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Considering estate duty as a source of wealth tax in South Africa: an African analysis

A research report submitted to the Faculty of Commerce, Law and Management in partial fulfilment of the requirements for the degree of Master of Commerce (specialising in Taxation)

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ABSTRACT

Taxation has been employed across the world to generate government revenue, which in turn is spent on public goods and services. Income taxes, consumption taxes and taxes on assets (wealth) make up total tax revenue.

A wealth tax has been implemented in various countries through different means. Advocates for wealth taxes argue that its implementation would assist in bringing balance to societies with income and wealth inequalities. Income inequality is abnormally high in South Africa. Wealth tax is imposed in different forms: estate duty, donations tax, transfer duty and securities transfer tax. Studies have been conducted on the implementation of a wealth tax in South Africa; however, it is not considered practical.

This research report focuses on revenue collected from estate duty as an existing type of wealth tax. It is considered whether the amount of tax revenue collected can be increased through improvements in the estate duty regime, as opposed to introducing a separate wealth tax. This is determined by comparing the estate duty regime of South Africa to that of selected African countries, namely Angola, Botswana, Cameroon, Equatorial Guinea, Malawi, Morocco, Mozambique, Senegal and Zimbabwe. These African countries were selected because of their similar levels of income inequality.

Only Malawi and Zimbabwe employ estate duty, while the other selected countries employ an inheritance tax, gift tax or transfer tax. The observed trend in the death tax regimes of the chosen countries was the relationship between the deceased and receiver of the estate/assets playing a role in the determination of the tax rate levied. South Africa’s estate duty regime does not consider this relationship. A potential adoption from the African death tax regimes would be to simplify the estate administration process.

Key words: Wealth tax, income inequality, estate duty, death duty, tax administration, Africa, inheritance tax

DECLARATION

I declare that this research report is my own unaided work. It is submitted in partial fulfilment for the degree of Master of Commerce (specialising in Taxation) at the University of Witwatersrand, Johannesburg. It has not been submitted for any other degree or examination in any other university.

Kanushka Venketsamy

Kanushka Venketsamy

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DEDICATION

Thank you to my friends and family for all the support and cheerleading.
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ABBREVIATIONS AND ACRONYMS

Abbreviation/Acronym	Meaning
BRICS	Brazil, Russia, India, China and South Africa
BURS	Botswana Unified Revenue Service
CGT	Capital gains tax
NDP	National Development Plan
OECD	Organisation for Economic Co-operation and Development
SARS	South African Revenue Service
VAT	Value-Added Tax

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1. INTRODUCTION

1.1 Background

"The art of taxation consists in so plucking the goose as to obtain the largest possible amount of feathers with the smallest possible amount of hissing."

This quote by Jean Baptiste Colbert supports the modern purpose of taxation. Taxation is levied by a government on its citizens, in order to collect as much revenue as possible, which in turn is used to fund government expenditure, including the provision of public services (Aamir, Qayyum, Nasir, Hussain, Kahn & Butt, 2011; Kay, 1986).

Rental amounts paid in favour of land and natural resources were the primary source of government revenue until the 17th century. Thereafter, recurrent taxation emerged. During the 18th century, the Physiocrats[1] found that the sovereign collected revenue through '*impôt unique*' or 'unique tax'. This revenue was paid to the sovereign by landowners for protection of their deeds, and in turn funded public expenses (Dwyer, 2014:664-665).

Very little tax revenue could be collected before the Industrial Revolution, due to slow economic growth, differences in classes (peasants versus landowners), limited demand for spending, as war served as the major source of spending, and difficulty in the collection of taxes. The emergence of the Industrial Revolution called for an increased demand for infrastructure and education, which led to an increase in spending by the state. An increase in tax revenue was required to fund this spending. From the 19th century onwards, the evolution of democratic organisations also aided in increased tax revenue (Kiser & Karceski, 2017).

Early tax systems levied taxes on individuals, land, production and trade goods (either internally or externally). Individuals of higher classes, such as landowners and aristocrats, received various tax exemptions, resulting in tax systems becoming inherently regressive[2]. These individuals contributed more towards direct taxes, while

[1] The Physiocrats were a group of economists from France who developed the economic theory of Physiocracy. They believed that all wealth originates from land.

[2] Regressive taxes affect lower-income classes more than higher-income classes, as the tax burden is higher on the lower-income classes.

peasants contributed to indirect taxes, which are regressive in nature. The establishment of income tax contributed significantly to balancing out tax structures by strengthening progressivity (‘estate and capital taxes’ also played a role in this). This change was led by Britain (Kiser & Karceski, 2017).

Income tax ensured greater tax revenue collection because of its direct connection with economic production, i.e. an increase in economic growth would produce a greater amount of tax revenue. For this reason, most European economies had implemented income tax by 1920 (Garcia & Von Haldenwang, 2016; Kiser & Karceski, 2017).

Modern tax systems collect tax revenue through three types of tax, namely, income tax, consumption tax or tax on assets (wealth). Tax on income, also referred to as income tax, is the tax that an individual pays on all taxable income earned during a defined tax period (SARS, 2023b). In contrast, tax on consumption is imposed when an individual spends money, such as value-added tax (VAT) and excise taxes (Wiesenfeld, 2023). A wealth tax is a tax on the net assets of an individual (Matobela, 2012), and is implemented to focus on two main needs: creating additional tax revenue and addressing societal inequalities (Arendse & Stack, 2018). These inequalities usually flow from the labour market, relating to income inequality (Skopek, Buchholz & Blossfeld, 2014).

Income inequality arises through the uneven distribution of income in a society. It increases as the uneven distribution of income increases. Wealth inequality, which is the inequitable distribution of wealth, usually occurs with income inequality (Kopp, 2023). Income inequality is measured via statistical means through the Gini coefficient, which ranges between zero and one. The closer a country’s Gini coefficient is to one, the higher the income inequality (Valodia, 2023).

South Africa’s tax system was developed to redistribute income, thereby increasing investment opportunities (National Treasury, 2001). However, South Africa has the highest rate of income inequality, as well as a growing budget deficit (Arendse & Stack, 2018; Chatterjee, Czajka & Gethin, 2021; Valodia, 2023), with a Gini coefficient of 0.63 (Valodia, 2023; World Population Review, 2023). Further to that, South Africa’s wealth inequality is higher than income inequality (Awuah, 2019). This is due to the fact that the tax system is inherently regressive. The implementation of a wealth tax may have been a potential solution to these issues. Proponents feel as though additional and diverse revenue can be generated through a net wealth tax, which will also decrease the wealth inequality gap. However, opponents consider the high administration costs, as well as the risk of capital flight (Awuah, 2019).

In South Africa, a specific wealth tax does not exist (Ostler, 2012). Wealth is currently taxed through transfer duty in terms of the Transfer Duty Act 40 of 1949 (Transfer Duty Act), estate duty in terms of the Estate Duty Act 45 of 1955 (Estate Duty Act), and capital gains tax (CGT) and donations tax, governed by the Income Tax Act 58 of 1962 (Awuah, 2019; Ostler, 2012).

Research has been conducted on the implementation of a wealth tax in South Africa. The wealth tax may contribute to increased tax revenue and decrease wealth inequality between the rich and the poor. However, a wealth tax could cause wealthy individuals to move their capital offshore and may encourage tax evasion. Administration costs of a wealth tax are also considered to be high (Matobela, 2012:77). The improvement of estate duty could be a potential solution to collecting the maximum amount of revenue while preventing tax evasion.

The South African estate duty regime is compared to that of other countries in the hopes that improvements can be adopted to combat its shortcomings. A potential group comparison would be the BRICS countries. However, Brazil and South Africa are the only countries with an estate duty regime. Russia and China have never implemented an estate duty regime and India abolished its regime in 1985 (Thorpe, 2015). The BRICS countries are not suitable for analysis, so another basis must be adopted for identifying comparative countries.

The Gini coefficient could be considered. As previously stated, South Africa holds the highest Gini coefficient in the world at 0.63, while Slovenia has the lowest at 0.246. Income inequality in Europe is lower than in other regions across the globe, while the United States' Gini coefficient is 0.411. Other countries with high Gini coefficients include Namibia, Zambia, Mozambique, Botswana and Brazil (Davis Tax Committee, 2018:8-14; World Population Review, 2023).

Given the differences in Gini coefficients and therefore income inequality across the world, South Africa's estate duty regime would need to be compared to countries with similar income inequality. African countries show high Gini coefficients (refer to Table 1); however, not all African countries levy estate duty or an inheritance tax. There is also very little research completed on the estate duty/death tax regimes of African countries. Therefore, this research report discusses and compares the estate duty frameworks of Angola, Botswana, Cameroon, Equatorial Guinea, Guinea, Malawi, Morocco, Mozambique, Senegal and Zimbabwe.

Table 1: Gini coefficients of African countries

Country	Gini coefficient	Year of data collection
Angola	0.513	2018
Botswana	0.533	2015
Cameroon	0.466	2014
Equatorial Guinea	-	-
Guinea	0.483	2018
Malawi	0.385	2019
Morocco	0.395	2013
Mozambique	0.505	2014
Senegal	0.383	2018
South Africa	0.630	2014
Zimbabwe	0.503	2019

Source: World Population Review (2023)

1.2 Purpose and approach

The purpose of this research report is to compare the estate duty regime of South Africa to that of the following African countries: Angola, Botswana, Cameroon, Equatorial Guinea, Guinea, Malawi, Morocco, Mozambique, Senegal and Zimbabwe. The intention of this comparison is to identify possible improvements that the South African estate duty regime can adopt, in its function as a wealth tax.

1.3 Research method and design

A thorough literature review as a qualitative method was used in this research report. The Estate Duty Act was analysed as was the relevant tax legislation in the aforementioned African countries. Published journal articles were also examined.

1.4 Delimitations

With the focus on estate duty, other forms of wealth tax in South Africa were not considered in this report (donations tax, securities transfer tax and transfer duties). The influence of property taxes, indirect taxes (consumption taxes) and income tax was not researched. Wealth taxation was the only tool investigated to reduce income and wealth inequality. The entire estate administration process in South Africa was not considered.

1.5 Research question and chapter outline

1.5.1 The research question

This report seeks to address two interrelated questions:

1. Does South Africa’s estate duty function as a wealth tax?
2. How can South Africa’s estate duty be amended to address wealth inequality by considering the estate duty/death tax regimes of other countries within Africa?

This research report conducted a comparative analysis of the estate duty regimes as a source of wealth tax across multiple African countries, in relation to South Africa’s. South Africa’s Estate Duty Act was examined, as well as the Estate Duty/death tax Acts of the aforementioned African countries. Published journal articles were analysed to determine possible issues with South Africa’s Estate Duty Act, and to look for potential solutions that can be adopted from other African countries.

1.5.2 The sub-questions

To address the above research questions, various sub-questions are considered:

- What is wealth tax and how can it be implemented?
- What is Estate Duty in South Africa and how does it contribute to tax revenue?
- How is Estate Duty levied in other African countries?

- Are there improvements that can be made to the Estate Duty framework in South Africa?

Explanations of the sub-questions are included below.

The first sub-question addresses the notion of a wealth tax and its implementation. The purpose of a wealth tax or types of tax that serve as a form of wealth tax are investigated, as well as its implementation in various countries. The possible implementation of this tax within South Africa is examined, and possible advantages and disadvantages are identified.

The second sub-question examines South Africa’s estate duty regime and how much it contributes to tax revenue annually. The mechanisms of this regime are analysed, such as the percentage of estate duty levied on a deceased estate and possible abatements. Thereafter, the proportion of revenue that estate duty contributes to total annual tax revenue is deduced. Possible issues within the regime are identified through an analysis of the legislation.

The third sub-question analyses the estate duty/death tax regimes of other African countries. This includes determining the percentage of estate duty or death tax levied upon death, abatements and methods of tax collection. This investigation identifies differences between the other African countries’ regimes and South Africa’s.

The fourth sub-question determines if there are improvements that the South African estate duty regime can adopt from its African peers. This synthesis is done by comparing the estate duty regime of South Africa to those of the other selected African countries.

1.5.3 Chapter outline

This research report consists of five further chapters, delineated below.

In chapter 2, wealth taxes are introduced and explored. This includes different forms of wealth tax and their implementation in various countries. The views of proponents and opponents are considered. The manner in which wealth is taxed in South Africa is also determined.

The focus of chapter 3 is the estate duty regime of South Africa. The chapter analyses the legislation to determine the calculation of estate duty and possible abatements for individuals. Problems within the regime are also identified.

Chapter 4 examines the estate duty regimes of the African countries indicated above. The reasons for the choice of these African countries are discussed and an explanation of each framework is provided.

Chapter 5 compares South Africa’s estate duty regime with those of the selected African countries. It determines if South Africa’s regime can adopt any improvements from these regimes.

Chapter 6 is the concluding chapter. It summarises the findings of the research and determines if the research question has been answered. Areas of further research are also identified.

2. A GENERAL DISCUSSION OF WEALTH TAXES

2.1 Introduction

Citizens of a country are required to pay taxes in exchange for public services, such as military services and infrastructure. These taxes can be split into four categories: income, consumption, wealth and other. Consumption taxes are regressive, where the tax burden is felt more by low-income earners than high-income earners. Income and wealth taxes are progressive in nature, as the tax burden falls more on high-income earners (Limberg & Seelkopf, 2022).

The focus of this chapter is wealth taxes. Wealth can be taxed in various forms, such as the transfer of wealth (e.g., estate duty), the sale of wealth (capital gains tax) or actual wealth held (a tax on net wealth). This chapter will discuss each of these forms.

Wealth and income inequality are growing concerns that most countries in the world are experiencing. The use of wealth taxes has been debated for many years. Its main function and the reason for its creation is to combat these inequalities. The first appearance of a wealth tax was in 1892 in the Netherlands, as a tax on net wealth (gross assets less gross debts) (Limberg & Seelkopf, 2022). Currently, there are only four countries that levy a wealth tax in the OECD (Organisation for Economic Co-operation and Development) region, these being France, Norway, Spain and Switzerland (Scott, 2022).

The Davis Tax Committee was tasked with investigating the possible implementation of a wealth tax in South Africa because South Africa does not impose a tax on net wealth. In place of this, South Africa levies a tax on wealth through donations tax, estate duty, securities transfer tax and transfer duties. Each of these taxes will be examined.

This chapter will sum up the debate between the advantages and disadvantages of wealth taxes and determine if their implementation is suitable in the South African tax system.

2.2 Wealth vs. income

The Merriam-Webster dictionary (2024) defines wealth as having a bounty of objects of value or resources, or all marketable property that can be traded for money. In relation to finance, wealth refers to the value of an individual's net assets at one point in time (total wealth less total debt) (Davis Tax Committee, 2018:12). In contrast, income is an individual's earnings over a certain period of time (Collocott, 2024).

Wealth comes in different forms, for example, financial assets, properties (real estate) and other objects with high value. Income is received in the form of salaries, wages, interest and property sales (Collocott, 2024; Domhoff, 2011).

Since wealth and income differ, their methods of taxation also differ. Income from salaries and wages, as well as interest and dividends, are taxed via income tax. Wealth can be taxed in various ways. A wealth tax is levied on an individual's market value of their net worth (assets less liabilities) (Collocott, 2024; Scott, 2022). A wealth transfer tax is levied on the transfer of wealth from one individual to another, and capital gains tax is levied when an asset is sold (Collocott, 2024).

2.3 Importance of wealth and wealth and income inequality

There are two actions that produce wealth, these being increasing the amount of income received, and deciding how to use this additional income, i.e., saving and investing. An individual may also gain wealth through inheritance (Black, Devereux, Landaud & Salvanes, 2020:2).

Wealth is good for a country because it stimulates economic growth, through wealth equity. This is a situation where individuals generate wealth in the short- and long-term. This is positive for an economy because of its effect on economic growth. If individuals become wealthier, they tend to spend more on goods and services. This, in turn, stimulates economic growth and is known as the 'wealth effect' (Ricketts & Kent, 2023).

Wealth equity can also support the economy positively during different economic periods, like downturns and expansions. During downturns, wealthier individuals are less reliant on government support, such as unemployment support; during expansions, the wealth effect stimulates greater consumption and investment. An investment in education would also drive economic innovation, and wealth equity would allow for this (Ricketts & Kent, 2023).

Although wealth equity positively stimulates an economy, the converse is the actual experience in most countries. Wealth inequality is high in most regions of the world. This can also be seen through the global decrease in progressivity of various tax systems (Davis Tax Committee, 2018:12).

When the distribution of wealth and income in a country is unequal, it leads to wealth and income inequality. Income inequality increases when a higher amount of average income is distributed to higher- rather than lower-income classes. The main contributing factor of income inequality is the uneven distribution of income, while other factors are international trade and technological changes. These other factors are not discussed further in this paper. Wealth inequality works in a similar way, where more wealth is held by higher income classes (Schaeffer, 2021). The international distribution of wealth has become extremely unequal, as the wealth-to-income ratio has doubled since the 1970s (Piketty & Zucman, 2014, cited in Davis Tax Committee, 2018:12).

The Gini coefficient is used to determine the extent of income inequality within a country. If a country has a Gini coefficient of zero, it means that there is ‘perfect equality’, while a Gini coefficient of one exhibits ‘complete inequality’ (Dyvik, 2024; Schaeffer, 2021).

Inequality within a society needs to be rebalanced. Some individuals feel that wealth taxes may be a tool to aid in this rebalance. Thomas Piketty (2014) argued in his book, *Capital in the Twenty-First Century*, that a wealth tax would redistribute income by targeting high-income earners and taxing them at excessive income tax rates. His main belief for wealth inequality was that eventually the return on capital would grow faster than the growth of the economy (Davis Tax Committee, 2018:15).

Piketty’s primary model of a wealth tax involves levying (Schuyler, 2014):

- 1% of tax on net assets valued between $1.3 million and $6.5 million

- 2% of tax on net assets valued higher than $6.5 million

Piketty notes that introducing a wealth tax would have many advantages to society as a whole, such as increased revenue to fund government spending, decreased income for high-income earners, and a positive effect on economic growth; or no effect at all, i.e. no disadvantages (Schuyler, 2014).

Piketty also believed that the enforcement of the wealth tax would be difficult, as wealth-holders would seek to hide most of their wealth. His recommendation to governments and financial institutions is to increase the reporting of financial information and to increase enforcement of taxes. He also suggested that the wealth tax should be levied on a global scale (Schuyler, 2014).

After using the taxes and growth model to test Piketty's theory and determine the effect on the economy in the United States, the Washington Tax Foundation found that the implementation of an excessive wealth tax would not improve the economy. The study used a rate of 50% to 60% on starting income of $200 000, and 80% for income between $500 000 and $1 million. It found that capital stocks, wages and the gross domestic product would all drastically decrease in several years, and millions of jobs would be lost. Although the low- and middle-income earners would not be directly taxed with the wealth tax, they would feel the effects of this through decreased net income (Schuyler, 2014).

Other issues with Piketty's theory include increased tax paperwork, as all individuals would be required to have all their assets (from jewellery to furniture) noted. This would potentially lead to tax evasion as taxpayers would aim to hide their wealth. The government would experience higher administrative costs as it would need to investigate ways to enforce the wealth tax. Taxpayers may also not have available cash to pay a wealth tax if most of their wealth is wound up in their illiquid assets, such as land (Schuyler, 2014). Lastly, it is unethical for government policies to redistribute income. Policies that protect individuals and the income they earn should be put forward (Simpson, 2009).

2.4 Types of wealth taxes

Wealth can be taxed through a general wealth tax or through other forms of tax. These include estate duty, donations tax, securities transfer tax and transfer duty.

2.4.1 Estate duty

Estate duty is tax on the transfer of wealth and is imposed on the deceased estate of an individual. In South Africa, this tax is governed by the Estate Duty Act No. 45 of 1955. The deceased estate is the sum of all local and foreign assets, less local and foreign debts, as well as all property deemed to be that of the deceased on the date of passing. After the necessary deductions are made, an abatement is allowed, which further decreases the total amount of the deceased estate. Once the amount of estate duty has been calculated, the executor of the estate is required to make payment (SARS, 2023a). Further detail is provided in Chapter 3.

2.4.2 Donations tax

Donations tax is imposed on properties or rights gratuitously transferred from one individual to another, and does not always constitute money The Income Tax Act No. 58 of 1962 (Income Tax Act) governs donations under section 18A, which relates to the deduction of donations made to non-profit organisations. Section 54 of the Income Tax Act sets out the procedure to follow when calculating donations tax on the transfer of an asset from one taxpayer to another. Donations tax can either be paid by the donor or donee (Oberholzer, 2004).

2.4.3 Securities transfer tax

This tax is imposed when there is a transfer of shares or member's interest (within a close corporation) and is governed by the Securities Transfer Tax Act No. 25 of 2007 and the Securities Transfer Tax Administration Act No. 26 of 2007. These Acts provide rules for both listed and unlisted securities (SARS, 2021). The issuer of unlisted securities is liable for the securities transfer tax. However, the purchaser of shares is liable for securities transfer tax (Derfoldy, 2020).

2.4.4 Transfer duty

Transfer duty is levied on property value and is governed by the Transfer Duty Act No. 40 of 1949. As defined in the Transfer Duty Act, property comprises land, land rights, mineral rights, and shares in property residential companies or share-block companies. Usually, the purchaser of fixed property is liable for the transfer duty, unless stated otherwise (SARS, 2023c).

2.5 Advantages of a wealth tax

Equity within a society can be stimulated through the implementation of a wealth tax (Fuest, Neumeier, Stimmelmayr & Stöhlker, 2018).

The consideration of a wealth tax is an old argument that many economists and members of government have battled with (Adams & Miller, 2021). The constitutionality of a wealth tax needs to be considered, by determining if it is a direct tax and apportioned accordingly (Glogower, 2019:720). When considering the implementation of any type of tax, two factors need to be contemplated – will the tax satisfy the goals of society, and will it accomplish this more successfully than its alternatives (Adam & Miller, 2021)?

Proponents believe that a wealth tax is more equitable when levied in combination with income tax, rather than taxing income in isolation (Scott, 2022). This relates to horizontal equity, which is imposing tax equally on taxpayers with equal tax capacity. In the same breath, a wealth tax also encourages vertical equity, imposing higher tax rates on taxpayers with higher tax capacities. This creates a progressive tax system. The use of a wealth tax will also convey to low- and middle-income earners that they are not the only taxpayers who have to surrender much-needed income (Evans, 2013).

Other than boosting equality, a wealth tax could aid government funding by providing increased tax revenue (Glogower, 2019:717). This also occurs because the tax base is increased. The tax base is the sum of taxable income that a tax rate is imposed upon (Van den Heever, 2019).

In line with the above, a wealth tax will ensure that assets are being used efficiently. A taxpayer may not use an asset and will not generate income, and therefore will not be liable for income tax. However, a wealth tax would mean that that taxpayer is still liable for tax on the asset itself. The imposition of a wealth tax would result in taxpayers using their assets more productively to generate revenue, or selling their assets to individuals who will (Evans, 2013).

Administratively, a wealth tax will assist tax authorities in preventing tax evasion. Data can be collected on inheritances and donations received and reviewed against investments made (Evans, 2013).

2.6 Disadvantages of a wealth tax

Although there are various arguments for the imposition of a wealth tax, there are also strong arguments against its use.

Taxing the wealthy can have minimal effects on these individuals, as they may not experience any negative change in their quality of life (Scott, 2022). This is because they do not tax the surplus of returns, but rather tax normal returns at higher tax rates (Adam & Miller, 2021).

According to Adam Smith, taxes should hold four maxims: equality, certainty, convenience and efficiency (Coutinho, 2001).

Firstly, although wealth taxes may encourage horizontal equity, the end result is the creation of horizontal inequity due to tax exemptions on some assets. Wealthy taxpayers would also have access to professionals who would aid in decreasing their tax liability, and potentially avoiding wealth tax as a whole. Thus, not all taxpayers experience equal treatment as the tax burden is pushed onto low-income earners who cannot afford tax advice (Davis Tax Committee, 2018:34).

Secondly, wealth taxes are not certain, as a tax should be. This is influenced by various factors such as date of valuation, method of valuation, the rate of inflation and death (Davis Tax Committee, 2018:35).

Thirdly, a tax on wealth could create possible loopholes. In order to prevent this, the respective legislation would need to be comprehensive and include all possible rules on how to levy this tax. This would create a more complex tax system. Another factor influencing the convenience of this tax is the ability of taxpayers to make payments. Taxpayers may have a high value of non-cash assets, and an insufficient amount of cash to pay this tax (Adam & Miller, 2021; Davis Tax Committee, 2018:36; Scott, 2022). Opponents also believe that economic growth will be negatively impacted, as it is driven by amassing wealth. This could happen in two ways. Taxpayers would be less inclined to invest their money (Davis Tax Committee, 2018:11), and this would negatively affect entrepreneurship, through the accessible capital used in business start-ups. Successful entrepreneurs would also experience a decrease in their net returns (Hansson, 2008).

They also argue that the administration of a wealth tax is costly and time-consuming. The difficulty arises in confirming the market values of assets that are considered fair, as this will lead to arguments between a tax authority and taxpayers. This is because it will be difficult to value the true wealth of an individual. Taxpayers may not disclose the full value of their wealth, as it would be easy to conceal the value of jewellery, for example, and this also creates a compliance problem (Evans, 2013). The variations in determining these values may also encourage tax evasion among the wealthy. (Adam & Miller, 2021; Scott, 2022). Tax authorities could potentially exempt specific items to encourage full disclosure and compliance amongst taxpayers, although this will affect the tax base, as not all wealth will be taxed (Evans, 2013).

The implementation of a wealth tax is also influenced and affected by other taxes. If income is suitably taxed and an inheritance tax is present in the system, the imposition of a wealth tax may not add much more revenue and will result in higher expenses incurred (Boadway & Pestieau, 2018).

Finally, capital flight could also affect the economic activities of a country. If taxpayers are taxed on their worldwide income, the movement of most of their wealth to offshore investments would still cause them to be liable for a wealth tax. In order to avoid this, these taxpayers may look to gain citizenship in countries without a wealth tax, thus removing their capital from an economy. Furthermore, the imposition of wealth tax in a country would prevent foreign investment, as foreign individuals would want to avoid a wealth tax on their foreign investments (Glennerster, 2012).

2.7 International wealth tax

Tax systems around the world differ from country to country for multiple reasons, such as historical influences, international influences on the local economy and social standards. Tax systems have also become less progressive, causing rapid growth in after-tax income inequality (Boadway & Pestieau, 2018).

In the 1990s, 12 countries administered a general wealth tax. There are now only four OECD countries that collect a general wealth tax, these being France, Norway, Spain and Switzerland (Scott, 2022). However, the interest in wealth tax is increasing due to income inequality present in most OECD countries. This increase in wealth concentration, visible in Europe, is either due to the natural growth of economies, or globalisation which impedes the increase of wages of lower- and middle-income individuals (Boadway & Pestieau, 2018). The reason for this impediment is that globalisation demands more of higher-skilled workers, decreasing the demand for lower-skilled workers. Therefore, wage inequality increases, as the wage gap between the two groups of workers expands (Betrán, Ferri & Pons, 2007). The total contribution of wealth taxes is only 1% of total tax revenue in the OECD countries (Evans, 2013).

Other European countries that had a wealth tax (Arendse & Stack, 2018; Evans, 2013):

- Iceland repealed its wealth tax in 2006, and then reinstated it in 2010 for a short period of time. The wealth tax was initially repealed due to a tax reform policy, and then reinstated in 2010 to aid in the generation of tax revenue following the international financial crisis in 2008. The amount of revenue generated was insignificant and ultimately the wealth tax was abolished due to the fear of capital flight. A flat rate of tax was charged on capital returns as the wealth tax replacement.
- Spain repealed its wealth tax in 2008, and then reinstated it in 2011. Like Iceland, this reinstatement was done to generate increased tax revenue due to the financial crisis of 2008.
- In 2013, Cyprus introduced a type of wealth tax, where tax is levied on savings held in a bank account.

With regards to developed countries, specifically the OECD countries, the imposition of a tax on death (estate duty) or a gift tax (donations tax) has decreased over the years. In the 1960s, all the OECD countries had a wealth transfer tax. The number of these countries offering a wealth transfer tax decreased to 21 out of 24 OECD countries by 1999. This number further decreased to 23 out of 30 by 2010. In the United Kingdom and the United States, the idea of taxing the deceased estate (death tax) has declined, while taxing the successors of a deceased estate has increased (Evans, 2013).

Developing countries share the same pattern as the developed countries, in that most developing countries have repealed wealth transfer taxes. A handful of these countries impose either a tax on net wealth or a tax on the transfer of wealth. Sri Lanka, Bangladesh, Pakistan and Indonesia are some developing countries that have repealed their wealth transfer tax is (Evans, 2013).

The United States levies two forms of a wealth tax, property and estate taxes. There are potential plans to introduce a tax on net worth for households and trusts valued at $50 million or more, fueled by U.S. Senator Elizabeth Warren (Scott, 2022).

The reasons for the abolishment of wealth taxes around the world include increased administrative costs and increased offshore investments, which negatively impacts economic growth. Other issues with wealth taxes are discussed in section 2.6.

Although a tax on net wealth is still used in some countries, most countries around the world levy a tax on wealth through wealth transfers. These either occur as a donation or as a result of death. This research report focuses on wealth transfer taxes levied upon death.

2.8 Wealth tax in South Africa

Although South Africa has a progressive tax system, its Gini coefficient for income inequality has increased since 1994 (Koekemoer, 2023). The National Development Plan (NDP) is determined to decrease inequality through a decrease of the Gini coefficient, from 0.69 to 0.6. This goal is to be achieved by 2030 (Davis Tax Committee, 2015:12). The wealth inequality present in South Africa is higher than its income inequality, with a Gini coefficient of 0.9 (Davis Tax Committee, 2018:14).

In 2016, the Minister of Finance asked the Davis Tax Committee to investigate the imposition of other taxes on net wealth, and the practicality of these taxes (Davis Tax Committee, 2018:8), as this might assist with income and wealth distribution.

The tax base within South Africa can be separated into four groups: income, consumption, wealth, and other tax bases. The income tax base comprises income tax for both individuals and corporates, dividends tax and capital gains tax. These taxes are governed by the Income Tax Act No. 58 of 1962. The consumption tax base is made up of the money spent on goods and services, such as VAT, various levies and excise duty. The Value-Added Tax No. 89 of 1991 and the Customs and Excise Act No. 91 of 1964 govern these taxes. The wealth tax base includes the value of properties and other assets, taxed via estate duty, donations tax, securities transfer tax and transfer duties. The final tax base includes taxes such a payroll tax e.g., the skills development levy (Davis Tax Committee, 2018:8; Van den Heever, 2019).

Donations tax is levied when a property is given away via a donation. Transfer duty is payable when a property is purchased. Estate duty is levied on an individual’s estate upon their passing. Securities transfer tax is incurred on the amount of security that has been transferred (Van den Heever, 2019).

In the 2016/2017 tax year, the collection of wealth taxes only represented 1.4% of the total tax revenue (National Treasury & SARS, 2017, cited in Davis Tax Committee, 2018:9). Although this figure is low, OECD countries also collect a smaller portion of wealth taxes in comparison to other taxes (OECD, 2017, cited in Davis Tax Committee, 2018:9).

The SARS statistics for the 2020/2021 tax year suggested that inequality could be addressed by increasing indirect taxes (such as VAT), rather than direct taxes (such as wealth taxes) (Koekemoer, 2023). In line with this, the Davis Tax Committee (2018:9-10) has suggested that the enhancement of the donations tax and estate duty frameworks would aid more in decreasing the wealth gap, rather than imposing additional types of wealth taxes. This is because donations tax and estate duty function

as wealth taxes within the South African tax regime and amending these frameworks would lead to the goal of increased revenue collection.
It can be said that South Africa does not employ a general wealth tax, but taxes wealth in different forms. This research report will focus on estate duty as a form of wealth tax, which is governed by the Estate Duty Act No. 45 of 1955.

2.9 Conclusion

Wealth and income have different definitions, and therefore are taxed differently. Wealth includes financial assets and properties, while income is made up of salaries, wages, interest and property sales. Income is taxed via income tax, while wealth can be taxed through a transfer (such as on death or through donations) or on its net value (Collocott, 2024; Domhoff, 2011).

Wealth is important to the local and global economy because of the wealth effect – the wealthier individuals are, the more they spend (Ricketts & Kent, 2023). In a perfect economy, wealth equity can be achieved. However, wealth inequality, and income inequality, is prevalent in most economies around the world.

Wealth and income inequality are created when a higher amount of wealth and income are held by the wealthier income classes in a society. These inequalities are measured using the Gini coefficient. The higher a Gini coefficient is, the higher inequality is (Dyvik, 2024; Schaeffer, 2021).

Individuals have stated that a rebalance is required to lower wealth and income inequalities. Thomas Piketty posited that a wealth tax could bring about this rebalance, by taxing the net amount of assets and debts. In addition to this, it would increase tax revenue that would aid in government spending, and also encourage economic growth. Studies have found that Piketty's model of a wealth tax would bring about high administrative costs, will promote tax evasion and may not increase tax revenue as taxpayers may be illiquid (Schuyler, 2014).

Although a general wealth tax may not have the desired benefits, there are different forms of wealth taxes present in economies:

- Estate duty, or a death tax, is levied when the deceased estate moves wealth to their successors (SARS, 2023a).
- Donations tax is a tax on the transfer of wealth from one individual to another (Oberholzer, 2004).
- Securities transfer tax is levied on the transfer of unlisted and listed securities (SARS, 2021).
- Transfer duty is levied on the purchase of a fixed property (SARS, 2023c).

Proponents of a wealth tax believe that it encourages horizontal and vertical equity. Horizontal equity is established by levying a wealth tax in combination with income tax. Vertical equity aids in creating a progressive tax system because taxpayers with greater income will be taxed at higher rates. In line with Piketty's belief, a wealth tax will generate more tax revenue because of the increase in the tax base. There will also be more efficient use of assets and tax evasion can also be avoided through increased data collection (Glogower, 2019:717; Scott, 2022).

In contrast, opponents state that wealth taxes do not follow three of the four maxims of taxation submitted by Adam Smith, these being equality, certainty and convenience. Firstly, the relevant tax legislation may provide exemptions on specific assets, thereby discouraging horizontal equity. Wealthy taxpayers also have access to professional tax advice and could decrease their tax liability through this. Secondly, wealth taxes also create uncertainty through factors such as valuation and inflation. Lastly, wealth taxes are not convenient for taxpayers. This is because of the complex legislative requirements behind wealth taxes, and because taxpayers may not have sufficient liquid assets to settle their tax liability. They may need to sell other assets to cover this liability (Adam & Miller, 2021; Davis Tax Committee, 2018:34-36; Scott, 2022).

Opponents also believe that economic growth will be negatively affected through capital flight and the discouragement of entrepreneurship. In terms of capital flight, individuals may seek citizenship in countries without a wealth tax, thereby taking their capital with them. In terms of entrepreneurship, there will be less capital available in the economy for business start-ups (Hansson, 2008).

Finally, the imposition of a wealth tax will demand high administrative costs incurred by the valuation of wealth and enforcement of the tax (Evans, 2013).

Wealth taxes have been popular around the world during certain time periods. During the 1960s, all OECD countries imposed a wealth transfer tax. By 1999, this number decreased to only 21 of the 24 member countries. In 2010, there was a further decrease in this number. Currently, only four OECD countries levy a wealth tax: France, Norway, Spain and Switzerland. Countries in developing regions of the world have followed similar patterns, as most have abolished their wealth tax. However, its popularity is increasing once again due to income inequality. The OECD countries are seeing an increase in the concentration of wealth because of globalisation (Boadway & Pestieau, 2018; Evans, 2013). This is due to the widening of the wage of gap between higher- and lower-skilled workers (Betrán, *et al*., 2007).

Tax is collected via four sources in South Africa – on income, consumption, wealth and other sources. Income tax consists of personal and corporate income tax, dividends tax and interest. Wealth is taxed by means of estate duty, donations tax, securities transfer tax and transfer duty. Consumption is taxed by means of VAT and excise duty, while other sources include payroll taxes.

The Davis Tax Committee found that the reduction in the wealth gap would be better aided by enhancing the donations tax and estate duty regimes of South Africa, rather than levying a general wealth tax (Davis Tax Committee, 2018:9-10). This research report focuses on examining the Estate Duty regime and determining the areas of potential improvement.

3. A DISCUSSION OF SOUTH AFRICAN ESTATE DUTY

3.1 Introduction

South Africa's wealth transfer tax, estate duty, is governed by the Estate Duty Act No. 45 of 1955. This tax is levied on the net wealth of an individual who has passed away.

The initial wealth transfer tax in South Africa consisted of succession duty and estate duty which made up the death duties. Succession duty would be levied on different parts of the deceased estate that were being transferred to the successors, while estate duty would be levied on the entire deceased estate. This split between the two duties also separates who was liable for the tax. The successors were liable to pay succession duty, and the deceased estate was liable for estate duty (Kahn, 1946:81, cited by Bornman, 2010:9-10; Spafford, 1968).

In 1922, the Death Duties Act No. 29 of 1922 (Death Duties Act) was introduced to ensure that the same rate of death duties was being applied across the country, as each of the four polities at the time were levying different rates of death duties (Kahn, 1946:85, cited by Bornman, 2010:10).

In 1955, the Death Duties Act was abolished and replaced by the Estate Duty Act. The reason for this was to create more equity in the tax system by taxing the wealthy. Equity is one of the four principles of taxation set out by Adam Smith (Bornman, 2010:18).

Equity can be split into horizontal and vertical equity. Horizontal equity refers to the taxation of individuals in line with their income, while vertical equity carries the view that individuals who earn more should pay more tax (Bornman, 2010:18).

Estate duty is calculated by determining the dutiable amount of the deceased estate, and then applying the estate duty rate. The dutiable amount is calculated by adding all property owned by the deceased, as well as all property deemed to be owned by the deceased on the date of passing. All allowable deductions are subtracted from this amount. A further abatement of R3.5 million is further deducted to arrive at the dutiable amount. Estate duty will be levied at 20% on the first R30 million of the dutiable amount, and then 25% on any amount higher than R30 million (Estate Duty Act, 1955). The

Estate Duty Act sets out all allowable inclusions and deductions relating to the calculation of the dutiable amount. This chapter examines the various sections of the Act relating to the calculation. Furthermore, the contribution of estate duty to total tax revenue is determined. The use of trusts and estate planning is discussed, as these tools reduce the amount of estate duty collected. Finally, issues with the estate duty regime are disclosed.

3.2 History

Estate duty is the wealth transfer tax of South Africa (Bornman, 2010:1).

The first form of death tax in South Africa was death duties, imposed through the Succession Duty Act No. 5 of 1864 (Kahn, 1946:81, cited by Bornman, 2010:9). Death duties consisted of two duties, estate duty and succession duty. The contrast between the two was that estate duty was imposed on a deceased estate as a whole, while succession duty was imposed only on the segments of the deceased estate that were being transferred to successors (Kahn, 1946:81, cited by Bornman, 2010:10; Spafford, 1968). The deceased estate is liable for estate duty and is due before the dispersal of the assets of the estate. The successors (beneficiaries) of the deceased estate are liable for succession duty (Spafford, 1968).

The polities that made up South Africa by the end of the nineteenth century were the Transvaal, the Cape Colony, the Orange Free State and Natal. In this period of time, Transvaal imposed estate duty while the remaining polities imposed succession duty, all using different rates. The Death Duties Act No. 29 of 1922 was established to provide uniformity to the rates of death duties imposed, using a rate of 0.5% on the first £2 000, and 17% on any amount greater than £1 000 000, with an abatement of £1 000. In 1934, the abatement increased to £15 000 (Kahn, 1946:85, cited by Bornman, 2010:10).

The Estate Duty Act No. 45 of 1955 succeeded the Death Duties Act, which was repealed in 1955 (Bornman, 2010:11). Estate duty is imposed upon the passing of an individual, on their net assets (local and foreign) (Bornman, 2010:8).

As noted above, Adam Smith put forward four maxims, or canons of taxation. These are equity, certainty, convenience and efficiency. There were two objectives that resulted in the introduction of estate duty, bringing balance to the inequity in the tax system through the taxation of the wealthy (Bornman, 2010:18).

Equity can be separated into two components, horizontal and vertical equity. Vertical equity is the principle that individuals should be taxed in accordance with their income. Therefore, individuals with higher incomes should pay more tax. Horizontal equity holds that individuals should carry the same tax burden, regardless of how their income is received (through wages, salaries or capital gains). However, the tax system reduces horizontal equity because capital gains is excluded from the income tax base (Bornman, 2010:18).

3.3 Important amendments

The initial rate of estate duty levied in 1955 was 10% on the first £50 000 of a deceased estate, and 35% on any amount greater than £400 000. Abatements were also available for the deceased estate and any surviving spouses and/or children (Bornman, 2010:11). An abatement reduces the value of a deceased estate and is a deductible amount that is available for all deceased persons (Helfin Financial Services, 2021).

In 1986, the amount of the deceased estate increased, as 10% of estate duty was levied on the first R100 000, and 35% on any amount greater than R800 000. Further to this, the estate duty rate increased to 15% and abatements for individuals were terminated in 1988, with only one abatement of R1 000 000 being allowed. The estate duty rate increased once again in 1996 to 25%, and then decreased to 20% in 2001 upon the introduction of capital gains tax. The abatement also increased and is currently R3 500 000, as set out in section 4A of the Estate Duty Act (Bornman, 2010:12; Estate Duty Act, 1955).

3.4 Calculation and determination of estate duty

Estate duty is levied on the net amount of a deceased estate, also referred to as the dutiable estate, in line with section 2(1) of the Estate Duty Act (Bornman, 2010; Estate Duty Act, 1955). According to section 2(2), the First Schedule displays the rates at which estate duty will be imposed (Estate Duty Act, 1955).

There are various assets that need to be considered when performing the estate duty calculation, such as property, jewellery, vehicles, furniture and life policies (Bornman, 2010:16-17). All international assets of the deceased also need to be considered (Collier, 2022).

There are specific life insurance policies that are deemed to be owned by the deceased, as set out in section 3(3)(a) of the Estate Duty Act. However, there are exemptions, such as any lump sum payments from pension funds, provident funds and retirement annuities (Bornman, 2010:17; Estate Duty Act, 1955). The dutiable amount used to determine estate duty is calculated as follows:

Table 2: Calculation of dutiable amount

Detail	**(ZAR)**
Add: Property owned by the deceased at date of death	XXX
Add: Property deemed to be that of the deceased	XXX
Total value of property of the deceased estate	**XXX**
Less: Deductions	(XXX)
Net value of the deceased estate	**XXX**
Less: Abatement	(3 500 000)
Dutiable amount	**XXX**

Source: Developed from the Estate Duty Act, 1955.

Section 3(2) of the Estate Duty Act describes property to be either movable or immovable, and either corporeal or incorporeal, that the deceased has a 'right in' or 'right to' (Estate Duty Act, 1955). Corporeal property is tangible and in contrast, incorporeal property is intangible. Corporeal property includes assets such as buildings and motor vehicles, while incorporeal property includes trademarks and patents. Cryptocurrencies are added to the deceased estate at the market value of this property on the date of passing, and as such are defined as 'movable and incorporeal property' (Collier, 2022). Further to this, section 3(3) of the Act states that property deemed to be that of the deceased is also included, and this is comprised of any amounts due to the deceased as a result of an insurance policy, but excluding amounts that are due to the successors of the deceased, such as a spouse (set out in the marriage contract) or child. Deemed property also includes property donated as a result of death or a donation (excluding donations to a spouse), and property in which the deceased had a 'right of disposition' in the profits (Estate Duty Act, 1955).

Section 4 of the Estate Duty Act sets out all relevant deductions that are to be made from the sum of the property value. These deductions include the funeral costs of the deceased, debts that have not been paid by the deceased (to residents and non-residents of South Africa), administrative costs from the management of the deceased estate, expenses arising from instructions from the Master of the Supreme Court (as the Act stipulated then), and death duties on the included property due to any other countries (Estate Duty Act, 1955).

Section 4A(1) of the Estate Duty Act stipulates that an abatement of R3.5 million is available to the deceased estate, but this is dependent on subsections (2) and (3) (Collier, 2022; Estate Duty Act, 1955). These subsections are as follows:

'*(2) Where a person was the spouse at the time of death of one or more previously deceased persons, the dutiable amount of the estate of that person shall be determined by deducting from the net value of that estate, as determined in accordance with section 4, an amount equal to the amount specified in subsection (1)-*

(a) multiplied by two; and

(b) reduced by the amount deducted from the net value of the estate of any one of the previously deceased persons in accordance with this section.

(3) Where a person was one of the spouses at the time of death of a previously deceased person, the dutiable amount of the estate of that person shall be determined by deducting from the net value of that estate, as determined in accordance with section 4, an amount equal to the sum of-

(a) the amount specified in subsection (1); and

(b) the amount specified in subsection (1) divided by the number of spouses, reduced by an amount which is determined by dividing the amount deducted, in accordance with this section, from the net value of the estate of the

previously deceased person by the number of spouses of that previously deceased person.'

In summary, subsections (2) and (3) provide that the surviving spouse could have an abatement of R7 million available upon their passing, if the first spouse that passed opted not to make use of the R3.5 million abatement. If there is a pre-deceased spouse, the abatement available to the deceased will be R7 million less the amount that the pre-deceased spouse made use of (Collier, 2022).

Once the dutiable amount has been established, estate duty is levied at a rate of 20% on the first R30 million. Thereafter, any amount larger than R30 million has a rate of 25% (SARS, 2023a).

The amount of estate duty that is due by a deceased estate is influenced by the marital contract in place between spouses. Three types of marital contracts exist, i.e., in community of property, out of community of property with accrual, and out of community of property without accrual (Bornman, 2010:13). If the marriage was in community of property, the joint estate is calculated. After all debts have been paid, the surviving spouse is entitled to claim half of the estate. A marriage out of community of property with accrual results in the deceased estate having an accrual claim against the estate of the surviving spouse, which should be included in the calculation of estate duty. This is also dependent on the size of the accrual of the deceased, in comparison to that of the surviving spouse. The deceased estate is separate from that of the surviving spouse if the deceased was married out of community of property without accrual (Collier, 2022).

Payment of estate duty from the deceased estate is made by the executor of the estate (Collier, 2022; Davis Tax Committee, 2015:27). This is the individual who manages the administration of the deceased estate (Estate Duty Act, 1955). The beneficiaries of the estate are liable for a portion of estate duty where property accrues to them (Collier, 2022).

3.5 How estate duty contributes to tax revenue

In the initial years of the levying of estate duty and succession duty, after the introduction of the Death Duties Act, the amount of each of these duties collected increased year on year.

Table 3: Revenue collected through estate duty and succession duty from 1925 to 1944

Tax year ended 31 March	Number of estates used	Net dutiable amount of all estates	Net dutiable amount of estates with a value over £75 000	Estate duty collected	Succession Duty collected
1925	8 010	£10 522 474	£505 381	£290 425	£252 838
1933	9 389	£12 968 212	£1 548 467	£427 411	£236 024
1943	14 428	£26 733 345	£3 279 350	£886 531	£544 410
1944	13 222	£29 911 826	£3 477 792	£2 218 781	£662 468

Source: Kahn (1946:93), cited by Bornman (2010:11).

The percentage of estate duty levied decreased in 2001, upon the introduction of capital gains tax. Subsequently, this led to a decrease in the amount of estate duty collected (Bornman, 2010).

During the 2016/2017 tax year, wealth taxes only contributed 1.4% (R15.7 billion) to annual tax revenue, while income taxes contributed 58.2% (R664 billion), consumption taxes contributed 38.5% (R439.4 billion) and other taxes contributed 1.9% (R22 billion) (National Treasury & SARS, 2017, cited in Davis Tax Committee, 2018:9).

At present, estate duty does not form a large part of the total wealth tax revenue collected. Table 4 and Figure 2 show the contribution of estate duty as a proportion of wealth tax.

Table 4: A comparison of estate duty collected over recent years and its proportion of total wealth tax revenue (donations tax, estate duty, securities transfer tax and transfer duty)

Year	Estate duty collected (ZAR)	% of total wealth taxes
1994/95	125 307 646	6.04%
1995/96	181 344 849	8.12%
1996/97	181 815 000	7.71%
1997/98	302 586 000	11.56%
1998/99	256 400 000	9.06%
1999/00	304 154 000	7.99%
2000/01	442 696 000	11.13%
2001/02	481 851 000	10.41%
2002/03	432 726 000	8.51%
2003/04	417 130 000	6.22%
2004/05	506 914 000	5.62%
2005/06	624 654 000	5.61%
2006/07	747 447 000	7.23%
2007/08	691 031 000	5.81%
2008/09	756 738 000	7.98%
2009/10	759 272 900	8.60%
2010/11	782 325 352	8.59%
2011/12	1 045 162 757	13.37%
2012/13	1 012 978 436	11.72%
2013/14	1 101 505 376	10.50%
2014/15	1 488 629 496	11.94%
2015/16	1 982 207 682	13.18%
2016/17	1 619 492 110	10.34%
2017/18	2 292 014 589	13.82%
2018/19	2 069 331 914	13.57%
2019/20	2 047 842 922	12.82%
2020/21	2 316 293 020	14.53%

2021/22	3 140 787 460	14.26%
2022/23	3 702 226 316	17.43%

Source: SARS (2024a)

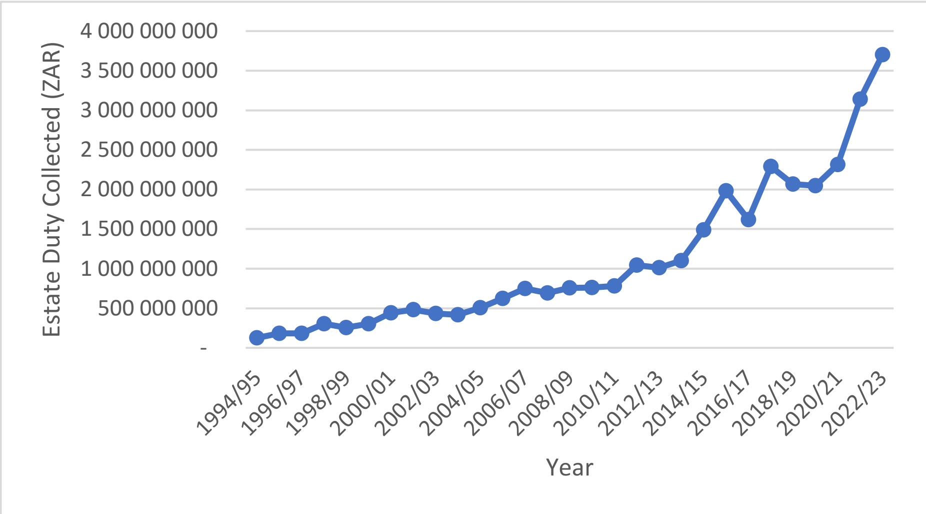

Figure 1: Estate duty collection over recent years (SARS, 2024a)

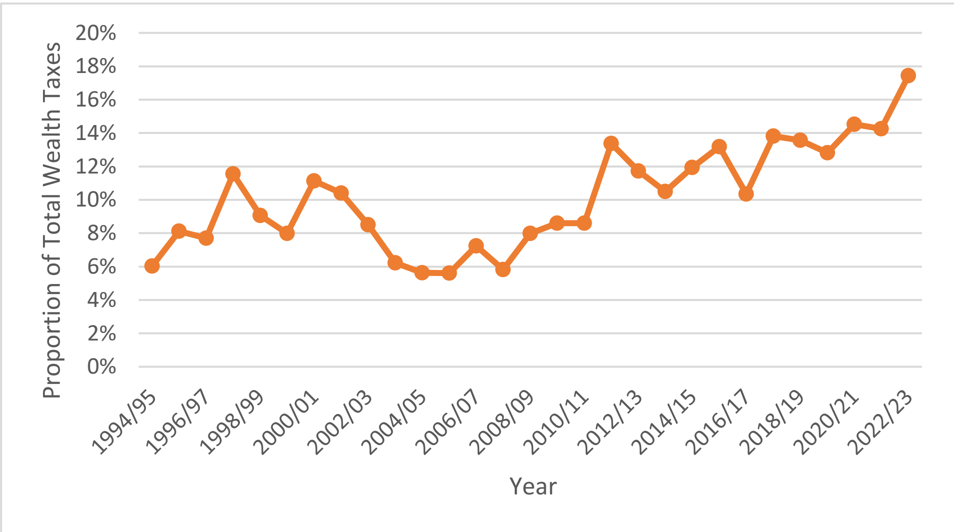

Figure 2: Estate duty as a proportion of total wealth taxes (donations tax, estate duty, securities transfer tax and transfer duty) (SARS, 2024a)

3.6 Estate planning and the use of trusts

Although estate duty was introduced with the goal of increasing annual tax revenue, it does not contribute a major proportion of annual tax revenue. This is because the individuals in the position to contribute to estate duty make use of professionals to assist them to decrease their tax liability, i.e., estate planning. Having a minimal tax liability to pay is the central aim of estate planning, therefore the successors of the deceased estate are able to enjoy the assets of estate (Bornman, 2010:8; Jordaan, 2023).

One instrument used in estate planning is a usufruct. A usufruct is the granting of the right to use a property to one individual, while a different individual holds ownership of that property. This tool is used in estate planning by giving the surviving spouse the usufruct. Once this spouse passes, the usufruct is transferred to a trust for a year, and then transferred to the surviving children (Bornman, 2010:17).

Other instruments used in estate planning include bequeathing property to a surviving spouse, trusts, life insurance and donations.

Section 4(q) of the Estate Duty Act allows an individual to bequeath property to their spouse, and the bequeathed property value is not included in the dutiable amount of the deceased estate (Jordaan, 2023).

Trusts are extremely helpful in the transfer of generational wealth. There are two types of trusts that can be used in estate planning, namely testamentary or *inter vivos* trusts. A testamentary trust is created upon the death of an individual, through instruction in their will, while an *inter vivos* trust is created during an individual’s life. Testamentary trusts are useful when the deceased intends to transfer assets to minors or disabled/special need individuals. The deceased would state in their will that the assets are bequeathed to the trust, which will be managed by the trustees for the benefit of the beneficiaries. An *inter vivos* trust provides better growth opportunities for the assets within the trust (Jordaan, 2023).

Life insurance policies with the deceased named as the beneficiary will be included in the dutiable amount of the deceased estate as deemed property. However, if the deceased names their spouse as the beneficiary, the funds received from the life insurance will not be included in the deceased estate (Jordaan, 2023).

There is an exemption of R100 000 annually from donations tax. Therefore, individuals could donate R100 000 to an *inter vivos* trust every year to exclude this capital from eventual estate duty (Jordaan, 2023).

3.7 Estate duty downsides and potential abolishment

The only country with two types of wealth transfer taxes is South Africa, these being estate duty and capital gains tax (Bruwer, 2017). South Africa has a growing deficit in its national budget, and increasing the contribution from wealth taxes would aid in settling this debt (Davis Tax Committee, 2015:6).

Before considering increasing the contribution of estate duty, the issues with the estate duty regime need to be discussed.

3.7.1 Double taxation

In 2013 the Minister of Finance permitted the Davis Tax Committee to investigate the extent of progressiveness in the tax system, and the role that estate duty plays in adding to this progressiveness (Davis Tax Committee, 2018).

Upon death, an individual is liable for both estate duty and capital gains tax. This presents the issue of double taxation, as estate duty is a direct tax on wealth and its appreciation while capital gains tax indirectly taxes wealth through income tax (Bruwer, 2017:43; Roeleveld, 2012). Double taxation does not comply with the four maxims set out by Adam Smith (Bird, 1991:322, cited by Bornman, 2010:1). The issue of double taxation was also noted by the Margo (1987) and Katz (1997) Commissions, as these commissions posited that estate duty should be retained as the only wealth transfer tax (Roeleveld, 2012).

Double taxation may also occur because a death tax may be levied on any property held in foreign countries, as well as South African estate duty levied on the same property. There is relief, however, as there are double tax agreements and estate tax treaties that exist between South Africa and various other countries (Bornman, 2010).

3.7.2 Administrative issues

The South African estate duty regime follows a cumbersome administrative process. There are various individuals involved and processes to follow before the net assets of the deceased estate are distributed to the beneficiaries. The entire process is overseen by the Master of the High Court. The jurisdiction is determined by the deceased's residence. The initial step in the process is to acquire a death certificate from the Department of Home Affairs. Thereafter, an executor of the deceased estate is either appointed, or will have been named in the will. The executor directly manages the administration process and is required to secure a letter of executorship from the Master before any transfers can be completed. In terms of the transfer of property and its title deed, a conveyancer assists with this process and communicates with the Registrar of Deeds. The Registrar is responsible for the title transfer. The executor will also need to file the relevant income tax returns for the deceased and ensure that the estate duty is paid to SARS (SARS, 2022).

3.7.3 Potential remedies

The South African estate duty regime has blatant shortcomings. There are several remedies: removing death as a taxable event by abolishing the Estate Duty Act; to have a more progressive and efficient tax system, the Estate Duty Act could be amended; or a new type of wealth tax could take the place of estate duty (Davis Tax Committee, 2015:6). Although the estate duty regime can be made more efficient, double taxation will still occur (Bruwer, 2017:44).

If estate duty were to be rescinded, the rate of capital gains tax may be increased. However, the abolishment of estate duty, and in effect a capital transfer tax, will create a higher level of inequality in the tax system, as it will become increasingly difficult to attain horizontal and vertical equity (Bornman, 2010:19). Vertical equity (where an individual with a greater ability to pay tax should pay more tax than an individual with a lesser ability) could be attained through improving the efficiency of the estate duty regime, but double taxation will still remain. This means that the tax system will still remain unfair (Bruwer, 2017:44).

Roeleveld (2012) suggested that the estate duty regime should be repealed in favour of capital gains tax. This is because capital gains tax is levied on the initial disposal and all subsequent disposals. Estate duty, in contrast, is levied on assets that are transferred only upon death. Thus, capital gains tax will bring in a higher amount of revenue and provide more benefit to the fiscus. In addition, there are 70 double tax treaties that South Africa is party to, and capital gains tax is included in most of these. Estate duty double tax treaties are not as numerous. Double tax treaties provide relief to taxpayers, as they will not be liable for tax in both countries. Estate duty double tax treaties are agreements entered into between two countries, that allow estate duty administrations to take place in only one of the countries party to the agreement, thereby removing double taxation (SARS, 2024b).

3.8 Conclusion

Estate duty has been present in the South African tax system since 1864, and in 1955 was named the only form of a wealth transfer tax upon death.

Calculated by imposing a rate of 20% on the first R30 million of the dutiable amount of a deceased estate, and 25% on any amount higher than R30 million, the amount of estate duty collected has decreased since 2001. This is because of the introduction of capital gains tax. Currently, estate duty does not contribute a large proportion of the total wealth tax revenue. This contribution is also influenced by surviving spouses, as estate duty can be deferred and only collected once all spouses have passed away (Estate Duty Act, 1955; SARS, 2024a).

Estate planning is also a determinant in the amount of estate duty collected. Individuals who would be liable for estate duty have the resources to pay professionals in assisting them with reducing their estate duty liability. The less estate duty payable, the more the successors of the estate can enjoy the assets of the estate (Bornman, 2010:8; Jordaan, 2023).

There are different tools that assist with estate planning, such as usufructs, bequests, trusts, life insurance and donations.

Usufructs work by giving an individual the right to use a property, with a different individual holding ownership of the property. With estate planning, the surviving spouse is granted the usufruct and then transfers this to a trust upon their death Bornman, 2010:17).

With bequests, the deceased can bequeath property to their spouse. This property is then excluded when the dutiable amount of the deceased estate is calculated (Jordaan, 2023).

Trusts can be created either upon the passing of an individual (testamentary trusts) or during the life of an individual (*inter vivos* trusts). Testamentary trusts are helpful if the deceased plans to bequeath assets to minors or individuals with special needs (Jordaan, 2023).

Life insurance policies that have the deceased named as the beneficiary form part of the dutiable amount. If the deceased names their spouse as the beneficiary, this amount will not be included. Individuals can also make use of donations, as there is an annual exemption of R100 000. Capital can be moved to a trust (*inter vivos* trust) through donations made every year (Jordaan, 2023).

Apart from estate planning and heavy administrative requirements, another issue experienced with estate duty is double taxation. This is because two wealth transfer taxes are levied upon death – estate duty and capital gains tax. Estate duty is a direct tax on wealth and capital gains tax is an indirect tax on wealth through income tax. Double taxation can also occur if an individual has foreign property and pays foreign tax on this, in the event that there is no double tax agreement between South Africa and that country (Bornman, 2010).

In 2015, the Davis Tax Committee found that there are possible remedies to improve the estate duty regime. The estate duty regime could be amended and improved, a new wealth tax could take the place of estate duty, or estate duty could be abolished. In the previous chapter, it was determined that the introduction of a new wealth tax would not be beneficial to South Africa. Therefore, the estate duty regime can either be amended or abolished. Abolishment of the estate duty regime will create higher levels of inequality, both vertically and horizontally. Thus, improving the regime would bring about the best result.

4. ESTATE DUTY IN SELECTED AFRICAN COUNTRIES

4.1 Introduction

Estate duty is not implemented in all countries around the world; however, other taxes can be imposed in place of estate duty, thereby making death a taxable event. These taxes include donations tax, inheritance tax and gift tax. These taxes are usually used in combination with estate duty or a type of death tax, or in isolation (Cole, 2015).

A comparison of estate duty or death tax regimes from around the world would need to be completed among countries with similarities. Various factors could be considered. The basis of selection for this research report is income inequality, which is measured through the Gini coefficient.

Countries across the world have formed groups to advance common goals. An example of one such group is the OECD countries. These countries banded together to affect policy changes in the hopes of addressing social, economic and environmental issues. Currently, the OECD consists of 38 member countries (OECD, 2024).

A second example of a group of countries formed to achieve common goals is the BRICS countries. Initially made up of Brazil, Russia, India and China in 2006 (BRIC), South Africa joined in 2010 to form the BRICS countries. A few more countries have also recently been named members, such as Saudi Arabia. These countries joined forces to compete with wealthy and developed countries who have increased political and economic power.

4.2 Reason for selection of countries

4.2.1 Basis of selection

There are various countries around the world that levy estate or inheritance tax, as the taxable event is death. With an estate tax, the tax is levied on the deceased estate. Inheritance tax is levied on the successors of the deceased estate. Usually, countries also use a gift tax or donations tax in tandem with estate or inheritance taxes, to prevent properties transferring before death (Cole, 2015).

Countries around the world are comparable using various factors, such as the rate of development, population numbers, poverty and political stances, to name a few. Therefore, the comparison of estate duty regimes to that of South Africa's would be dependent on various factors. This research report compares estate duty regimes based on income inequality, using the Gini coefficient.

4.2.2 Estate duty in OECD countries

The OECD is an international organisation created to improve the lives of individuals by affecting policy changes. This is achieved by addressing social, economic and environmental issues. There are 38 member countries collaborating on these policy changes (OECD, 2024).

Among the OECD countries, Japan has the highest rate of estate tax at 55%, while 15 OECD countries do not levy an estate or inheritance tax (Cole, 2015).

The Gini coefficients of most OECD countries have increased over the last 30 years. The average Gini coefficient increased from 0.29 during the 1980s to 0.32 in 2014. This occurred in 17 of the 22 member countries. Together with this increase, poverty rates rose in younger individuals, and decreased among the elderly. The reasons for the increase in the income inequality gap in these countries range from changes in technology to globalisation (Thevenot, 2017).

Table 5: Gini coefficients of OECD countries

Country	Year	Gini coefficient
Australia	2018	0.343
Austria	2020	0.298
Belgium	2020	0.260
Canada	2019	0.317
Chile	2020	0.449
Colombia	2021	0.515
Costa Rica	2022	0.472
Czechia (Czech Republic)	2020	0.262

Denmark	2020	0.275
Estonia	2020	0.307
Finland	2020	0.271
France	2020	0.307
Germany	2019	0.317
Greece	2020	0.336
Hungary	2020	0.297
Iceland	2017	0.261
Ireland	2020	0.292
Israel	2018	0.386
Italy	2020	0.352
Japan	2013	0.329
Korea (South)	2016	0.314
Latvia	2020	0.357
Lithuania	2020	0.360
Luxembourg	2020	0.334
Mexico	2020	0.454
Netherlands	2020	0.260
New Zealand	2019	0.654
Norway	2019	0.277
Poland	2019	0.288
Portugal	2020	0.347
Slovak Republic	2019	0.232
Slovenia	2020	0.240
Spain	2020	0.349
Sweden	2020	0.289
Switzerland	2018	0.331
Turkey	2019	0.419
United Kingdom	2020	0.326
United States	2021	0.398

Source: The World Bank (2024a); World Economics (2024b).

4.2.3 The BRICS countries

The BRIC group of countries was formed in 2006. This group consisted of Brazil, Russia, India and China. In 2010, South Africa joined the group and thereafter they were referred to as the BRICS. Recently, Saudi Arabia, among other countries, also became a member (BBC, 2024). The group was created to compete with wealthy and developed countries, with relations to their political and economic power (Chen, 2023).

The BRICS countries are all fast-developing nations. Their Gini coefficients are as follows.

Table 6: Gini coefficients of the BRICS countries

Country	Year	Gini coefficient
Brazil	2017	0.53
Russia	2015	0.38
India	2011	0.36
China	2015	0.39
South Africa	2014	0.63
Saudi Arabia	2019	0.46

Source: Sekyere, Gordon, Pienaar & Bohler-Muller (2020); World Economics (2024a).

4.2.4 Selection of countries for this research report

South Africa does not form part of the OECD, and therefore a comparison of the estate duty regimes of these countries would be skewed. South Africa does form part of the BRICS countries; however, not all these countries levy an estate or inheritance tax. Brazil levies an estate tax and South Africa levies estate duty, but the remaining member countries do not levy any type of tax on death (Cole, 2015). Therefore, another group of countries may assist with a better comparison.

African countries have high Gini coefficients but not all levy an estate or inheritance tax. Thus, the African countries detailed in Table 7 were selected to compare their estate duty or death tax regime to that of South Africa's.

Table 7: Gini coefficients of African countries

Country	Gini coefficient	Year of data collection
Angola	0.513	2018
Botswana	0.533	2015
Cameroon	0.466	2014
Equatorial Guinea	-	-
Guinea	0.483	2018
Malawi	0.385	2019
Morocco	0.395	2013
Mozambique	0.505	2014
Senegal	0.383	2018
South Africa	0.630	2014
Zimbabwe	0.503	2019

Source: World Population Review (2023).

4.3 Explanation of the framework of each country

4.3.1 Angola

Angola, a country in Southern Africa, achieved independence in 1975 from Portugal. The capital city is Luanda, and the national currency is the Kwanza (AOA) (Southern African Development Community, 2022). The population reported in 2022 was 33.08 million. Economic growth was fueled by the demand for oil; however, the consequence of this rapid growth was inequality among the population. There have been measures taken to increase economic stability by improvements to exchange rate and monetary policies and introducing laws that permit participation of the private sector in the economy (The World Bank, 2024b).

The tax authority in Angola is referred to as *Administração Geral Tributária*, or the Tax Administration (Moreira, Heitor & Costa, 2020). Similar to the South African tax system, the Angolan tax system uses progressive rates on a sliding scale for individuals. However, this system is not a residence-based tax system but rather uses a source-based tax system (KPMG, 2023a).

With regards to a death tax, Angola offers an inheritance tax or gift tax that is applied when property is transferred from one person to another. This tax is levied at 15% when transfers occur between spouses, children or parents. The rate increases to 30% for other transfers (KPMG, 2023b). If the value of the transfer of assets is less than AOA 500 000, there is no tax liability (PLMJ, 2008).

4.3.2 Botswana

Botswana is a Southern African landlocked country, bordering Zambia, Zimbabwe, South Africa and Namibia. Botswana was ruled by the British for 80 years, until independence was achieved in 1965 (McCluskey, Franzsen & Kabinga, 2017:121). In 2022, the population was reported as 2.3 million (Statistics Botswana, 2024). The capital of Botswana is Gaborone (McCluskey *et al*., 2017:121).

The tax system in Botswana is source-based, therefore all income collected and deemed to be collected in Botswana by residents is taxed. This income tax is governed by the Income Tax Act Cap 52:01 (BURS, 2022). Residents are also progressively taxed on a sliding scale with rates ranging from 0% to 25% (Standard Bank, 2024). Non-residents are liable for the tax on income collected in Botswana, with exceptions. In the case of interest and royalties from business and professional fees, non-residents are only liable for withholding tax at a rate of 15%. In the case of dividends and entertainment expenses, it is 10% (PwC, 2024a).

In relation to a tax on death, Botswana has a capital transfer tax that is levied at 5% (SA Tax Guide, 2024). The capital transfer tax is evaluated by the Botswana Unified Revenue Service (BURS) and is governed by the Capital Transfer Tax Act of 1985 (Capital Transfer Tax Act). The capital transfer tax is levied on the total number of donations made in a tax year, either as a donation or as a result of death (McCluskey *et al*., 2017:123).

The receiver of the donation or gift is liable for the tax. However, there are various exemptions available. These include no capital transfer tax payable in the following instances: if a property is disposed of as an inheritance from one spouse to another, due to death; if the total value of a deceased individual’s household assets is less than

15 000 in Pula; if any property in foreign countries is disposed of to individuals who do not live in Botswana; and if gifts donated during a tax year do not exceed 5 000 Pula (BURS, 2022).

In determining the capital transfer tax payable by a donee, there are also deductions available when calculating the total value of disposals. Once the apportionable amount of a deceased individual's estate is determined, the initial 100 000 Pula can be deducted from it. Any expenses that the receiver of a disposal incurs to acquire the disposed property can be deducted. Lastly, if the deceased individual had debts in respect of the disposed property, owed to a resident or residents in Botswana, this value can also be deducted (BURS, 2022).

If the Commissioner does not find the amount paid for a property to be sufficient, capital transfer tax will be imposed on the disposal. The value will be determined by subtracting the purchase price from the market value of the property (BURS, 2022).

The issue presented with the capital transfer tax system in Botswana is that valuation is determined by the taxpayer. Tax evasion may occur where the taxpayer does not declare the true value of property donations made. However, the Capital Transfer Tax Act provides relief for this issue by allowing the commissioner of the BURS to seek advice on the true property value from a certified appraiser (McCluskey *et al*., 2017:123).

4.3.3 Cameroon

Cameroon is a Western central African country with the capital city of Yaoundé. The country is made up of 10 regions (Tayoh, 2017:138), and the population was reported as 27.2 million in 2021 (The World Bank, 2024c).

The central tax legislation in Cameroon is the General Tax Code (Tayoh, 2017:140). The tax system in Cameroon is progressive with rates ranging from 10% to 35%. There is an annual tax levied at 0.1% on a property's value (KPMG, 2020). Although this rate is low, the Cameroonian government is realising that an increase in this tax will yield greater revenue. The difficulty in generating this income arises due to tax avoidance.

This occurs through property registrations in a different person's name and Cameroon not having reliable property market values (Tayoh, 2009).

Transfers of assets to children or spouses were taxed at 5%, while transfers to siblings were taxed at 10%. Any other transfers were taxed at 20% (Deloitte, 2021:42). These taxes were revised in 2022 and the rates decreased. A rate of 2% was applied to estates between CFA 0 and CFA 2 000 000. For estates between CFA 2 000 001 and CFA 5 000 000, the rate increased to 3%. A rate of 5% was applied to estates greater than CFA 5 000 000 (Centurion, 2021).

4.3.4 Equatorial Guinea 184

Equatorial Guinea lies between Gabon and Cameroon in central West Africa. Equatorial Guinea achieved independence in 1968, after being under Spanish rule (Tayoh & Franzsen, 2017:184).

The tax system in Equatorial Guinea is residence-based, as residents are required to pay tax on all income earned within the country and from overseas (Deloitte, 2015). The tax administration rules and processes of Equatorial Guinea are set out in the General Tax Code 2005. Government revenue in Equatorial Guinea is made up mostly of profit-sharing, royalties and income from the gas and oil sectors in the form of bonuses. Taxes do not form a large portion of this total revenue (Tayoh & Franzsen, 2017:188).

Equatorial Guinea offers an inheritance tax on death, at a rate of 10%. Donations are taxed through a gift tax of 5%, and life insurance is taxed at 10% (Deloitte, 2015; Deloitte, 2021:79; PwC, 2024b).

4.3.5 Guinea

Guinea, a country in West Africa, has a population of 14 528 770, reported in 2023 by Macrotrends (2024a). Guinea gained independence in 1958 from France (South African History Online, 2023).

Guinea uses a source-based tax system. Therefore, residents are liable for tax on all income realised within Guinea and in other parts of the world. Individuals are taxed via a sliding scale (ENS Africa, 2023). As at December 2023, the highest rate on the sliding scale was 40% (Trading Economics, 2024).

In relation to death taxes and inheritance, an amount of GNF 50 000 is due when an individual inherits assets (Deloitte, 2021:106).

4.3.6 Malawi

Malawi is a landlocked country with a large population of 20.41 million people (The World Bank, 2024d). The country achieved independence in 1964 from Britain and has been reported to be the poorest country in Africa (One World Nations Online, 2023).

Income tax in Malawi is progressive and is also source-based for individuals (Deloitte, 2021:127). The Malawi Revenue Authority is the governing body for tax administration and collection within the country. Malawi employs estate duty and donations tax. The estate duty is progressive (Deloitte, 2021:128).

Estate duty in Malawi is governed by the Estate Duty Act Chapter 43:02. Under this Act, various items are included as property, such as property owned by the deceased at the date of death, money due to the deceased from any insurance policies and any property in which the deceased had an interest. Property excluded from the deceased estate includes property controlled by the deceased as a trustee, and any amounts received from the government by the successors of a deceased public officer. The executor and successors of the deceased are liable for estate duty in line with the amounts received from the deceased estate (Malawi Estate Duty Act, 1946).

Any amounts less than MWK 30 000 are exempt from estate duty. Amounts higher than this are subject to estate duty levied between 5% to 11%. If assets are transferred to a successor by way of a donation, the donee will not be liable for any tax (Deloitte, 2021:128).

There is an existing debate in the country about estate duty and its abolishment. The basis for this argument is that if estate duty is levied on the deceased estate, tax has already been paid on the property during the lifetime of the deceased. If the estate duty is levied on the successors of the estate, some may be minors who are unable to pay taxes (Gwede-Nyasa, 2015).

4.3.7 Morocco

Morocco was previously under French rule but gained independence in 1957. The country has 12 regions with Rabat as its capital city and is categorised as a lower- to middle-income country (Franzsen & Elkhdari, 2017:283).

The General Tax Administration is responsible for the collection of taxation in Morocco (Franzsen & Elkhdari, 2017:285). Morocco does not levy an estate or inheritance tax, but rather imposes a withholding tax of 20% on the transfer of immovable property. However, if property is transferred as a gift, this is exempt when the transfer occurs between parents and children (Protten, 2022). Any other gifts are taxed at 20% (Deloitte, 2021:141).

4.3.8 Mozambique

Mozambique is located in southeastern Africa, with Maputo as its capital city. The country is made up of 11 provinces, which are further broken down into 128 districts. It achieved its independence in 1975, after being under Portuguese rule. The country is classified as a low-income country (McCluskey & Nhabinde, 2017:302).

The Mozambique tax system is residence-based, and administration falls to the Tax Authority of Mozambique. The country employs an inheritance tax that is payable by the successor/s of the deceased estate, on both movable and immovable property. The rate of inheritance tax, depending on the relationship between the deceased and the successor, increases from 2% to 10%. Children, parents and spouses of the deceased are taxed at 2%; direct family and siblings are taxed at 5%; and any other individuals are taxed at 10% (Deloitte, 2021:145; Ferreira, Machado de Almeida & Pires, n.d; South African Tax Guide, 2024).

4.3.9 Senegal

Senegal is a country in West Africa that achieved its independence from France in 1960 (Monkam, 2017:349). It has a population of 18 221 567, reported in 2023 (Macrotrends, 2024b). All residents are liable for tax on income made within Senegal and in foreign countries, on a progressive sliding scale (Deloitte, 2021:171).

Senegal does not levy an estate or inheritance tax. Instead, an amount of XOF 25 000 is due when assets are passed via death. This amount does not vary according to the value of assets inherited (Deloitte, 2021:173).

4.3.10 Zimbabwe

Zimbabwe borders South Africa and is classified as a low-income country. Its capital city is Harare and independence was achieved in 1980, with the current government being made up of national, local and provincial tiers (Chakasikwa, Franzsen & McCluskey, 2017:465).

The tax system in Zimbabwe is residence-based, as residents and non-residents are required to pay tax on income sourced in Zimbabwe. The Zimbabwe Revenue Authority is responsible for all tax administration (Deloitte, 2021:228). Like South Africa, Zimbabwe imposes estate duties upon death. The estate duty in Zimbabwe is levied at 5% on the deceased estate which includes local and foreign assets, for a deceased resident. For deceased non-residents, the estate duty is levied on Zimbabwean property. The abatement available for the deceased estate is ZWL 50 000 (Deloitte, 2021:229).

The Zimbabwe Estate Duty Act Chapter 1968 23:03 sets out the rules that govern the estate duty regime in the country. Property added to the calculation of the total of the deceased estate includes movable and immovable property within Zimbabwe and insurance policies. There are allowable deductions when calculating the value of the deceased estate, such as funeral expenses and debts still owed by the deceased individual.

4.4 Conclusion

The Gini coefficients of the chosen African countries are high, with Botswana having the highest at 0.533 measured in 2015, and Senegal having the lowest at 0.383 measured in 2018 (World Population Review, 2023).

Table 8 summaries the various death tax regimes offered by the selected African countries.

Table 8: Summary of death tax regimes in the selected African countries

Country	Type of tax levied upon death	Rate or amount due
Angola	Inheritance/gift tax	15% - 30%
Botswana	Capital transfer tax	5%
Cameroon	Estate tax	2% - 5%
Equatorial Guinea	Inheritance tax	10%
Guinea	Inheritance tax	GNF 50 000
Malawi	Estate duty	5% - 11%
Morocco	Withholding tax	20%
Mozambique	Inheritance tax	2% - 10%
Senegal	No tax levied upon death	XOF 25 000
South Africa	Estate duty	20%
Zimbabwe	Estate duty	5%

5. COMPARISONS AND SYNTHESIS

5.1 Introduction

The literature review in Chapter 4 showed that not all the selected African countries employ estate duty, but rather employ a different type of tax upon death, such as inheritance tax, gift tax or a transfer tax.

The purpose of this research report is to identify elements of other estate duty/death tax regimes that South Africa can adopt into its own estate duty regime.

This chapter focuses on comparing South Africa's estate duty regime with the estate duty/death tax regimes of the selected countries. A discussion follows centered around improving South Africa's estate duty regime by adopting processes or practices from the selected countries.

5.2 Comparison of each country's regime to that of South Africa's

5.2.1 Angola

Angola levies an inheritance or gift tax upon the passing of an individual, unlike South Africa, which levies estate duty. Angola's inheritance/gift tax rate ranges from 15% to 30%, depending on the relationship between the deceased and the beneficiary. In South Africa, estate duty is levied at 20%. This rate does not change regardless of the relationship between the deceased and the receiver of the assets (SARS, 2023a).

Furthermore, Angola allows an exemption, if the value of the assets transferred is lower than AOA 500 000 (PLMJ, 2008). South Africa does not employ a similar rule, but rather provides an abatement of ZAR 3 500 000 when calculating the dutiable amount of the deceased estate (Bornman, 2010:12; Estate Duty Act, 1955). If the dutiable amount is negative after the deduction of the abatement, no estate duty will be due.

5.2.2 Botswana

The Botswana tax system makes use of a capital transfer tax, levied at 5% on donations made as a result of death (SA Tax Guide, 2024). This is a much lower rate in comparison to South Africa's estate duty of 20% (SARS, 2023a).

The capital transfer tax system of Botswana has certain exemptions available and the relationship between the deceased and the receiver is considered (BURS, 2022). South Africa does not consider the relationship between the deceased and receivers of an estate and provides an abatement to reduce the amount of the deceased estate rather than exemptions (Bornman, 2010:12; Estate Duty Act, 1955).

Similar to the South Africa estate duty regime, the Botswana capital transfer tax system allows certain deductions to reduce the amount of the deceased estate (BURS, 2022; Estate Duty Act, 1955).

With regards to payment of the capital transfer tax, the receiver of the donation is liable for the tax (BURS, 2022). The deceased estate in South Africa is liable for estate duty, paid by the executor. Where the successors of the estate receive property, they are required to pay a portion of the estate duty (Collier, 2022; Davis Tax Committee, 2015:27).

5.2.3 Cameroon

Cameroon levies an estate tax when an individual passes. The rate of tax is dependent on the relationship between the deceased and the beneficiary. The rates are also progressively applied to the value of the deceased estate, from 2% to 5% (Centurion, 2021). This is very low in comparison to South Africa’s estate duty of 20% (SARS, 2023a).

5.2.4 Equatorial Guinea

An inheritance tax is levied on death in Equatorial Guinea, as well as a gift tax and tax on life insurance. A rate of 10% is levied on the transfer of assets as an inheritance. A rate of 5% is levied on the transfer of assets as a donation (gift). Life insurances are taxed at 10% (Deloitte, 2015; Deloitte, 2021:79; PwC, 2024). In comparison in South Africa, estate duty is levied on the total deceased estate with the inclusion of life insurance policies where the deceased is named as the beneficiary (Jordaan, 2023). This is then taxed at a flat rate of 20% (SARS, 2023a).

5.2.5 Guinea

Guinea employs an inheritance tax, but rather than levying a flat rate on a deceased estate, this system states that a fixed amount is due upon inheritance (Deloitte, 2021:106). The distinct difference between this regime and South Africa's estate duty regime is that this fixed amount is due, rather than a fixed rate of tax imposed on the value of the deceased estate.

5.2.6 Malawi

Much like South Africa, the Malawi tax system levies estate duty on death. The rates used are much lower at 5% to 11%, compared to South Africa's rate of 20% (Deloitte, 2021:128; SARS, 2023a). Malawi also provides an exemption for deceased estates less than MWK 30 000 (Deloitte, 2021:128), while South Africa does not offer an exemption.

Malawi also exempts the donee from estate duty if assets were passed as a donation upon death (Deloitte, 2021:128). Malawi does employ donations tax; however, this falls outside the scope of this study

5.2.7 Morocco

Morocco imposes withholding tax on the transfer of immovable properties as a result of death, at a rate of 20% (Protten, 2022). This matches South Africa's estate duty rate of 20%. However, Morocco considers the relationship between the individuals, and exempts transfers as a gift between parents and children (Protten, 2022).

5.2.8 Mozambique

Mozambique levies inheritance tax upon the passing of an individual. The rate of tax ranges between 2% and 10% and like most of the other African countries, it is dependent on the relationship between the deceased and the beneficiary. Similar to South Africa's estate duty regime, where the beneficiaries are required to pay for a portion of the estate duty on the disposed property acquired (Collier, 2022), the successors of immovable and movable property are liable for inheritance tax in Mozambique (Deloitte, 2021:145; Ferreira *et al*., n.d; South African Tax Guide, 2024).

5.2.9 Senegal

Senegal does not levy any tax on death, but rather a fixed amount is payable when assets are transferred upon death (Deloitte, 2021:173). This is similar to Guinea, where a fixed amount is levied upon death, rather than a rate of tax.

5.2.10 Zimbabwe

Zimbabwe uses estate duty when an individual passes. The rate of estate duty is much lower than South Africa's, at 5%, with a smaller abatement provided at ZWL 50 000 (Deloitte, 2021:229). Similar to South Africa's estate duty regime, there are allowable deductions available for the deceased estate (Zimbabwe Estate Duty Act, 1968).

5.3 Synthesis

Chapter 3 discussed the issues present within South Africa's estate duty regime, such as double taxation. This occurs because an individual becomes liable for both estate duty and capital gains tax upon death (Bruwer, 2017:43; Roeleveld, 2012). There have been arguments put forward to abolish the estate duty regime, although its abolishment will cause inequality to increase even further (Bornman, 2010:19). Therefore, potential improvements could be sourced from the estate duty/death tax regimes of the selected countries.

From the literature review in the previous chapter and the discussion above, it can be noted that there are only two out of the ten selected African countries that levy an estate duty upon death. This adds a layer of difficulty to the synthesis and determining if South Africa can adopt better estate duty practices and procedures.

The first striking difference between South Africa's regime and eight out of the ten selected countries that do not levy estate duty is that the relationship between the deceased and the beneficiary determines the rate of tax payable. The closer the relationship between the two parties, such as children, parents or spouses, the lower the rate of tax payable. In a few countries, this relationship may even allow the beneficiary to be exempt from the tax.

In comparison to Angola, the inheritance tax is not payable if the assets are less than AOA 500 000. Using an exchange rate of AOA 1 to ZAR 0.02311 (Exchange-rates.org, 2024a), this amounts to R11 555.

In Botswana, the exemption applies if the value of assets transferred is less than BWP 15 000. Using an exchange rate of BWP 1 to ZAR 1.3915 (Exchange-rates.org, 2024b), this amounts to R20 872.50.

In Cameroon, the exchange rate is CFA 1 to ZAR 0.03172 (Exchange Rates UK, 2024c). Therefore, property values between CFA 0 and CFA 2 000 000 translate to R63 440. Property values between CFA 2 000 0001 and CFA 5 000 000 translate to R63 440.03 and R158 600.

The exchange rate between Guinea and South Africa is GNF 1 to ZAR 0.0022 (Exchange Rates UK, 2024a). Therefore, a deduction of GNF 50 000 translates to R110.

Malawi provides an exemption for amounts less than MWK 30 000. Using an exchange rate of MWK 1 to ZAR 0.0114 (Exchange Rates UK, 2024b), this exemption translates to R342.

Senegal requires an amount of XOF 25 000 payable upon death. Using an exchange rate of XOF 1 to ZAR 0.0316 (Exchange Rates UK, 2024c), this translates to an amount of R790.

Zimbabwe's abatement is ZWL 50 000. Using an exchange rate of ZWL 1 to ZAR 0.059199 (Forbes, 2024), this translates to an abatement of R2 959.95.

In terms of the percentage of estate duty/death tax levied on an individual's assets, Angola has the highest percentage of 30%. However, this percentage is levied on transfers made to individuals other than spouses, children or parents. Morocco has a percentage that matches South Africa's percentage of 20%. However, Morocco levies this as a withholding tax on the transfer of immovable property only. South Africa levies estate duty at 20% on the total net assets of an individual. Cameroon and Mozambique levy the lowest percentages of 2%, but Cameroon offers an estate tax and Mozambique makes use of an inheritance tax.

The comparison of the taxable amounts and abatements available after converting the amounts to rands shows that the selected African countries apply low amounts compared to South Africa's estate duty rate of 20% that is applied to amounts equal to or less than ZAR 30 million. Amounts higher than this are then taxed at 25% (SARS, 2023a).

Estate duty within South Africa does not contribute a large amount of annual tax revenue. In the 2022/23 tax year, its proportion in relation to other wealth taxes (donations tax, securities transfer tax and transfer duty) was only 17.43% (SARS, 2024a). If the South African regime were to adopt lower tax rates, in line with the selected countries, this would further decrease the amount of estate duty collected. If the South African regime were to adopt the practice of levying specific rates on transfers between children, spouses and parents, there would also be less estate duty collected.

The estate duty regime within South Africa also faces the issue of tax avoidance through estate planning. In most of the selected African countries, the transfers between the deceased and close family members, such as spouses, children and parents, have lower rates levied. This may provide an answer to curbing estate planning in South Africa.

A potential adoption would be to decrease the abatement available, as this would yield a higher dutiable amount upon which estate duty is levied. However, the Davis Tax Committee (2016:14) noted that an increase in the primary abatement would be more appropriate, in order to reduce fiscal drag. This describes the situation where a taxpayer's tax bracket increases due to inflation (Kenton, 2021). Additionally, the South African estate duty regime places a heavy administrative burden on the executor and other individuals liable for tax. In contrast, Angola, Botswana, Cameroon, Equatorial Guinea, Guinea, Morocco, Mozambique and Senegal present fairly simple death tax regimes. South Africa could possibly simplify its estate administration process.

Table 9: Comprehensive summary of the death taxes used in the selected countries

Country	Estate duty levied	Type of tax levied upon death	Rate or amount due	Rate/amount dependent on relationship
Angola	No	Inheritance/gift tax	15% - 30%	Yes
Botswana	No	Capital transfer tax	5%	Yes
Cameroon	No	Estate tax	2% - 5%	Yes
Equatorial Guinea	No	Inheritance tax	10%	No
Guinea	No	Inheritance tax	GNF 50 000	No
Malawi	Yes	Estate duty	5% - 11%	No
Morocco	No	Withholding tax	20%	Yes
Mozambique	No	Inheritance tax	2% - 10%	Yes
Senegal	No	No tax levied upon death	XOF 25 000	No
South Africa	Yes	Estate duty	20%	No
Zimbabwe	Yes	Estate duty	5%	No

5.4 Conclusion

Of the selected group of African countries, only Malawi and Zimbabwe levy estate duty upon death. The other eight countries either levy an inheritance tax, gift tax or transfer tax.

A common difference between South Africa's regime and the selected countries is that the rate of tax levied upon death is dependent on the relationship between the deceased and the receiver. This practice is present in Angola, Cameroon, Morocco and Mozambique.

The second difference is that the various rates of tax levied are lower than South

Africa’s estate duty rate. Angola is the only country with a higher rate at 30%, but this rate of inheritance/gift tax in Angola is levied on transfers made to individuals other than spouses, children or parents (KPMG, 2023a).

Once converted to ZAR, the various exemptions, abatements, deductions or limitations used within each country were found to be low compared to South Africa. Angola does not levy inheritance/gift tax if the total value of the assets is less than AOA 500 000, which translates to R11 555. Botswana applies an exemption of its capital transfer tax on assets lower than BWP 15 000, which gives an amount of R20 872.50. In Cameroon, the rate levied is 2% on amounts between CFA 0 and CFA 2 000 000, which translates to amounts between R0 and R63 440. 3% is levied on estates between CFA 2 000 001 and CFA 5 000 000, which translates to amounts between R63 440 and R158 600. 5% is levied on estates larger than CFA 5 000 000, which translates to amounts higher than R158 600.

In Guinea, the deduction of GNF 50 000 applied for inheritance tax gives an amount of R110. Malawi’s estate duty exemption of amounts less than MWK 30 000 translates to R342. Senegal does not employ a tax on death but requires an amount of XOF 25 000 to be paid, which translates to R790. Zimbabwe offers an abatement when calculating the dutiable amount upon which estate duty will be levied. This is ZWL 50 000, which translates to R2 959.95.

All of these amounts are much lower compared to South Africa’s estate duty, which is levied at 20% on the first R30 million and 25% on amounts larger than R30 million (SARS, 2023a).

If the South African estate duty regime were to either decrease its rate of tax or lower the rate depending on the relationship between the deceased and the receiver, much less estate duty would be collected. At present, estate duty does not contribute a large amount towards total wealth taxes (donations tax, securities transfer tax and transfer duty) collected, as its proportion was only 17.43% in the 2022/23 year (SARS, 2024a). A decrease in the abatement would logically provide a higher dutiable amount, which would give a higher amount of estate duty collected. However, the Davis Tax Committee (2016:14) advised against this to decrease fiscal drag.

6. CONCLUSION

This research report focused on the function of South Africa's estate duty as a wealth tax and how it could be improved, by comparing it to the estate duty/death tax regimes of other selected countries within Africa. It found that adoptions from the other African countries' regimes would potentially decrease the revenue collection.

South Africa levies capital gains tax and estate duty as wealth transfer taxes. Estate duty replaced death duties in 1955 and was formed to promote a more progressive tax system by taxing the wealthy (Bornman, 2010:18). In 2013, the Minister of Finance requested that the Davis Tax Committee investigate the estate duty regime and determine how it adds progressiveness to the overall tax system (Davis Tax Committee, 2018). The investigation found that a major flaw within the regime was double taxation. This is because South Africa taxes wealth transfers using estate duty (on the appreciation of wealth) and using capital gains tax. Capital gains is more of an indirect tax on wealth (Bruwer, 2017:43; Roeleveld, 2012).

The Davis Tax Committee (2018:9-10) noted that an amendment in the estate duty regime would be necessary, rather than abolishing estate duty entirely or replacing it with a new type of wealth tax.

A latent issue that is also present within South Africa's estate duty regime is the administrative burden. There are various individuals who are required to aid in this process, with the executor at the head (SARS, 2022).

Chapter 4 comprised of a literature review of the selected African countries estate duty/death tax regimes, and chapter 5 conducted a comparison and synthesis of these regimes in relation to South Africa's estate duty regime. These chapters found that only two of the selected African countries levied estate duty upon death, these being Malawi and Zimbabwe. The remaining eight African countries levied either inheritance tax, gift tax or a transfer tax on death.

Considering the research questions:

1. Does South Africa’s estate duty function as a wealth tax?
2. How can South Africa’s estate duty be amended to address wealth inequality by considering the estate duty/death tax regimes of other countries within Africa?

South Africa’s estate duty does function as a wealth tax in the country, by levying tax on the transfer of wealth (net assets) upon death, from the deceased individual to their beneficiary/beneficiaries.

With regard to the second part of the research question, there were two areas that stood out in the analysis. Firstly, most of the countries that levied a different tax upon death, rather than estate duty, considered the relationship between the deceased and the receiver/beneficiary. If the relationship was close, such as between spouses, children or parents, the rate of tax levied was either very low or there was a tax exemption. This was found in Angola, Cameroon, Morocco and Mozambique.

Secondly, the tax rates used in the selected African countries were much lower than South Africa’s estate duty rate of 20% (SARS, 2023a). The only exception was Angola, where the rate of inheritance tax levied was 30%, but only on transfers to individuals who were not spouses, children or parents (KPMG, 2023a).

Furthermore, the synthesis found that the value of the exemptions, abatements and deductions in the selected African countries were low when converted to rands, compared to South Africa’s abatement of R3.5 million. The lowest exemption belonged to Guinea, where a deduction of GNF 50 000 is applied when calculating inheritance tax. This deduction translates to only R110.

Currently, South Africa’s estate duty regime contributes a very small portion to tax revenue, in comparison to the other taxes classified as wealth taxes in the country (donations tax, securities transfer tax and transfer duties) (SARS, 2024a). If South Africa were to adopt the practice of determining the tax rate based on the relationship between the deceased and the beneficiaries, this would further decrease the tax revenue contribution of estate duty. However, this may be a possible solution to combat the issue of estate planning, faced by the South African estate duty regime.

Another consideration could be a decrease of the abatement, in order to achieve a higher dutiable amount. Even so, the Davis Tax Committee (2016:14) noted that this would create higher levels of fiscal drag in the economy. A potential adaptation from the selected African countries regimes would be to simplify the process of collecting estate duty.

This research report did not include research on other forms of wealth taxes in South Africa (donations tax, securities transfer tax and transfer duties), and their influences on estate duty collection. Furthermore, the influence of property taxes, income taxes and indirect taxes on estate duty were not considered in this research report. South Africa's estate administration process was also not considered.

Further research should be completed on wealth taxes in South Africa. The need for wealth taxes arose to address societal inequalities and increase tax revenue (Arendse & Stack, 2018). Income and wealth inequality usually coexist and refer to the uneven distribution of income and wealth within a society (Kopp, 2023). South Africa has a Gini coefficient of 0.63, which is the highest in the world (Davis Tax Committee, 2018:8-14; Valodia, 2023; World Population Review, 2023). Moreover, South Africa's wealth inequality is greater than its income inequality (Awuah, 2019).

The African countries were selected on the basis of income inequality, as they had high Gini coefficients. However, these high levels of inequality present in the tax system may be the reason for the low collection of death tax revenue. Additional research should be completed on the estate duty/death tax regimes of countries with low levels of inequality, as there may be better-suited practices that South Africa could adopt.

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