumed (often in larger volume) by non-poor people. The remaining items are fewer in number, but several are price items.

The inclusion of paraffin is almost certainly partly the result of analysis and advocacy undertaken by the Women's Budget Initiative. In the second year of this project, the book included a chapter on "Energy" (James & Simmonds, 1997). This chapter elaborated, among others, how use of paraffin was part of a multiple energy strategy used by poor households to meet energy needs within their budget. The chapter also compared the "weighted equity gain ratio" or zero-rating paraffin, which at that point was subject to full VAT. The estimates quoted suggested that zero-rating of paraffin would result in a R54,5m loss of revenue to government, with R11,68 gained per poorest household versus 76 cents gained per richest household. Similar calculations in respect of mealie meal and fresh milk (both zero-rated at the time) and white bread and firewood (not zero-rated) showed that for all except firewood, government's revenue lost was substantially less than for zero-rating of paraffin, while for all four other items, the gain per rich household was greater than the gain per poor household. Several years later, government announced that paraffin would be zero-rated.

SARS (2005) lists the following as VAT-exempt: financial services; road passenger transport; rental of residential accommodation; educational services in primary and secondary schools, universities and technikons; interest and life insurance benefits; pension and related institutions and medical schemes; medical services and medicines supplied by State and provincial hospitals and local authority clinics; goods or services supplied by an employee organisation to its members in return for membership contributions; and child minding services in crèches and after-school centres. The last item perhaps represents a small acknowledgement by government of the burden of unpaid care work. The fact that this item is VAT-exempt rather than zero-rated means that those (mainly women) who provide these services cannot claim input costs. The poorest providers might, however, in any case fall below the VAT threshold.

Woolard et al (2006) assumed in their analysis that consumers bore the full burden of consumption taxes and that there was no tax avoidance. They note that food, clothing and housing account for a large proportion of household expenditure in the lower deciles. Overall, they find VAT to be slightly regressive when expressed as a percentage of household expenditures, and also of household income for 1995. In 2000, it is severely regressive but the authors suggest that this is due to large mismatches between incomes and expenditure because of significant under-reporting of expenditure by the top decile and significant under-reporting of income by the bottom decile for 2000. Overall, they conclude that VAT is "essentially neutral". Hartzenburg (1996: 233), drawing on research by the Department of Finance, differs in this respect, labeling VAT as definitely regressive. For example, the top quintile of households was estimated by the Department of Finance to pay 5,4% of their income on VAT, compared to the 9,0% paid by the poorest households. Elson (2006) also states categorically that VAT is regressive.

Corporate tax

Of the sources covered by this paper, Woolard et al (2006) provide the fullest coverage of corporate tax. In this area, the lack of gender analysis is perhaps of less importance than in some other areas unless one is looking for analysis based on the gender of the owners. The latter would, in fact, be exceptionally difficult to the extent that much of the tax comes from

large corporations where ownership structures are extremely complex, and sex disaggregation of benefits would need to make heroic assumptions.

Even without this complication, a range of assumptions are needed in analysing the impact of corporate taxation. In particular, there is a need to decide who bears the burden of the tax i.e. the extent to which owners can pass on the tax to employees or consumers. In an effort to allow the reader an objective assessment of the results, Woolard et al use three different approaches, representing the extremes, in modeling the incidence of corporate tax, namely:

- ♀ The burden being passed wholly onto labour in proportion to their share of total pre-tax wages;
- ♀ The burden being passed wholly onto consumers through higher prices, and thus in proportion to a particular household's share in total consumption; snf
- ♀ The burden being passed wholly onto shareholders (owners).

In the first model, most of the tax is paid by households in deciles 9 and 10, the wealthiest households. The actual tax paid increases as corporate tax was about double in 2000 what it was in 1995, higher than increases in wages and salaries over this time. The incidence is lower for the poorer deciles because a larger proportion of income in these households comes from government grants rather than employee earnings. To the extent that women and children are disproportionately represented among grant recipients, this model suggests that if the burden is passed onto labour, corporate tax increases are relatively friendly to women.

In the second model, the lower deciles bear a larger burden than in the first model. The tax contribution as a percentage of household income is relatively constant across deciles reflecting the fact that most South African households tend to spend what they receive in (reported) income.

In the third model, most of the burden falls on the top decile. The ninth decile bears more of the burden in 2000 than 1995, which the authors suggest might reflect the growth of unit trusts. They also note a significant shift in foreign ownership of share capital from 10.4% in 1995 to 26.7% in 2000, and a decrease in private direct ownership from 52.1% to 30.5%. Some of this reflects large local multi-nationals such as South African Breweries and Anglo American moving their head offices overseas.

Between 1995 and 2000 a tax on retirement funds was introduced. This tax was treated as if the burden was borne entirely by investors in pension and provident funds. When retirement funds are included, the burden is still concentrated in the top four deciles, but with a shift to deciles 3-6. The authors suggest that this could reflect ownership by wage earners of shares in government pension funds. In South Africa, over half of all national and provincial government employees are currently female, but we do not know whether ownership of shares is equally common for women and men. Tax on retirement fund is less progressive than primary corporate tax because investment in pension schemes in the formal sector tends to be spread more evenly across deciles.

Informal sector and small business

Almost by definition, informal sector establishments are not subject to direct tax. Because the enterprise is not registered, no corporate tax is paid. Theoretically the owner should

register for tax if their income is higher than the PIT threshold. In practice, few are likely to do so and it would be difficult for the tax authorities to monitor.

Women are more likely than men to work in the informal sector. Even after excluding domestic workers and agriculture, 23% of employed women were recorded as working in the informal sector in March 2006, compared to 18% of employed men. The majority of women and men in this sector are self-employed rather than employees. The men working in this sector, as elsewhere, would tend to earn more than women and so are more likely to be liable for tax. To this extent there might be some gender bias where men are “unfairly” evading tax.

In respect of indirect tax in the form of VAT, the situation is less clear as there are both advantages and disadvantages to not being caught in the tax net. The obvious advantage is that income is not reduced by taxation, either direct or indirect. A disadvantage in respect of the indirect tax of VAT, is that refunds cannot be claimed to VAT paid on the price of inputs.

SARS is currently engaged in a major initiative to formalize at least some of the informal sector by capturing them in the tax net. One arm of this strategy has been to offer small businesses that have not been paying tax a tax amnesty. The term “small” is relative in that the amnesty is available to all businesses with an annual turnover of less than R5m in 2005. The lure involves waiving of all taxes, interest and penalties in respect of tax years before 2005. For the first period of this amnesty, which is due to come to an end in May 2007, the focus is on the massive kombi (minivan) taxi industry. The overwhelming majority of taxi operators are male, and many earn substantial amounts. This initiative could help to address some of the tax evasion noted above, but the taxi industry has proved itself notoriously difficult to regulate.

Other concessions are also offered to (registered and thus formal) “small” companies with annual gross income of R6m or less. Whereas other companies pay company tax at a flat rate of 29%, these small companies pay no tax on the first R35 000 of taxable income, 10% on any amount between R35 000 and R250 000 and only thereafter pay 29% for every R1 over R250 000. There are further concessions in respect of writing off of plant and machinery and depreciable assets. SARS also offers small retailers a simplified VAT package which does away with the requirement for detailed recordkeeping and expensive cash registers.

In addition, SARS has various other initiatives intended to encourage and facilitate tax payment for small business. These include community tax helpers who visit small businesses to help them with registration and returns, a call centre, small business help desks, and accounting and payroll packages. As of August 2005, small businesses with an annual turnover of less than R1m are allowed to submit VAT returns every four months rather than monthly.

The gender implications of these and various non-tax concessions for “small” business that the post-apartheid government has introduced are unclear. The labour force survey of March 2006 confirms that women are more likely than men to be employed in smaller enterprises. Thus, for example, 39% of men but only 31% of women were working in enterprises that had 50 or more regular workers. Government’s concessions for small business are justified

on various grounds – that these businesses are less able to afford some of what bigger business can; that these businesses are more likely to be black-owned and the concessions are thus a vehicle for black economic empowerment; and that these businesses generate jobs at a time when larger businesses may be cutting back on workers. What these arguments do not address is the issue of the quality of jobs that are created, as the concessions include some related to working conditions and wages, among others. The statistics quoted to show that small businesses generate more jobs than large also generally ignore the fact that these businesses are more volatile, and thus might lose more jobs than larger businesses. To the extent that the concessions encourage tax compliance among those who would otherwise have paid nothing, they provide more money for government and thus the possibility of better service delivery.

Learnerships

The skills development levy is a relatively new payroll tax of 1% which is borne by employers (at least in terms of direct burden). The levy was introduced on 1 April 2000 and was intended to help finance the country's major skills development strategy. The levy is payable by all employers registered with SARS for the purposes of paying employee tax as well as all employees with an annual payroll more than a specified amount. This amount was initially set at R250 000, but was raised to R500 000 as of August 2005. Employers were then exempt from the tax if their annual payroll was below this amount even if they were registered with SARS for payment of employee tax.

After the introduction of the tax there were further concessions to employers. One of the key elements of the skills development strategy is to encourage employers to take on "learners" in terms of agreements which provide – similar to apprenticeships – for a combination of practical and theoretical learning, with the practical learning to happen on the premises of the employer. Some of these learners are envisaged as being existing employees who will upgrade their skills. Others are unemployed people who are taken on for the duration of the learnership.

For the first group, the law requires that learners continue to be paid at their usual rate. For the second group, the Minister of Labour promulgated a ministerial determination that prescribed minimum allowances. (The term "allowance" was chosen in tacit acknowledgement that the levels did not constitute decent "wages".) The Employment Conditions Commission, which advises the minister in respect of such minimum wages, was persuaded to advise on lower allowances than it might have on the argument that employers had to be attracted to take on learners. Soon after this advice had been given, the Minister of Finance announced that employers taking on learners would enjoy significant tax rebates. For an employer entering into a learnership agreement with an existing employee, the allowance would be the lesser of 70% of annual remuneration or remuneration for a shorter period covered by the learnership, or R17 500. In the case of a learnership agreement with an unemployed person, the allowance would be the full equivalent of remuneration, or R25 000. A further allowance is paid in respect of completed learnerships.

If the Commission had known that these employer allowances would be introduced, the recommended allowances for learners would almost certainly have been higher. Employers have thus been doubly encouraged, with one of these enticements occurring through the tax

system. SARS (2006), meanwhile, seems to think that the enticements to employers will be increased, further benefiting employers.

The above situation represents possible inequity between employers and workers. It does not necessarily have a gender bias. The skills development strategy itself is explicit about the need for addressing gender imbalances, and has a target that aims at 54% of all learners being women, on the basis that women account for 54% of the population of the appropriate age. This target represents affirmative action to the extent that women's labour force participation rates are currently lower than those of men.

Customs and excise

Customs duties are imposed on imported goods and services. SARS (2005b) states that customs duties are intended to protect local producers rather than to raise revenue. Historically, countries have used tariffs to protect their economies from competition from goods produced in other countries. In South Africa, the apartheid-era import substitution policy also utilised tariffs in an effort to increase the country's independence from the rest of the world and protect against sanctions. Since the early 1980s, there has been pressure on all developing countries to lower and remove tariffs on the grounds that increased trade will promote growth. South Africa lowered tariffs in the early post-apartheid years even quicker, and to lower levels, than required.

Goldman (2002) suggests that women are affected by customs and excise in three ways. Firstly, they are affected as workers where they work in sectors of the economy that import or export goods. Secondly, they are affected as consumers of imported goods. Thirdly, they are affected as traders.

Goldman offers clear examples of ways in which women have been affected in respect of the first two. Reduction of tariffs has had a large, and negative, impact on the many women employed in the clothing and textile industries. Already in 1996 Hartzenburg reported that 50 000 textile jobs had been lost over a period of five years. Many more jobs were lost in subsequent years. Reduction of tariffs has also negatively affected the mainly female workers employed in the fruit and vegetable canning industry of the Western Cape. For consumers, reduction of tariffs has provided access to cheaper clothing, in particular. These cheaper goods are, however, obtained at the cost of jobs – including many female jobs – in the economy. Finally, in respect of the third possible impact, while large numbers of women work as traders in the informal sector, the impact of tariff changes on them is unclear.

Goldman also discusses what are commonly referred to as “sin taxes” – the excise taxes imposed on certain products, whether produced locally or imported, so as to encourage a reduction in consumption rather than for trade promotion purposes. Goldman quotes work by Simkins and Woolard in 2000 that suggests that excise tax is strongly regressive, with the poorest households spending 0,8% of their income on excise taxes while the richest spend 0,2%. The later work of Woolard et al (2006) finds that excise duties affect the middle deciles more than the top two deciles.

All these estimates are open to question because of unreliable data. Simkins et al (2000) suggest that the substantial under-reporting of consumption of alcohol, soft drinks and

tobacco when comparing excise duty with reported expenditure could be due, among others, to the fact that expenditure is reported by a single household member. In South Africa, women serve as household respondents for surveys more often than men. This could exacerbate the degree of under-reporting.

Goldman also compares patterns of consumption of alcohol and tobacco products across households as the male:female profile changes. She reports that in households with no adult women, or where fewer than 10% of the adults are women, 0,26% of expenditure goes on alcohol. At the other extreme, when there are no adult men, less than 0,04% of expenditure goes on alcohol.

Both Goldman and Elson (2006) argue that these patterns do not necessarily mean that sin taxes benefit women. They suggest that high prices might not discourage consumption, and might instead mean that a larger part of the household budget gets spent on alcohol and tobacco, leaving less for necessities that women want and need. There are two flaws in this argument. Firstly, it is difficult to believe that demand for alcohol and tobacco is completely inelastic and that high sin taxes will not have some discouraging effect. In a country with high rates of alcohol consumption and high rates of gender-based violence, with clear links between the two, we need every strategy we can to address these problems. Secondly, there are many women who are not living in households where men bring in the money or control it.

Wealth and property taxes

Property tax in South Africa is, for the most part, the prerogative of local government, and thus falls outside the scope of this paper. There are, however, a range of smaller taxes (in tax gain terms) that relate to property and tax. Smith (2002) notes in this respect that the Katz Commission had argued that such taxes were especially justified in South Africa given high levels of both poverty and income inequality.

Estate duties charges on the value of a deceased person's property constitute one such wealth tax. In 2006, this tax was levied at a flat rate of 20%, after a rebate (basic deduction) of R2.5m (SARS, 2006). The rate was thus lower than the 25% reported by Smith several years before, while the basic deduction was 2,5 times the previous amount of R1m. Smith suggested in his analysis that the tax would be more equitable if it was imposed at a sliding rather than flat rate and/or if the rebate were reduced. The reforms since his paper was written have made the tax less equitable.

Beyond the basic R2,5m, some further deductions are also allowed, including for property accruing to surviving spouses. This would mainly benefit women given that they generally are younger than husbands, have higher life expectancy, and are less likely than men to have property in the first place. It would, however, mainly benefit non-poor women.

Transfer duties related to buying of property constitute another form of wealth tax. Woolard et al (2006) find that transfer duty tends to affect higher deciles as they are more likely to sell dwellings and also pay a higher percentage of the value of their properties. The authors therefore conclude that this tax is 'extremely progressive'.

In 2006, no transfer duty was levied on property transfers with a value of less than R500 000, property valued at between R500 001 and R1m attracted a tax of 5% on the amount above R500 000, and property with a value of more than R1m attracted an added 8% on the amount exceeding R1m (SARS, 2006). Transfers not effected by individuals attracted 8% on the full amount.

The above rates are again much more generous than those reported by Smith a few years earlier, when there was a sliding scale of 1% on the first R70 000, up to 8% on amounts over R250 000. Smith notes that, at the time he was writing, the rates and exemptions had recently been amended in an effort to encourage home ownership among a larger number of South Africans. He suggests that this might be especially important for women, who have often experienced difficulty in acquiring property. Overall, however, property tax is likely to continue to fall more heavily on men than women, at least in terms of direct bearers of the tax burden, both because men are more likely to be able to afford to buy property and because of traditional norms which favour property ownership by men. Reductions in this tax can thus be expected to benefit men disproportionately.

A third form of wealth tax is imposed on capital gains on the disposal of assets. This tax was introduced for the first time on 1 October 2001. The maximum effective rate of this tax is 10% for individuals, 14,5% for companies, and 20% for trusts. This tax falls only on those wealthy enough to have assets to trade. It will fall more on men than women to the extent that men are more likely to own this form of wealth.

Conclusion

Elson (2006: 71) distinguishes between two areas of enquiry in relation to tax and revenue when making an assessment from a gender perspective. Firstly, one can look at the gender implications of different ways of raising revenue. Secondly, one can consider the total amount of revenue raised.

The discussion above has focused on the second element. On the first element, South Africa has performed increasingly well during the post-apartheid period, with a budget surplus predicted for 2007/08. The issue in South Africa is thus currently not about how to raise more tax, but rather about whether current tax-raising measures are “fair”.

The assessment shows that all explicit formal discrimination in the South African taxation system has been removed. Given the different positions of women and men in the labour market, in respect of income, and in terms of reproductive roles, some measures affect women more or less than men. There do not, however, seem to be major biases in the tax regime.

Perhaps the most serious issue – and one for which there is no easy answer – is how to avoid the anomaly presented by Smith, where two households with similar composition and the same level of income pay very different levels of income tax. The tax on non-standard employment is also likely to be detrimental to more women than men – and this would include poorer women.

One aspect of CEDAW where South Africa does not perform well in respect of either women or men is Article 7, which requires, among others, participation in the formulation of government policy. In the area of tax policy, the South African government provides very little space for public participation.

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