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TAXATION RELIEF: A COMPARATIVE STUDY BETWEEN ZAMBIA AND SOUTH AFRICA

By:

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2025

DECLARATION

I declare that this dissertation entitled **TAXATION RELIEF: A COMPARATIVE STUDY BETWEEN ZAMBIA AND SOUTH AFRICA**. Which is hereby submitted in partial fulfilment of the requirement for the award of a Bachelor's degree at the University of Lusaka is my own original work and it has not been previously submitted for the award for a degree at this university or any other tertiary institution. I understand what plagiarism entails and I'm aware of the University's policy in this regard. Thus, where other people's work is cited, I have duly acknowledged. The errors or omissions in this work are solely mine.

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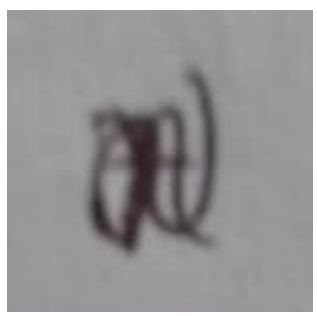

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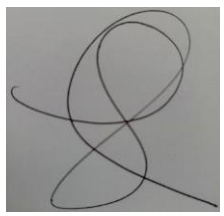
SUPERVISOR'S RECOMMENDATION

I, **JOY MULAMBIA**, do recommend that this dissertation titled **'TAXATION RELIEF: A COMPARATIVE STUDY BETWEEN ZAMBIA AND SOUTH AFRICA'** authored by **ABIGAIL NAKAMBA**, done under my supervision, be admitted by the university. I have checked it carefully and I am satisfied that it meets the necessary requirements pertaining to the format laid down by the university regulations.



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MR. JOY MULAMBIA

(Supervisor)

DEDICATION

This work is dedicated to my late Grandpa, Mr. Alfred Mubenshi. I got the opportunity to know you during your life time, it saddens my heart to know that you will not be able to see me graduate, I hope that everything I have done up until this point has made you proud.

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Firstly, I would like to thank God Almighty for giving me this opportunity to pursue my degree in law and for bringing me this far and providing all my needs.

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I would like to acknowledge the family I made while attending school at unilus, Mwinji Nakamba, a person who always say everything will be alright, Rachael Muyunda, who encourages me to study, Tamando Zulu, Naomi Namukonda, Tukolele Naswila and Uvwananji Nachimba, thank you for being with me through this journey of law school.

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Abstract

This research examined the legal fraternity governing tax relief in Zambia, with comparative insights drawn from South Africa and the United Kingdom. It investigated Zambia's income tax laws. The Tax Administration Act, and other governing Laws, determining their effectiveness in protecting taxpayer rights, advancing compliance, and promoting socio-economic development.

The research expands on substantive and procedural contents of DTAs, furthermore allocation of taxing rights, exemption and credit methods, dispute resolution through consensus Agreement Procedure (MAP), and non abusive measures, demonstrating their importance for Zambia's territorial. tax obligations.

The dissertation foresaw the essence of constitutional supremacy, judicial alignment, and administrative fairness in ensuring just and lawful tax relief. Drawing comparative lessons enforcing a clear legislative frameworks, autonomous tax administration, and international standards to enhance revenue diversity, harmonize double taxation, and champion taxpayer confidence.

The findings allude that Zambia can strengthen its tax policies or legal framework by sufficiently improve legislative clarity, institutional alignment to legal reform, treaty implementation, and judicial oversight.

1.0 Introduction

1.1 Background of the study

1.1.2 The Legal System of Zambia and the Creation of Tax Laws

Zambia operates under a dual legal system comprising statutory law, English common law, and customary law. The Constitution of Zambia (Amendment) Act No. 2 of 2016[4] serves as the supreme law, and all other laws derive their authority from it. Legislative power is vested in the National Assembly, exercised on behalf of the people and in accordance with constitutional provisions.[5]

The process of creating tax laws in Zambia begins with policy formulation by the Ministry of Finance and National Planning, often in consultation with the Zambia Revenue Authority (ZRA) and other stakeholders such as business associations and civil society. Once fiscal measures are proposed usually during the annual national budget presentation the Minister of Finance presents a Finance Bill to Parliament. This Bill consolidates all amendments to taxation statutes, such as the Income Tax Act[6], Value Added Tax Act, and Customs and Excise Act. Supporting instruments, including among other statutes, Statutory Instruments (SIs) and Ministerial Regulations, may also be issued to lessen the ambiguities of these statutes.[7]

Zambia's tax laws are important when it comes to their creation through parliamentary procedure and due process, focussing on both economic and political factors. The significance as cited under **Section 74 of the Income Tax Act**, the President has power to subject a Cabinet assent to establish Double Taxation Agreements (DTAs) with other countries.[8] These agreements are vital in preventing double taxation, promoting territorial trade, and encouraging foreign investment.

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[4] Constitution of Zambia (Amendment) Act No. 2 of 2016,

[5] Muna Ndulo, 'The Role of the Judiciary in the Administration of Justice in Zambia' (Zambia Law Journal, 1984) 16–23.

[6] The Ministry of Finance and National Planning (MoFNP) "Budget Speeches" page, which shows how tax measures are usually presented as part of the annual budget process: https://www.mofnp.gov.zm/?page_id=3949

[7] Ibid

[8] The Income Tax Act

1.2 The Legal System of South Africa and the Creation of Tax Laws

South Africa's legal fraternity base is admirably advanced as it combines Roman-Dutch civil law and English common law traditions, as recognized under the Constitution of the Republic of South Africa, 1996, which stands as the supreme law of the land. Legislative authority is vested in the Parliament, which consists of the National Assembly and the **National Council of Provinces (NCOP).**

The formulation of tax legislation in South Africa follows a structured process. The National Treasury, in consultation with the South African Revenue Service (SARS), identifies necessary amendments or new fiscal measures. These proposals are incorporated into the Budget Review, presented annually by the Minister of Finance. Following this, draft tax bills such as the Taxation Laws Amendment Bill or the Rates and Monetary Amounts and Amendment of Revenue Laws Bill are tabled before Parliament for consideration.

The bills undergo public consultation, committee scrutiny, and parliamentary debate, after which they are passed and forwarded to the President for assent. Once assigned to, they are under the Government Gazette and are authoritative on the date assigned. This inclusively ensures fairness, accountability, and alignment with broader economic goals.

South Africa is active in establishing Double Taxation Agreements (DTAs) under **Section 108 of the Income Tax Act, 1962**, *which gives to government the opportunity to conclude treaties with other jurisdictions to curb double taxation and fiscal evasion*[9]*.* These agreements, once ratified by Parliament, form part of local laws under the doctrine of incorporation.

1.3 Statement of the Problem

Tax relief serves as a vital instrument for economic expansion, enhancing investment, encouraging businesses, and reducing the financial burden citizens. However, in Zambia, the legal framework governing tax relief presents significant ambiguities, inconsistencies,

[9] The income Tax Act, 1962

and administrative inefficiencies that hinder its effectiveness [10]. Despite numerous statutes that establish for tax incentives, exclusions, and reduction, the existing legal fraternity lacks structure, leading to challenges in implementation, compliance, and enforcement to give sufficient legal system.

Consequently, the key challenges, in Zambia's tax relief legal frame work as it lack advanced policies that assures tax incentives and exclusion. The legal framework governing tax relief vastly exist in multiple discipline, including the Income Tax Act (Chapter 323 of the Laws of Zambia)[11], the Value Added Tax Act No. 17 of 2023[12], the Customs and Excise Act (Chapter 322 of the Laws of Zambia), and the Zambia Development Agency (ZDA) Act No. 11 of 2006[13]. The fragmented nature of these laws creates uncertainty for taxpayers, businesses, and even tax administrators, leading to difficulties in interpretation and enforcement. This has resulted in instances where businesses and individuals struggle to determine their eligibility for tax relief measures, thereby limiting the intended benefits of such provisions. Therefore, this study compared laws on double tax relief between South Africa and Zambia to understand and find which state has better laws or providing better laws to provide relief to their residence hence encouraging investment.

MAIN OBJECTIVE

Taxation relief; a comparative study between Zambia and South Africa

1.4 Objectives Of the study

1. To examine the legal framework governing tax relief in Zambia.

2. To examine the legal framework governing tax relief in South Africa.

[10] . Mutenyo J, Foreign Direct Investment and Tax Incentives in Africa (Palgrave Macmillan 2022)

[11] The income Tax Act of Zambia Chapter 323.

[12] Act No. 17 of 2023

[13] Act No. 11 of 2006

3. Contents of Double Taxation Treaties and Required Implementation

1.4.1 Research Questions

1. What is the legal framework governing taxation relief in Zambia?

2. What is the legal framework governing taxation relief in South Africa?

3. What are the contents of Double Taxation Treaties and how are they implemented?

1.5 Significance of the Study

This study is important as it establish a critical examination of Zambia's tax relief laegal fraternity, accord its rise, decline, and areas that require legal reform. By conducting a comparative study with South Africa, the dissertation award important understanding in depth, that Zambia may domesticate to strengthen the effectiveness of its tax relief system. For legislators, this study offer as a guide for reviewing current tax laws, particularly provisions in the Income Tax Act, and the Zambia Development Agency Act.[14] The analysis enhance the gaps and ambiguities that need to be foreseen in order to create a more equitable and efficient tax relief system.

Furthermore, for the corporate world and investors, the study critically examine influence on investment decisions, economic expansion, and adherence with tax laws. By comparing Zambia's framework with South Africa's, the research provides practical recommendations for improving tax incentives to attract foreign direct investment while ensuring balanced revenue collection. For academic, legal study, the research contributes to the current legal fraternity of knowledge on tax law by examining the legal and economic implications of tax relief implementation. It sets a lay out for further research on tax policy reforms and their impact on economic development.

For the Zambia Revenue Authority (ZRA)[15] and tax administrators, the research highlights administrative and enforcement challenges, offering enhanced recommendation to improve efficiency in granting and monitoring tax relief. This will

[14] Ibid
[15] Ibid

critically strengthen adherence , reduce tax evasion, and ensure that tax relief measures achieve their purpose and that is, macro economic benefits.

1.6 Scope of the Study

The focus of the study is to examine tax relief in Zambia and South Africa, evaluating statutory salient structure, case law, and administrative policies related to tax incentives, exclusion, and reduction. The paper seeks to underpin the Income Tax Act[16], and Zambia Development Agency Act,[17] in Zambia, besides their South African counteracts such as the Income Tax Act (1962)[18], the Value-Added Tax Act (1991), and the Customs and Excise Act (1964).[19] The study avails, the foundation of tax relief in both jurisdictions, noting fundamental legislative reforms and their effect on economic expansion, investment, and tax adherence. The required duty of tax authorities, such as the **Zambia Revenue Authority (ZRA) and the South African Revenue Service (SARS**), in the control of tax relief to guarantee adherence to the law.

The research is structures to limit only to Zambian and South Africa legal fraternity establish a strong comparison between states, echoing to benefits the states through tax compliance. The OECD guidance on advanced and relevant Southern African Development Community (SADC) protocols. In terms of period or time frame , the evaluation reviews policy and legislative changes from the early 1990s up to the current day, so that current reforms and emerging trends are covered. Where strongly referenced as post-independence taxation practices, are included to provide historical grounding and trace the evolution of tax relief mechanisms. Although the research is rooted in delving into a deep understanding in analysing the incorporation of tax relief in creating a more stable economic environment equitably fair to double taxation and tax evasion. The research is kin on underpinning the effectiveness of the Act, and legal reforms rather than focusing on the outcome, like tax evasion among other things.

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[16] Income Tax Act
[17] Zambia development Agency Act
[18] South Africa income tax Act (1962)
[19] Income and excise Act (1964)

On the light note, maintaining the focus only on two states Zambia and South Africa, the paper draws insights and depends the understand on how the two countries approach the concept and handle the most glorified crimes ever to exist tax invasion. The criteria aim at establishing a balanced community where compliance is aligned with legal principles.

1.7 Literature Review

1. **Chileshe, F. (2018)**[20] - "Taxation and Development: A Comparative Analysis of Zambia and South Africa[21]". Chileshe expanded on evaluating the legal framework between Zambia and South Africa, drawing lessons on tax relief and economic expansion in view to enhance development.[22] The study underscores how tax advances in both nations, have been used to enlighten foreign investment, business growth, and economic stability.

2. **Mumba, S. (2020)** [23] - "The Impact of Tax Relief on Poverty Reduction in Zambia"[i]Explore between the two concept tax relief and tax alleviation this principle underpins the hierarchy of knowledge gap bringing close the consult of transparency and accountability in administration .[24] While tax exemptions and incentives have led to growth, the paper argues that their impact on poverty reduction is limited, particularly for rural communities, suggesting that tax relief measures have failed to effectively benefit marginalized populations.

3. **Mahlangu, T. (2019**) [25] Corporate Tax Relief and Economic Expansion: South Africa's influence[26]". Mahlangu's work employs a delicate and simplified gap between tax relief and curbing double taxation to maintain economic expansion, he analyzed south Africa legal fraternity and expanded on how it may resolve an issue of sustainable development in order to allow growth in African countries. This highlights, the essence that, the corporate understanding of tax is strongly approved to this work.

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[20] Chileshe, F (2018) " Taxation and Development: A comparative Analysis of Zambia and Southen Africa.
[21] Ibid
[22] Ibid
[23] Mumba, S (2020) " the impact of Tax relief on poverty reduction in Zambia
[24] Ibid
[25] Mahlangu, T (2019) " corporate tax relief and economic growth: South Africa experience.
[26] Ibid

4. **Maharaj, K. (2020)**[27] - Taxation and Corporate Social Responsibility, A Study of South African Businesses.[28] This research evaluates, how tax incentives for corporate donations have improved corporate social responsibility (CSR) in South Africa. Maharaj demonstrate how tax relief can expand business and encourages in democratic inclusion, the overall impact has been limited due to businesses prioritizing profit maximization over genuine social good.

5. ZRA (2019)[29] - Zambian Tax Policy: A Focus on Incentives and Relief Mechanisms. This report examine in tax relief targeting agricultural and mining sector as Zambia is known for its rich mineral this is to allow investment.[30] It discusses key provisions of the Income Tax Act and the Zambia Development Agency Act, highlighting the successes and failures of these incentives, with suggestions to enhance their effectiveness in promoting sustainable growth.

6. **ZDA (2020)**[31] - "Tax Relief and Economic Diversification in Zambia". The research champions the analysis of passive tax reform, in order to adhere to the implementation of the Act itself.[32] The paper emphasizes the positive impact of tax incentives on attracting investment in these areas, although it highlights the need for more equitable distribution of benefits.

7. **Bester, D. (2019)**[33] - "Tax Relief as a Tool for Sustainable Development: South African Case Studies[34]". Bester discusses is how South Africa uses tax relief to promote sustainable development, particularly in the green energy sector.[35] The paper highlights the success of tax credits for green investments but notes challenges in balancing environmental goals with economic growth.

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[27] Maharaji, k (2020) " Taxation and corporate social responsibility. A study of South African Businesses.
[28] Ibid
[29] ZDA (2019) "Zambia tax policy: a focus on incentives and relief mechanism
[30] Ibid
[31] ZDA (2019) tax relief and economic diversification in Zambia
[32] Ibid
[33] Hester D (2019) Tax relief as a tool for sustainable Development: South Africa case studies
[34] Ibid
[35] Ibid

8. **Naidoo, R. (2020)**[36] - "Tax Relief and Foreign Direct Investment: Evidence from South Africa". Naidoo explores how tax relief, particularly in Special Economic Zones (SEZ), has attracted foreign direct investment (FDI) to South Africa. While the measures have brought in investment, the paper raises concerns over the limited benefits for domestic businesses and regional inequality.

9. **OECD (2020)**[37] - "International Perspectives on Tax Relief: A Comparative Study[38]". The OECD's report provides a global comparative perspective on tax relief measures, including those in Zambia and South Africa[39]. It discusses the goal in implementation, to alleviate poverty, champion the effectiveness of legal fraternity advance economic growth and administration, foster development and carry out recommendation to strengthen the cause for tax relief.[40]

1.8 Definition of Key Terms and Acronyms:

Tax Relief: Legal provisions that reduce tax liability for individuals or businesses through exemptions, deductions, rebates, or credits to promote investment and economic activity.

Income Tax Act, Legislation that supervise, in its governance on the procedure on, how income is collected in a particular regime, including rates, reduction, and eligible on tax payer in older to imprint compliance.[41]

Value Added Tax (VAT): this is a stage or level tax is applied to consumable goods ofr services at their rates. Both Zambia and South Africa use VAT systems that include relief provisions.[42]

Customs and Excise Act: business incentives provided usually by government on import, export, of goods and tax exception on either import or export.[43]

[36] Naido R (2020): Tax relief and foreign direct investment: Evidence from South Africa.
[37] OECD: International perspective on Tax relief: A comparative study
[38] Ibid
[39] Ibid
[40] Ibid
[41] Ibid
[42] Ibid
[43] Ibid

Zambia Development Agency (ZDA) Act: Provides tax privileges to allow investment in most promising sectors like agriculture, tourism, and manufacturing.

Southern African Development Community (SADC): A regional organization allied in promoting economic diversification, which affect tax legal framework across member states, including Zambia and South Africa.

Zambia Revenue Authority (ZRA): an organization enlightened to collection and implement tax laws in Zambia.

South African Revenue Service (SARS): Manages tax administration and compliance in South Africa.

OECD: An international organization, tasked with an objective to manage and guide how taxes should be adhered to, it confines under human rights to protect exploitation for citizen

1.8.0 Research methodology

This study expands the analysis on a qualitative research design, adapting both on doctrinal methods and comparative legal analysis, to evaluate the implementation of legal frameworks. Substantial material will be obtained through evaluating legislation, judicial authorities, international standards, and academic literature, ensuring a thorough grasp of the legal matters being explored. This research will evaluate on a comparative analysis drawing lesson from the most advances and development nations in adherence and advancements in economic development. The analysis of the collected data will centre on identifying major legal concepts, recurring patterns, and deficiencies within the tax relief systems currently used in Zambia and South Africa.

1.8.1 Data collection

Data collection for this research will use a blend of qualitative techniques to obtain detailed and meaningful insights into tax relief frameworks in Zambia and South Africa.

1.8.2 Data analysis

Data analysis for this research will apply both qualitative and quantitative techniques to provide a thorough understanding of the tax relief measures in Zambia and South Africa. The study will proceed through the following steps:

1.9 Conclusion

Tax relief remains a crucial policy tool in both Zambia and South Africa, serving as a mechanism to stimulate economic growth, attract investment, and promote social equity. While both countries employ similar forms of tax relief such as exemptions, deductions, and incentives their implementation and effectiveness are influenced by unique historical,

CHAPTER TWO

THE LEGAL FRAMEWORK GOVERNING TAXATION RELIEF IN ZAMBIA

2.1 Introduction

In Zambia, tax relief refers to lawful avenues whether created by statute, administrative action, or judicial interpretation that lessen a taxpayer's liability and reflect the doctrine of nullum tributum sine lege (no taxation without legal authority). Beyond supporting government revenue, these operations also focus to advance equity, stimulate economic expansion and encourage a more balanced distribution of wealth. Because taxation and relief mechanisms draw their authority from the Constitution and various statutes, they must operate in a manner that is within the confine of the law, just, and equitable. The system ride on constitutional integrity, legislative frameworks, and judicial guidance to champion the cause of both the levying and easing of taxes comply with the principles of legality, accountability, and proper governance.

2.2 The Constitution of Zambia

The Constitution of Zambia (Amendment) Act No. 2 of 2016[44] serves as the primary source of legal authority in all areas of governance, including taxation. The Constitution articulates the values, principles, and institutional framework within which all public power including fiscal power is to be exercised. **Article 1(1) of the Constitution** declares that the Constitution is the supreme law of the Republic of Zambia. It further provides that any Act, law, or conduct that is inconsistent with the Constitution is invalid to the extent of that inconsistency[45]. This supremacy applies with full force to tax legislation, tax administration, and all forms of tax relief or exemption.[46] The constitutional framework provides explicit and implicit directives concerning how taxation is to be imposed, collected, managed, and, where appropriate, waived or relieved.

[44] The Constitution of Zambia (Amendment) Act No. 2 of 2016
[45] Ibid Article 1(1) Act No. 2 of 2016
[46] Constitution of Zambia (Amendment) Act No. 2 of 2016, Art 1(1) and (2).

Article 198 of the Constitution[47] stipulates that no tax, levy, or duty shall be imposed unless it is sanctioned by an Act of Parliament. Furthermore, **Article 198 of the Constitution** stipulates that no tax, levy, or duty shall be given unless it is it is provided for by an Act of Parliament. This provision confirms the exclusive role of the legislature in matters of taxation and simply invalidates any management or executive effort to introduce taxes or relief without parliamentary assent. The act further details Constitution aim as it explores the extent to which constitutional aim such as those outlined in Article 198 affects the formulation, execution, and supervision of tax relief process[48]. It also explores whether the current Zambian legal framework effectively balances the need for revenue generation with the goals of equity, economic growth, and investment attraction. By analyzing statutory instruments, case law, and double taxation agreements, the research aims to assess both the strengths and shortcomings of Zambia's current tax relief regime. Ultimately, the research contributes to understanding how a well-designed tax relief framework can support sustainable economic development while remaining consistent with the constitutional principle of legality in taxation.

The provision is an embodiment of the doctrine of legality, reinforcing the idea that tax must be certain, predictable, and enacted through democratic processes. This constitutional clause is particularly important in the context of tax relief because it prevents the arbitrary use of discretion in granting concessions, thereby safeguarding the integrity of the tax system[49].

The Constitution provides for a quest to ensure parliamentary control over tax issues. Article 114(2) (c)[50] eexplores on the National Assembly to impose, waive, or vary any tax. This legal fraternity guarantees that fiscal decision is including in granting of tax reliefs, failure to which, it remains answerable to citizens through their elected legislators. Furthermore, Article 117 stipulates that any recommended law relating to taxation must

[47] Ibid
[48] Ibid
[49] Ibid
[50] Ibid

be introduced as a Money Bill, a special category of legislation designed to strengthen financial control and oversight.[51]

2.3 The Income Tax Act, Cap. 323

The Income Tax Act unveil as the key statute controlling the imposition, assessment, and recovery of income tax in Zambia. Passed in order to grant authority under Article 198 of the Constitution, it ope-rationalizes the State's administrative action to levy tax on income arising from employment, business activities, property, and various forms of investment.

The Act also outlines specific reliefs in the form of deductions, exemptions, and allowances. These provisions are designed to ensure that tax is imposed equitably, taking into account the taxpayer's capacity and the economic realities

The Income Tax Act also provides for international tax relief. Sections 74–76[52] permit the granting of relief from double taxation through bilateral Double Taxation Agreements (DTAs) or through unilateral relief where no treaty exists. Section 74 authorizes the President, upon ratification by Parliament, to enter into agreements that prevent double taxation and promote reciprocal assistance in tax matters. Section 75 provides for the credit method under which Zambian taxpayers who have paid tax in a foreign jurisdiction can offset that tax against their domestic met.

2.3.1 Salient Provisions of the Income Tax Act, Cap. 323 (Double Taxation Relief)

The Income Tax Act, Cap. 323 not only initiate for domestic taxation, but also handle complex issues of double taxation, which arises when the same income is taxed both in Zambia and in a foreign jurisdiction. This situation is common in across the global, business transactions and international employment arrangements. To alleviate this, Part VII (Sections 74–76) of the income Tax Act sets out implementation for double taxation relief through bilateral agreements and unilateral relief.[53]

[51] Ibid
[52] Ibid
[53] Ibid

Section 74 Double Taxation Agreements (DTAs) under the Income Tax Act *employs the President of the Republic of Zambia to enter into agreements with foreign governments to curb or mitigate the double taxation of income*.[54] These agreements may, subsection (1), even have rooted effect, allowing them to apply to income earned before their formal signaatory.[55] The purpose is to promote international cooperation, fairness, and consistency in taxation while facilitating cross-border trade and investment.

Subsection (2) mandates that any such agreement be laid before the Cabinet for ratification, ensuring that it undergoes executive oversight.[56] Once ratified, subsection (3) requires the President to notify the terms of the agreement by statutory instrument, after which the agreement acquires the force of law as if it were part of the Act itself.[57] This provision means that DTAs are legally binding within Zambia and are enforceable in domestic courts.

Furthermore, **subsection (5)** *authorises the exchange of tax information between Zambia and the contracting state, notwithstanding domestic secrecy laws*.[58] This allows the Zambia Revenue Authority (ZRA) to share or receive information necessary to determine tax exemptions, immunities, or reliefs. Such cooperation strengthens Zambia's capacity to combat tax evasion and avoidance while upholding international transparency standards[59].

Subsection (4) gives the President the power to deny or revoke any double taxation agreement by issuing a subsequent statutory instrument.[60] However, such revocation does not render it ultra vires, such actions taken under the previous agreement, thereby protecting the legal continuity and stability of tax obligations.

Section 75: Relief Under Double Taxation Agreements of the Income Tax Act, under the provisions of Section 74 by detailing how foreign tax credits are applied when a DTA

[54] Ibid Income Tax Act.
[55] Ibid
[56] Ibid
[57] Ibid
[58] Ibid
[59] The income Tax Act
[60] Ibid

exists.[61] Under this section, where Zambian taxpayers have already paid tax on foreign income in a country with which Zambia has concluded a DTA, they are entitled to a credit for the amount of foreign tax paid[62]. This credit reduces their Zambian tax liability, preventing the same income from being taxed twice. For instance, if a Zambian company earns profits in South Africa and pays South African tax on that income, **Section 75** allows that tax to be offset against its Zambian income tax liability.[63] This ensures that taxpayers are not unfairly disadvantaged by overlapping tax jurisdictions and encourages foreign investment by reducing fiscal barriers.

Section 76: Unilateral Relief in the Absence of Agreements under the Act
Recognizing that Zambia may not have agreement with all countries, Section 76 provides for unilateral double taxation relief.[64] Under subsection (1), where a person earns income from a country without a DTA and pays foreign tax on that income, Zambia allows a reduction of Zambian tax by the amount of foreign tax paid, subject to certain limitations.[65] The relief, however, cannot exceed the proportion of Zambian tax attributable to that foreign income.[66]

The provision showcases Zambia's commitment to justice and preventing double taxation even in the absence of consensus treaties. It also promotes compliance by ensuring that taxpayers are not penalize for engaging in international trade or employment with countries outside Zambia's DTA network.

2.3.1 Legal and Policy Significance

Collectively, Sections 74–76 demonstrate Zambia's efforts to conform to its local tax framework with international fiscal norms[67]. These provisions show the government's dual commitment to overall revenue safeguard and international cooperation. They also reflect

[61] Ibid
[62] Ibid
[63] Ibid
[64] Ibid
[65] Bid
[66] Ibid
[67] Ibid

the underlying principle of reciprocity, ensuring that relief measures are balanced and mutually beneficial.

From a policy perspective, these mechanisms enhance Zambia's attractiveness to investors by reducing tax uncertainty and fostering an enabling environment for cross-border commerce. Furthermore, by embedding these provisions within the Income Tax Act pursuant to **Article 198 of the Constitution the Zambian** legal system ensures that all taxation and relief measures derive their authority from legislative sanction, thereby upholding the principle of legality in taxation.[68]

Tax laws should not just be used as a means for philosophical discourse but it can be used for implementation of these laws like tax relief in order to enhance economic expansion. In the modern global economy, fiscal systems cannot function in isolation; capital mobility, Labour migration, and international trade demand that states adopt legal frameworks that minimize fiscal friction. By embedding the authority for double taxation agreements (DTAs) within its domestic law, Zambia demonstrates an understanding that effective taxation depends on mutual recognition of tax sovereignty between states rather than unilateral imposition.

This approach has both strategic and developmental significance. Strategically, it positions Zambia as a credible member of the international community, capable of negotiating tax treaties that protect national interests while fostering investment partnerships. Developmentally, it facilitates the inflow of foreign capital, particularly in productive sectors such as mining, manufacturing, and agriculture, where investors are highly sensitive to double taxation risks. Consequently, the law contributes to Zambia's broader policy agenda of economic diversification and industrialization, goals outlined in the Eighth National Development Plan (8NDP).

Another important legal dimension of these provisions lies in their procedural safeguards. By requiring that all agreements be ratified and published by statutory instrument, the Act subject's executive action to legislative and public scrutiny. This transparency helps

[68] Act No 2 of 2016 as (amended)

prevent the abuse of treaty powers and ensures that international tax commitments are consistent with Zambia's domestic fiscal objectives. The process also underscores that taxation, as a matter of law, remains under parliamentary control, even in the context of complex international negotiations.

From an institutional perspective, the implementation of Sections 74–76 has expanded the role of the Zambia Revenue Authority (ZRA) beyond collection to include international liaison and compliance monitoring.[69] The ZRA's participation in treaty interpretation, information exchange, and enforcement strengthens Zambia's administrative capacity and aligns the country with international standards of tax governance. These developments also reflect a gradual evolution from a purely revenue-oriented model of taxation to one that emphasizes fairness, cooperation, and accountability.

Moreover, the commitment to exchange of information under **subsection (5)** is not merely technical; it marks Zambia's entry into the global transparency agenda[70]. By permitting limited disclosure of taxpayer information to foreign authorities under defined legal parameters, Zambia reinforces its adherence to confidentiality balanced with cooperation, thereby supporting international efforts to curb tax avoidance, base erosion, and profit shifting. This duality   protection of taxpayer rights and facilitation of lawful cooperation is a hallmark of a modern and responsible tax system.

In essence, the legal and policy significance of the double taxation provisions lies not only in their textual content but in their practical. Effect on Zambia's fiscal sovereignty, investor confidence, and compliance culture. They represent a conscious move from a traditional, insular tax system toward one that is responsive to global dynamics while anchored in constitutional legitimacy. Thus, the Income Tax Act does more than prevent double taxation; it embodies Zambia's vision of a law-governed, transparent.

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[69] Ibid
[70] Ibid

2.4 Case Law

The Zambian judiciary has consistently reinforced the principle that the power to tax, as well as to grant or deny tax relief, must be exercised within strict constitutional and statutory boundaries. The starting point is **the Constitution of Zambia (Amendment) Act No. 2 of 2016**[71], which under Article 198(1) provides that no taxation shall be imposed except under the authority of an Act of Parliament. Similarly, Article 43(1)(b) *imposes upon every citizen a duty to pay taxes and dues that are lawfully due and payable,* while Article 18(8) *prohibits retroactive penalties*. Read together, these provisions establish a constitutional balance: while citizens must pay tax, the State can only exact taxes or limit relief where it is clearly authorized by statute and exercised within the confines of fairness and legality.

This balance was tested in **Mopani Copper Mines Plc v Zambia Revenue Authority (Appeal No. 24 of 2017) [2018] ZMSC 12**[72], where the taxpayer disputed transfer pricing adjustments and the disallowance of deductions by ZRA. Under Section 97A of the Income Tax Act, Cap. 323[73], **taxpayers must conduct related-party transactions at arm's length.**[74] Mopani argued that its deductions were legitimate business expenses, but the Supreme Court found otherwise, holding that the taxpayer bore the burden of proof to demonstrate the fairness and legitimacy of its deductions. The decision confirmed that while companies may structure their tax affairs to minimize liability, relief in the form of deductions or exemptions cannot be claimed unless it is demonstrably compliant with statutory requirements. The ruling is a judicial affirmation of Article 198(1), **which restricts taxation and relief strictly to the boundaries of enacted law.**

Similarly, in **Kabuyana and Another v Zambia Revenue Authority (2013) ZMSC 14**[75], taxpayers challenged back-tax assessments imposed without due regard to the statutory framework under the Income Tax Act. The Court emphasized that while Article 43(1) (b) places an obligation on every citizen to pay taxes, this duty is contingent upon the legality

[71] Ibid
[72] (Appeal No. 24 of 2017) [2018] ZMSC 12
[73] Ibid
[74] Ibid
[75] (2013) ZMSC 14,

of the assessment. By quashing the assessments, the Court highlighted that statutory safeguards, such as the right to be assessed fairly and to appeal under the Tax Appeals Tribunal Act No. 1 of 2014[76], are integral to protecting taxpayer rights. The decision thus positioned judicially-enforced relief as a necessary counterweight to unchecked administrative power.

A more recent development is found in **Sakala v Zambia Revenue Authority (Tax Appeals Tribunal, Appeal No. TAT/14/2022) [2023][77] TZAT 3,** where the taxpayer, a small-scale farmer, challenged an inflated customs valuation of an imported damaged vehicle. **The Tribunal relied on the Customs and Excise Act, Cap. 322**, which under Section 133[78] requires ZRA to determine customs value on the basis of actual transaction value rather than arbitrary estimates. The Tribunal ruled in favour of the taxpayer, setting aside the assessment and affirming that ZRA's powers must align with statutory valuation methods. This case illustrates how judicial intervention provides relief where administrative discretion departs from statutory authority, thereby protecting vulnerable citizens under the canopy of Article 198(1) and the principles of fairness implicit in the Constitution.

The courts have also been clear that delegated legislation cannot retrospectively alter taxpayers' rights. In **Zambia Revenue Authority v Cosmos Limited (Tax Appeals Tribunal, Appeal No. TAT/09/2019) [2020]**[79] TZAT 6, ZRA attempted to apply a Statutory Instrument (SI) retrospectively to deny input VAT credits that had already accrued. The Tribunal rejected this, holding that retrospective taxation violated Article 18(8) of the Constitution. It further ruled that delegated legislation, such as SIs issued under the Value Added Tax Act, Cap. 331, cannot impose retroactive obligations unless expressly authorised by the parent statute. This case demonstrates how judicial enforcement of constitutional principles provides relief against unlawful erosion of tax benefits lawfully conferred.

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[76] Ibid
[77] Tax Appeals Tribunal, Appeal No. TAT/14/2022) [2023]
[78] Customs and Excise Act, Cap. 322
[79] Appeal No. TAT/09/2019) [2020]

A related emphasis on procedural fairness can be seen in **Zambia Revenue Authority v Mulozi Ranching Company (Tax Appeals Tribunal, Appeal No. TAT/05/2018) [2019][80] TZAT 11, where ZRA attempted to reassess and back date tax obligations based on** an interpretation of an earlier decision. The Tribunal decided that such retrospective action violated the taxpayer's right to fair hearing under Article 18(9) of the Constitution[81], which mandate procedural justice.

2.5 CONCLUSION

Taxation in Zambia, has been established as a notable aspect. Many laws coming in play such as the Income Tax Act and among others, the issue still maintain the detail in aligning the concept of commercial reasonableness and technology advancement. Double taxation agreement and tax relief are international organization aimed at protecting individuals who operate extraterritorial, this simply means even though these mutual agreement stand the key issue still remain unsolved the tax relief and tax compliance. The reason for tax evasion and proper structure for implementation of these laws remains a curious issue is Zambia. By adopting other means to south African the dissertation aims at strengthen not only the need for tax relief but also tax equitability to foster development.

[80] (Tax Appeals Tribunal, Appeal No. TAT/05/2018) [2019

[81] Ibid

CHAPTER THREE

THE LEGAL FRAMEWORK GOVERNING TAX RELIEF IN SOUTH AFRICA

3.1 Introduction

South Africa's taxation system is a fundamental pillar of governance, providing resources for public services, economic development, and social welfare, while being firmly grounded in the constitutional principle of legality no taxation or tax relief without law. The echoed in numerous statutes which include the i**ncome Tax Act No. 58 of 1962**,[82] the **Tax Administration Act No. 28 of 2011**[83]And other notable legislation that governs the administration of South Africa and notably champion the foundation of South Africa Revenue Services which is established by act no. 34 of 1997which employee tax compliance and administration providing strictly rules in it's enforceability.[84]

Tax relief in South Africa supposedly bring about the judicial inclusion I'm the administration and interpretation of these laws, with a fairly establish organization for settling dispute compounded with the belief natural resolution such as the Double Taxation Agreement, which attract the attention of the courts to administer and delegate over despite among others with issues oto do with Taxation. The fair play with this establishment is reach a final verdict by the courts in establishing a mechanism that will not only supersedes for the day but also in aforesable future maintaining a balance between established laws and procedural proper.

3.2 The Constitutional Framework for Taxation and Tax Relief

South Africa's tax regime is firmly anchored in t**he Constitution of the Republic of South Africa, 1996**[85], which is the supreme law of the land. The Constitution not only confers powers of taxation upon the State but also provides safeguards to ensure that such powers are exercised within the bounds of legality, equality, and fairness.

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[82] Act no 58 of 1962
[83] Act .o 28 of 2011
[84] Act no. 34 of ql1997
[85] The constitution of South African 1996

The Constitution sets clear guidelines of accountability, transparency, and equity that underscores all fiscal control in South Africa. For example, **Section 217** requires that public finances, are to be administered in the manner that is fair and cooperative. Noting that inclusion and accountability is utmost observed in good faith. Similarly, Section 195 sets out the values and principles governing public administration, including efficiency, responsiveness, and accountability, which extend to tax collection and the administration of tax relief measures.

In addition to these constitutional safeguards, the power to levy taxes and provide relief is operationalized through legislation. The Income Tax Act No. 58 of 1962 serves as the primary statute regulating income taxation, including mechanisms for deductions, exemptions, rebates, and allowances[86]. **The Tax Administration Act No. 28 of 2011** complements this by establishing procedures for the assessment, collection, dispute resolution, and enforcement of tax laws.[87] Notably, **Section 108 of the Income Tax Act empowers the South African** government to enter into Double Taxation Agreements (DTAs) with other countries, which, once ratified and published, have the force of law[88]. These agreements prevent the double taxation of income, facilitate international trade and investment, and reflect South Africa's commitment to global fiscal cooperation while remaining within constitutional bounds.

Through this framework, the South African Constitution and statutory law work in tandem to ensure that taxation is not only a tool for revenue generation but also a mechanism that respects legal certainty, taxpayer rights, and socio-economic fairness. Judicial transparency, further strengthens the system, by providing construed guidance to ensure that both the arrangement of taxes and the provision of relief conform with the principles found in the Constitution.

[86] Act no. 58 of 1962
[87] Act no. 28 of 2011
[88]Ibid

3.2.1 Supremacy of the Constitution

Section 2 of the Constitution declares that it is the supreme law of the Republic and that any law or conduct inconsistent with it is invalid to the extent of its inconsistency[89]. This principle ensures that all fiscal laws, policies, and administrative actions including the granting or denial of tax relief must conform to constitutional principles.

The constitutional supremacy principle serves as a direct limitation on arbitrary taxation and administrative abuse. It compels both Parliament and SARS to operate strictly within the scope of legislative authority and in a manner that upholds human rights and procedural fairness. Where tax control conflict with constitutional affirmation, such as equality before the law, property rights, or just administrative, actions that the courts consider rhetorical and one to which the must be guided with.

3.2.2 The Principle of Legality in Taxation

Section 77 of *the Constitution expressly states that only Money Bills, introduced by the Minister of Finance may give effect, abolish, or vary taxes, levies, or duties*.[90] This provision ensures that taxation and relief control are products of a democratic legislative process, reflecting parliamentary control over fiscal matters. It is an expression of the doctrine of no taxation without representation a foundational principle of constitutional democracy.

In the context of tax relief, this means that deductions, exemptions, and rebates can only be granted when provided for by legislation typically under the Income Tax Act or specific incentive laws like the **Employment Tax Incentive Act No. 26 of 2013**[91].

3.2.3 Rights and Duties of Taxpayers

The Constitution places reciprocal obligations on both the State and its citizens. While taxpayers are obligated to pay taxes lawfully due, they are equally entitled to protection from unlawful or excessive imposition. Section 33 of the Constitution guarantees the right

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[89] Ibid

[90] Ibid

[91] Employment Tax Incentive Act No. 26 of 2013

to just administrative action, which is further implemented by the Promotion of Administrative **Justice Act (PAJA) No. 3 of 2000[92].**

3.3.1 Powers of the South African Revenue Service (SARS)

Section 3[93] of the Act establishes SARS's mandate to "efficiently and effectively collect tax" and to ensure the proper administration of the tax system. However, the exercise of these powers are subject to the reinforcement mechanism in ensuring that human rights and the rule of law is upheld. In lieu of this, the SARSs make sure that compliance of tax payer is within the cogence of the law

3.4 International Tax Relief and Double Taxation Agreements (DTAs)

Given South Africa's active participation in global trade and investment, international tax relief forms an essential component of its fiscal system. The primary objective of Double Taxation Agreements (DTAs) is to prevent the same income from being taxed in both South Africa and another jurisdiction. Hence the principle of double taxation aids to harmonize the harshness of taxation for tax payers. The alliance is mandated to look at the welfare of tax payer's duty to pay as well as not to be over taxed beyond borders.

3.4.1 Legal Basis for DTAs

The legal foundation for DTAs in South Africa is found in Section 108 of the Income Tax Act[94], which authorises the Minister of Finance to enter into agreements with other states for the avoidance of double taxation and the prevention of fiscal evasion[95]. Once concealed , these agreement are incorporated into local law through publication in the Government Gazette.

The Constitution reinforces this mechanism through Section 231[96], which provides that multilateral agreements become law in the Republic when enacted by Parliament. This

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92 Administrative Justice Act (PAJA) No. 3 of 2000.
93 Ibid
94 Ibid
95 Ibid
96 Ibid

guarantee democratic trasparency while allowing South Africa to honor its international tax obligations.

3.4.2 Methods of International Tax Relief

South Africa employs two prime methods of granting relief under DTAs: the exemption method and the credit style.

Exemption method: Certain income derived from foreign sources is excluded from taxable income in South Africa, preventing double taxation at the source and residence levels.

Credit method: Where foreign tax has already been paid, the taxpayer may claim a credit against South African tax payable on the same income, limited to the amount of tax that would have been due locally.

Sections 6(1)–(3) of the Income Tax Act[97] codify this credit system, making sure that taxpayers are not disadvantaged when engaging in cross-border transactions.

3.5 Supremacy of the Constitution and Judicial Oversight in Tax Matters

Just as in Zambia, the Constitution of South Africa stands as the ultimate source of legitimacy for all tax laws and administrative actions. Constitutional supremacy ensures that every aspect of taxation, including the granting and administration of tax relief, must conform to fundamental rights and the principles of legality, fairness, and equality.

3.5.1 Judicial Protection of Taxpayer Rights

The judiciary is mandated and functioned, to interpret and equitably provide an equal opportunity and interpretation citing relevancy from the constitution as the supreme law. It is the duty of courts given to administrate over SARS, in case the of any ultra vires of the law, it critically analyzed that the rules confirm to justice and equitably administered beyond the norm of legistrature as they may depart to some inconsistency and legally unsound legislation.

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[97] Ibid

3.6 Institutional Coordination and Enforcement Mechanisms

Tax relief in South Africa is not administered by a single entity but through a coordinated framework involving several institutions whose roles are legally defined. The synergy among these bodies ensures transparency, accountability, and fairness in the granting of relief.

3.6.1 The South African Revenue Service (SARS)

SARS, established under the **South African Revenue Service Act**, 1997[98], is the primary agency taxes to maintain compliance and foresee that laws are not just made but also tasked with the skill to punish non compliances responsible for implementing tax legislation and ensuring compliance. SARS operates under the policy guidance by the President to the Minister of Finance but functions as an entirely organ of the state.[99] This institutional supremacy enables it to make administrative decisions free from undue political influence while remaining accountable to Parliament. However, the Commissioner's decisions must align with constitutional standards of reasonableness and fairness,

SARS is structured to perform its mandate efficiently through specialized divisions responsible for audit, collections, taxpayer services, legal compliance, and international tax matters.

information, verify eligibility for foreign tax credits, and ensure compliance with cross-border taxation rules. By doing so, SARS not only curb double taxation but also supports South Africa's commitments to global fiscal fairness and non avoidance precaution, in line with the OECD's Base Erosion and Profit Shifting (BEPS) framework.

In addition, SARS has advanced on tools to help in the implementation of tax relief and their purpose carefully detailed both on procedural law and substantive. These include binding private rulings, interpretative autonomy, and online portals for tax submissions and relief applications. By establishing unambiguous reform, SARS enhances voluntary

[98] Ibid
[99] Ibid

compliance, reduces disputes, and ensures that relief methods are applied consistently and predictably across taxpayers.

Ultimately, the South African Revenue Service exemplifies a new tax management institutionalized on the balance of autonomy with accountability, revenue dynamic with fairness, and local tax enforcement with international cooperation. Its structure, policies, and practices provide a model aiming at the tax relief is both legally grounded and practically effective, contributing to a stable and equitable fiscal environment.

3.7 CASE LAW

The cases serve as judicial oversight to South African regime drawing insight in legal clarity and procedural law. The principle of legality requires that every tax or relief must have a clear and express legal basis. SARS cannot create, extend, or modify tax obligations or exemptions without statutory authority. The Constitutional Court has repeatedly affirmed this position, notably in Chief **Lesapo v North West Agricultural Bank and Another (1999) (12) BCLR 1420 (CC)** [100], where it held that even administrative actions under fiscal law must comply with due process requirements and statutory limits. This establish in lieu of how taxes should be conducted setting a legal campus for citizen to establish a structural arrangement.

Consequently, in **CSARS v South African Custodial Services (Pty) Ltd (2012)**, ensures that these discretionary powers are exercised reasonably and fairly, thereby preventing abuse and safeguarding taxpayer rights. This case also highlights the importance of SARS's decision-making being objective, evidence-based, and guided by policy principles, rather than arbitrary or politically influenced considerations. As critically observed on the adjudication procedure in case of **CSARS v Pretoria East Motors (Pty) Ltd (2014) (5) SA 231 (SCA)**[101], the Court emphasized that SARS's decisions must be grounded in rational evidence and that arbitrary assessments violate both the TAA and constitutional norms. These rulings demonstrate that while the State's power to tax is

[100] Chief Lesapo v North West Agricultural Bank and Another (1999) (12) BCLR 1420 (CC),
[101] CSARS v Pretoria East Motors (Pty) Ltd (2014) (5) SA 231 (SCA)

sovereign, it is not absolute. It is conditioned by the rule of law and subject to judicial oversight.

Furthermore, **Metcash Trading Ltd v CSARS (2001)**[102], the Constitutional Court reiterated that taxation must always respect the right to fair administrative action, even in urgent revenue collection contexts. This means that administrators must uphold the law in the procedural duty to collect taxes. There must be respect for human right and respect for the law, however in **Krok v CSARS (2015) (6) SA 317 (SCA)**[103], the Court examined whether foreign tax credits could be claimed for income derived from Australia. The Court upheld the taxpayer's right to relief, emphasizing that South Africa's DTA network is designed to promote international cooperation and fairness in taxation.

CIR v Downing (1975) (4) SA 518 (A)[104], the Court affirmed that where a DTA has been incorporated into domestic law, it has binding legal force equivalent to that of the Income Tax Act itself. This means that taxpayers can directly invoke treaty provisions in domestic proceedings to claim relief from double taxation.

3.8 Conclusion

South Africa's legal fraternity for tax relief is based upon a vast convergence of constitutional supremacy, legislative certainity administrative fairness, and judicial system. Both the Constitution of 1996, and the Income Tax Act or the Tax Administration Act, establishes a system that both empowers and restrains the State in its pursuit of revenue collection. Key institutions SARS, the National Treasury, in making sure that the duties and responsibilities of citizen are adhered both parliaments and court have varied their function in delivering that the substantive law conform with the procedural principles,. The judiciary, underscore a diligent role on championing the procedure standard making sure that the laws are construed to their ordinary and purpose from which they were created. Advancing ahead, the development of Zambia's tax system requires not only adherence to constitutional and statutory principles but also the change of international best practices

[102] Ibid
[103] Ibid
[104] CIR v Downing (1975) (4) SA 518 (A)

to strengthen efficiency and compliance. Lessons from more expertise legal systems, such as South Africa's, highlight the value of clear legislative frameworks, wholly tax management, and judicial outlook in addressing tax relief mechanisms.

CHAPTER FOUR

Contents of Double Taxation Treaties and Required Implementation

4.1 Introduction

Treaties aimed at avoiding or mitigating double taxation occupy a central place in international tax law. The bilateral agreements commonly called double taxation conventions (DTCs) or double taxation agreements (DTAs) define how two (or more) states allocate taxing rights, prevent overlapping tax claims and provide mechanisms for relief from double taxation. As the Organization for Economic Co-operation and Development (OECD) observes, the “Model Tax Convention on Income and on Capital” has become a basic reference document for negotiation, interpretation and application of such treaties. The purpose of this chapter is to set out what is contained in these treaties (the substantive, procedural and relief provisions) and what must be done by contracting States and taxpayers to make them operative.

4.2 Purpose and overarching objectives

The primary purpose of a double taxation treaty is to avoid or mitigate what is known as juridical double taxation where the same person, the same income (or capital) and the same period are subject to tax in two jurisdictions. The treaties also aim to allocate taxing rights between the contracting States, to provide certainty of tax treatment for cross-border trade and investment, and to promote co-operation in tax matters (such as exchange of information and mutual assistance) so as to prevent tax avoidance or evasion. For example, the European Commission states that DTCs are used to “allocate taxing rights between Contracting States” and thereby bolster investment flows.

4.3 Structural anatomy of a typical treaty

4.3.1 Title and Preamble

A typical treaty begins with a title (for example, “Convention between State A and State B with respect to taxes on income and on capital”). The preamble often recites the contracting States’ desire to eliminate double taxation without creating non-taxation opportunities, to promote mutual economic cooperation and to safeguard against tax avoidance and evasion.

4.3.2 Scope: Persons, Taxes Covered, General Definitions

One of the first substantive articles defines the persons covered typically residents of one or both Contracting States. Another article defines the taxes covered by the treaty (for example, taxes on income and on capital imposed by each State). As one commentator notes, the material scope of **Article 2 of the OECD Model Convention** is the starting point for application of the treaty[105]. There are also articles for key definitions such as “resident”, “permanent establishment”, “company”, and “business profits”.

4.3.3 Distributive rules: allocation of taxing rights

A large portion of the treaty articles deal with allocation of taxation rights between the source country (where income arises) and the residence country (where the taxpayer resides). Typical subject-matter headings include:

a. Income from immovable property.
b. Business profits.
c. Shipping, inland waterways transport and air transport.
d. Associated enterprises (transfer pricing).
e. Dividends, interest, royalties.
f. Capital gains.
g. Income from employment, directors’ fees, artistes and sportsmen, pensions, etc.

These Articles specify in which State (or States) tax may be imposed, often set at reduced rates (for example on dividends or royalties) to avoid excessive taxation in the source State, and to ensure that the residence State either exempts or credits the foreign tax. For instance, the treatise states that a tax treaty “defines the amount of tax each country can impose on a taxpayer’s income to prevent the same income from being taxed twice”.[106]

[105] OECD Model Tax Convention (2022)
[106] Organisation for Economic Co-operation and Development. (2017). Model Tax Convention on Income and on Capital: Condensed Version 2017. OECD Publishing. https://doi.org/10.1787/mtc_cond-2017-en

4.3.4 Methods for elimination of double taxation

Treaties also set out, or provide for, the method by which double taxation is to be relieved. The United Nations Model and the OECD Model normally give two primary methods: the exemption method and the credit method. For example, in the OECD Model Convention Chapter V sets out: Article 23A – Exemption Method[107]

Article 23A provides that when a resident of one Contracting State earns income or holds capital that, under the Convention, may be taxed by the other Contracting State, the resident's home State is required subject to the limitations in paragraphs 2 and 3 to exempt that income or capital from taxation[108]. This exemption applies unless the Convention permits the other State to impose tax merely because the income or capital is also connected to a resident of that other State.

Paragraph 2 further explains that when a resident receives income that may be taxed in the other Contracting State under Articles 10 or 11, the resident's home State must grant a tax credit[109]. This credit is equal to the amount of tax paid in the other State[110]. However, the credit cannot exceed the portion of the resident's domestic tax liability that corresponds to the income sourced from the other State

Article 23A – Exemption Method

According to Article 23A of the OECD Model Tax Convention, when a resident of one Contracting State receives income or owns capital that the other State is entitled to tax under the treaty, the resident's home State generally excludes that income or capital from its own taxation[111]. This exemption applies provided that the other State is not taxing the item simply because it also belongs to one of its own residents. Furthermore, for certain types of income particularly those addressed in Articles 10 and 11—the resident State must allow a reduction in its tax equal to the amount of tax actually paid to the source

[107]OECD Model Tax Convention (2022) Arts 23A–23B.
[108] Ibid
[109] Ibid
[110] Bid
[111] Ibid

State[112]. This reduction, however, is limited so that it cannot exceed the portion of domestic tax attributable to the foreign-sourced income or capital.

Article 23B – Credit Method

Article 23B offers an alternative mechanism[113]. When a resident is taxed by the other Contracting State on income or capital according to the treaty, the resident's home State must provide a tax credit. This credit is equal to the tax paid in the source State, whether it applies to income or capital[114]. Similar to the exemption approach, the credit is restricted so that it does not surpass the domestic tax liability attributable to the same income or capital, ensuring that the relief does not exceed the total domestic tax owed.

4.3.5 Special provisions: non-discrimination; mutual agreement procedure; exchange of information; assistance in collection

Most treaties include a chapter of "special provisions" such as:

Non-discrimination: residents or nationals of one State should not be subjected to more burdensome taxation in the other State than nationals of that other State in similar circumstances.[115]

The Mutual Agreement Procedure (MAP) serves as a dispute-resolution process through which the competent authorities of the contracting States can address and settle issues relating to the interpretation or implementation of a tax treaty.[116]

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[112] Ibid
[113] Ibid
[114] Ibid
[115] Convention on Mutual Administrative Assistance in Tax Matters (adopted 25 Jan 2010, entered into force 1 Jun 2011) 50 ILM (2011) 1492 https://www.oecd.org/ctp/exchange-of-tax-information/convention-on-mutual-administrative-assistance-in-tax-matters.htm accessed
[116] Georg Kofler, Tax Treaties (Institute for Austrian and International Tax Law, Vienna 2020) Part VI 'Special Provisions: Non-Discrimination, Mutual Agreement, Exchange of Information and Assistance in the Collection of Taxes (Articles 24–26)' https://koflerge.org/wp-content/uploads/2020/12/kofler_tax-treaties.pdf accessed

Exchange of information: to prevent tax evasion, treaties frequently provide that the Contracting States shall exchange information relevant to carrying out the provisions of the treaty or domestic tax law. [117]

Assistance in collection of taxes: some treaties provide that one State will assist the other in collecting taxes owed under domestic law of the other State. [118]

4.3.5 Mutual Agreement Procedure and dispute resolution

Contracting States must establish competent-authority functions to engage in the MAP and resolve disputes regarding interpretation or application of the treaty. Taxpayers may invoke this mechanism through their domestic competent authority. The presence of a MAP provision is standard. Contracting States must also exchange information and co-operate under the treaty's special provisions (exchange of information, assistance in collection). Without such co-operation, the treaty's benefits may be undermined.

4.4 Challenges and critical considerations

Although many treaties broadly follow the model conventions, there are divergences in practice. For example, the United Nations Model Convention tends to give the source State a stronger claim to tax certain types of income, a feature that is especially important for developing countries, and which distinguishes it from the OECD Model. [119] The Commentaries on the OECD Model warn of difficulties in applying treaty provisions to partnerships. Hybrid business structures and emerging categories of cross-border income such as those generated through digital services continue to pose challenges. [120] Even when a tax treaty is in place, the actual enjoyment of relief depends heavily on domestic procedures and the taxpayer's compliance.

4.5 Legal Basis and Authority in International and Domestic Law

[117] Ibid
[118] Ibid
[119] Ibid
[120] Ibid

Consequently, once two countries conclude a double taxation treaty, they undertake not only to respect its provisions but also to integrate and enforce it within their domestic legal frameworks in accordance with their constitutional processes.

In the United Kingdom, for instance, double taxation treaties are given effect through statutory instruments made under the Taxation (International and Other Provisions) Act 2010, Part 2, section 2(1), which authorizes the Treasury to give effect to arrangements for relief from double taxation by Order in Council.[121] In IRC v Collco Dealings Ltd [1962] AC 1, *the House of Lords, recognized that once a treaty is created domestically, its provisions prevail over conflicting rules of domestic law in so far as they are intended to confer relief*.[122] This position is mirrored in many common-law countries, like Zambia, where section 97 of the Income Tax Act, Cap 323 employs the Minister of Finance to manage negotiation with other countries for the granting of relief in respect of income tax.[123]

The Supreme Court of **India in Union of India v Azadi Bachao Andolan (2004) 10 SCC 1** reaffirmed the principle, that double taxation treaties are valid and binding instruments, noting that, the executive is competent to enter into such agreements, upon notification, they operate to confer or agree on benefits and duties upon taxpayers."[124] The case also manifest that agreements should be interpreted liberally, consistent with the object of avoiding double taxation rather than enabling tax avoidance.

4.6 Interpretation of Double Taxation Treaties

Judicial Interpretation plays a perceive role in ensuring consistency and effectiveness of treaty provisions. **Article 31 of the Vienna Convention** provides, that agreements like treaties are to be read in good faith, giving the words their, truly natural ordinary meaning while considering both the context, and the purpose of the agreement.[125] Courts in many

[121] Taxation (International and Other Provisions) Act 2010 (UK) s 2(1)
[122] 1962] AC 1
[123] Income Tax Act (Cap 323 Zambia)
[124] (2004) 10 SCC 1
[125] Ibid

countries have consistently relied on this construed interpretation approach when dealing with treaty provisions.[126]

In Fowler v Commissioner for HMRC [2020] UKSC 22, the Supreme Court of the United Kingdom cited Article 31 to interpret the UK-South Africa agreements, deciding *that the term "employment income" must be interpreted wholly under the agreement in question rather than by adoption of local affirmed definition.*[127] Similarly, in CIR v Hang Seng Bank Ltd [1991] 1 AC 306, the Privy Council *suggested that the language of the treaty, not local tax statutes, governs unless the treaty expressly refers to local laws.*[128]

Academics have noted that the OECD Model Convention and its Commentaries play a vital role interpretation of these agreements. Vogel, also expands that the Commentaries are "not legally binding but, only persuasive" in understanding the purpose of Contracting States and ensuring conformity in interpretation.[129] Moreover, courts frequently look to international practice and OECD guidance for meaning, particularly where both States are OECD members or have adopted similar wording.

4.7 Practical Implementation Measures

The practical of double taxation agreements requires urgent administrative, legal and procedural goals. First, exchange of instruments of ratification brings the agreement into operation. Once effective, States must publish or gazette the treaty to make it enforceable domestically. Tax authorities are then required to issue public notices, circulars or practice notes explaining its operation.

For instance, the Zambia Revenue Authority (ZRA) issues practice notes detailing applicable withholding tax rates and the procedure for claiming relief under each treaty. Taxpayers must obtain a Certificate of Residence from the competent authority of their

[126]Ibid
[127] [2020] UKSC 22
[128] [1991] 1 AC 306
[129] Klaus Vogel, Double Taxation Conventions (4th edn, Kluwer 2015).

home State, and present it to the payer or the tax authority in the source State to qualify for reduced treaty rates.[130]

In the United Kingdom, HMRC's International Manual specifies that residents of treaty partner States must submit Form DT-Individual or DT-Company to claim benefits such as reduced withholding tax on dividends, interest, or royalties.[131] The failure to follow these administrative requirements may result in denial of treaty benefits even when the taxpayer is substantively entitled to them.

4.8 Relief Mechanisms and Their Application

The core obligation under treaties is that contracting States "shall" eliminate double taxation by the method stipulated in the relevant article usually exemption or credit. Under the exemption method, the Residence State excludes foreign-source income from its tax base. Under the credit method, the Residence State includes such income but grants a credit for foreign tax paid.[132]

Article 23B(1) of the OECD Model makes it clear that when a resident is taxed on certain income in the other Contracting State, the State of residence must reduce the individual's domestic tax by the amount of tax already paid abroad. When implementing, this rule it curbs the same income from being taxed in both jurisdictions, thereby disolving the risk of double taxation.[133] This ensures the taxpayer is not taxed twice on the same income.

Courts have applied this mechanism in different jurisdictions. In CIR v Commerzbank AG [1990] STC 285, the English Court of Appeal confirmed that a taxpayer was entitled to foreign tax credit relief under the relevant treaty once tax had been paid in Germany, holding that "the object of the Convention would be defeated if double taxation were left unresolved."[134] Similarly, in **Sanofi Pasteur Holding SA v HMRC [2018] EWCA Civ**

[130] Zambia Revenue Authority, 'Double Taxation Agreements: Procedures for Claiming Relief' (ZRA Practice Note 2022).
[131] HMRC, International Manual DT Claim Procedures (UK HMRC 2023).
[132] OECD Model Tax Convention (2022)
[133] Ibid
[134] AG [1990] STC 285,

1493, it was held that treaty credit relief must be applied consistently with the OECD Model and domestic statutory provisions giving it effect.[135]

4.9 The Role of the Mutual Agreement Procedure (MAP)

When disputes arise between taxpayers and tax authorities concerning interpretation or application of a treaty, or when taxation not in accordance with the treaty is imposed, the MAP serves as the principal means of resolution. Under Article 25 of the OECD Model, this macahanism is an arrangement if the state and the citizen were an authority will and can be engaged in issues to do with taxes in order to carry out a resolution for a period gap lastling for three years the undstanding us to create a mutual agreement and to reach a final submission.[136]

The OECD's 2019 MAP Statistics reveal significant progress in resolving cases, though concerns remain regarding timeliness and transparency.[137] States must therefore establish competent authority units, provide access to taxpayers, and implement MAP outcomes through domestic legal adjustments.

4.10 Prevention of Treaty Abuse and Base Erosion

The study has complex of global commerce reform and the cross-border structures have led to widespread, on treaty abuse, where entities take advantage of treaty provisions to secure unintended tax benefits. To counteract this, the OECD and G20 introduced the Base Erosion and Profit Shifting (BEPS) Project, particularly Action 6, which accord the inclusion of anti-abuse salient legal framework in treaties.[138]

The most significant reform is the insertion of the Principal Purpose Test (PPT), which denies treaty benefits if obtaining those benefits was one of the principal purposes of any arrangement or transaction, unless it is established that granting such benefits would be in accordance with the object and purpose of the treaty.

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[135] [2018] EWCA Civ 1493

[136] Ibid

[137] Ibid

[138] Ibid

The MLI therefore demonstrates an international commitment to safeguarding the integrity of treaty systems so that relief from double taxation does not become a means of achieving unintended double non-taxation.

In Her Majesty's Revenue and Customs v Anson [2015] UKSC 44, the UK Supreme Court emphasized the essence of assessing the substance rather than the form of an arrangement when applying treaty rules, affirming that treaty benefits should not be granted where the underlying economic reality does not support them[139]. Likewise, in **Prévost Car Inc v The Queen 2009 FCA 57**, the Canadian court declined to award treaty advantages because a conduit entity had been inserted solely to secure a lower withholding tax on dividends.[140] These decisions collectively highlight that combating treaty abuse has become a central aspect of administering and interpreting double taxation agreements.

4.11 Emerging Challenges and the Digital Economy

With this dynamic society there is a digital error were goods can be bought online and managed online the applicability of these laws coexist between the principle of of uncollected goods when duty has already been paid for, this insight gives rise to decriminal potential to personalize and defraud. I'm as much as these taxes are applicable there is need to establish a community of advance or compile the changes and embrace the trrenf I'm order to categorically deal with the problem at hand he reliance on physical presence, primarily through the "permanent establishment" standard, often fails to capture value created through digital operations where companies can generate significant income without maintaining any physical footprint in the taxing jurisdiction.

In ascension, the OECD and the Inclusive provisions have advanced proposals under Pillar One and Pillar Two, focusing to reallocate taxing rights to market countries and introduce a country wide minimum tax rate.[141]

[139] (2015) UKSC44
[140] (2009 FCA 57
[141] OECD, Statement on a Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy (8 October 2021).

4.12 Conclusion

In examining the contents of double taxation treaties and the actions required for their effectiveness, it becomes evident that these instruments are far more than static agreements they are dynamic frameworks of fiscal cooperation. A double taxation agreement, embrace detailed provisions on scope, allocation of taxing rights or tax relief mechanisms, and administrative cooperation. Its essence depends upon diligent construed in good faith. Furthermore it is domestic implemented, administrative coordination, and an ongoing commitment to international standards against abuse.

CHAPTER FIVE

CONCLUSIONS AND RECOMMENDATIONS

5.0 INTRODUCTION

The Occupational Health and Safety tax law, has a broader economic structure to share a common goal as fundamental pillars for achieving equitable and sustainable national development. This study enlighten, the exploration of tax relief mechanisms in Zambia and South Africa and provides a deep understanding of how fiscal instruments can either accelerate or constrain economic growth, investment, and social equity.

This chapter presents an analyzed summary of the preceding, four chapters. It confines the key findings, analyses, and lessons drawn from each section of the study. The aim of this summary is to provide a structure flow, narrative of how the dissertation progressed from background and problem identification to comparative analysis and policy interpretation. Thereafter, the chapter will proceed to present the main conclusions and practical recommendations for reforming the legal framework governing tax relief in Zambia.

5.1 SUMMARY OF THE STUDY

5.1.1 Overview of Chapter One

Chapter One has a foundation for the entire study by evaluating context review, objectives, and rationale of the dissertation. The chapter enlightens tax relief as a fiscal policy, instrument central to both Zambia and South Africa's tax systems. It champion that tax relief in the form of exclusion, deductions, rebates, and incentives serves not only as a tool for supporting investment but also as a balancing mechanism for achieving social and economic policy goals.

The overview of this discussion unvail that Zambia's tax relief system has evolved through several statutory frameworks, most namely the **Income Tax Act, Cap. 323, the Zambia Development Agency Act,** and various statutory instruments under the Ministry of Finance. The Zambian framework has, however, faced persistent challenges including unclear legislation, lack of consistency in application, and inadequate oversight in the granting of exemptions.

The chapter expand on an oversight, focusing the interest between the legal frame work of other regime that have developed vastly in their legal sphere, and also looks at the undstanding, to uncover the potential growth of Zambians legal fraternity and establish a community of equitably actualized implementation in case of emergency such as these days. The chapter focused mainly on how this work will and can change the community of e better not just for an elective moment looking at the real problem not the cause itself, this is attached to the research questions, its what the research is trying to resolve and administrate over. Maintain this study helps not only in practical scenarios but also future generation to create a sustainable future generation

The importance of the study, lies in its usefulness to policymakers, tax officials, investors, and researchers. By setting Zambia's framework against that of South Africa widely regarded for its stable tax administration. The research intended to offer academic insight and support practical policy reform in Zambia.

The study is confined to income tax, value-added tax (VAT), and related incentive programmes. And adopts a qualitative approach I'm the study expanding ok international double taxation agreement, with strong caution on doctrinal legal analysis and extensive document review. Effective materials consisted of statutes, court rulings, and international agreements, while secondary sources included scholarly texts, policy documents, and international standards, particularly those developed within the OECD and SADC systems.

In summary, Chapter One summarize with a note, that although Zambia and South Africa share the broader picture of encouraging economic expansion through tax relief, there are significant differences that exist in legislative precision, administrative capability, and constitutional safeguards around fiscal responsibility. This formed the foundation for the more detailed legal and comparative discussions that follow suit.

5.1.2 Summary of Chapter Two

Chapter Two offers a detailed evaluation of the statutory and constitutional framework governing tax relief in Zambia, providing both legal analysis and an overview of the structural features of the system in implementation. It supplied the necessary national background before engaging in any comparison with South Africa or global practices.

Key concept to the chapter was that it acknowledge Zambia's tax regime operates within a constitutional structure that vests exclusive authority in the National Assembly to create, amend, or remit taxes. The Constitution of Zambia as (Amendment) Act No. 2 of 2016 affirm a paramount legal supremacy, outlining the principles of fiscal discipline, the separation of powers, and the duty of all citizens to contribute equitably to public revenue.

The chapter essentially champion the foundation of the Constitution while recognizing the State's power to levy taxes, it consequently imposes an express duty of fairness and equity in their management. In this respect, the legal justification for granting tax relief must be founded in constitutional principles ensuring transparency, accountability, and the promotion of socio-economic need.

The chapter then examined the **Income Tax Act, Cap. 323 of the Laws of Zambia**, as the primary legislative instrument governing income taxation and tax relief provisions. It outlined how the Act provides for various exemptions, allowances, and deductions such as capital allowances, investment deductions, and special incentives for manufacturing and export-oriented industries. However, it was observed that the Act's structure is fragmented, and its interpretation is often complicated by frequent amendments and overlapping statutory instruments.

Another significant theme of Chapter two was the management practice and statutory discretion embedded in Zambia's tax regime. It assert, that the Minister of Finance wields substantial discretionary powers to grant tax exemptions or concessions through statutory instruments. While such flexibility can be advantageous for attracting investment, it also opens potential loopholes for abuse and undermines predictability in tax policy.

The overview of the research brings to light Zambia Development Agency this Act maintain compliance and the need to. Allow tourism, under development purposes and The rise of industrialization because of these investors, tax relief plays a vital law in this sphere, with indecisive like tax holidays or exemption. This in turn will create job opportunities for citizen and also foster development, when taxes of a country are good investors would find a potentials to invest in such a country as opposed to the other way round.

As this is not just about Taxes but also a profit to gain and the need to establish an environment for potential growth of small and medium companies. Act like value added tax and custom and exercise duty has greatly been example of a failed implementation of tax relief in Zambia. In as much as taxes are important for developmental purposes however there is need to recognized that there is no development in a country if there is no support for businesses. A lot of business in Zambia do not thrive because of high burden if these taxes the threshold is high and the expectation becomes unbearable making it very hard for locals to thrive in business as a result tax evasion.

Further, the chapter brings into discussion international tax relief methods, particularly Zambia's network of Double Taxation Agreements (DTAs). These agreements, entered into with countries such as South Africa, the United Kingdom, and Mauritius, are structured to dissolve double taxation on cross-border income. The legal implementation of these agreements, however, has faced construed challenges, especially regarding the relationship between treaty provisions and domestic tax laws.

In conclusion, Zambia has the laws needed to facilitate, implemented and enforce these tax relief, however,, the real gap Is never question about these laws but their application in a practical sense. The research warmly echoes the need for transparency in order to further the gap caused because of failed administration. The need to recognize and adopt these laws has always been the case for Zambia however implement and the need to balance between exceptional application an like changing the laws will greatly impact out system

5.1.3 Summary of Chapter Three

Chapter Three provided a comparative evaluation South African legal regime on taxation relief, with particular emphasis on how the jurisdiction is structured, administered, and judicially interpreted its tax laws and provide both efficiency and fairness. The evaluation was intended to identify key features that could inform Zambia's ongoing efforts to strengthen its own taxation relief systems.

The chapter began by outlining the constitutional foundation of taxation in South Africa. **Section 77 of the Constitution of the Republic of South Africa (1996**) employs Parliament to make money bills, including those that impose, or abolish taxes. The constitutional is aligned on legality, establish with the requirement for public inclusion, and ensures that all tax alignment, derive their authority from the legislature and are subject to local oversight. This sets a strong institutional precedent for accountable fiscal regime.

Central to South Africa's taxation framework is the **Income Tax Act No. 58 of 1962**, which regulates the imposition of income tax, defines taxable income, and provides for various exclusion and relief system. The Act had undergone numerous reforms to align with evolving economic uncertainties, that include international standards, and the need to protect the domestic tax foundation. Importantly, it confines both equity and efficiency as guiding principles, ensuring that taxpayers in similar positions are treated consistently while minimizing distortions in investment decisions.

The common view highly expressed is the Act, and it's finality aspect as it seen to favor foreigner more than the local individuals due to heavy negotiation and legal battles in the atmosphere the income tax Act for South Africa, sufficiently aligned with their application override the natural tendency for making failed laws. They champion o application and also on gray areas of these legislation.

Moreover, South Africa's approach to international taxation has been lauded for its adherence to global best practices. The country has an extensive network of Double Taxation Agreements (DTAs) based on **the OECD Model Tax Convention**, which allocate taxing rights and eliminate double taxation through the credit and exemption methods. These treaties also facilitate exchange of information and mutual administrative assistance, strengthening South Africa's capacity to combat tax evasion and base erosion.

The chapter further highlighted the role of the judiciary in interpreting and enforcing tax relief provisions. Landmark decisions such as **CSARS v NWK Ltd (2011) ZASCA 168**

and CIR v Conhage (Pty) Ltd (1999) ZASCA 31 were discussed as examples of judicial commitment to preventing abuse of tax relief mechanisms. In these cases, the courts emphasized substance over form, warning against artificial or contrived transactions designed solely to obtain tax advantages.

In understanding judicial contextual application., the case highly noted on principality in viewing these tax laws or implementation, these laws suffer from a defect in terms of territorial arrangement. For example, a person working in Zambia however, lives in America ad a country of birth and origin. In short there is a place of origin and a place of residence,, since this person will be taxed on the source were the income is greater the country of residence lacks the capacity to further tax the individual on the same amount.

Riding on this same notorious fact, it is to the attention of the majority that although taxes might seem to be fairly, delt with internationally, however, there is need to recognize the presence of these legislation and adapt their purpose, In as much as there should be relief from this double taxation it can be seem on our daily application that there is defect of the law iin it’s application, this ambiguities stand between the perfect of the substantive laws and procedural improper, an example person g lives has a maid, this person g gets paid on a monthly salary from which he or she is taxed from and then pay the maid the maid in return is taxes twice from the initial amount already taxed, where is the limit to these laws in as much as they can be seen to applicable.

Although internationally, Zambia’s legal system is appreciated. The implementation becomes a heavy burden these laws luck merit if their application are unclear. The goal remain the same, if laws must be appreciated there is kin to approve and uphold them in an engine of practicability. What good are laws if they cannot govern, hence the preposition seeking a clearity I’m the application of these laws it is no longer a need to further amend but also the complex question should be on how these particular laws apply to real life situation.

People suffer too much not because of their failure to comply , but because of the failure of these laws to maintain consistence and unambiguous on their application.

This view although not seemingly much of an ordinary, SARS has implementation a platform for tax monitoring and digital compliance these can be seen as a step forward I. A long term run as opposed to Zambia. However, it should be noted that there is a difference between monitoring and actually providing for a remedy to curb these gray areas. Riding on this notion. The essence of tax relief was to avoid double taxation and maintain compliance not just extra territorial buy also it should looked at in a practical sense on how it affect the citizen. The double taxation agreement has helped a lot of people but that's were the problem is, mostly it affects the locals because if every thing is taxed in shops there is VAT value added tax and other small things what's the point when an individual has already maintain compliance of further charging theme multiple times on the same income.

Another salient feature highlighted was the complementarity between tax policy and broader economic strategy. South Africa leverages its relief mechanisms not only to provide direct fiscal benefits to taxpayers but also to achieve strategic economic outcomes, such as promoting renewable energy investment, incentivizing research and development, and supporting job creation in targeted sectors. This demonstrates that tax relief can function as a strategic policy instrument, linking fiscal administration with national development objectives. For Zambia, adopting a similar approach could enhance the effectiveness of relief measures in supporting industrial diversification, innovation, and socio-economic development.

The chapter further provide for judicial system, aimed at fostering the need to harness and incorporate laws that help improve the legal fraternity in the legal sphere. There Is a wide space between adaptation of the Act and implementation of change. This chapter focused on thee structure lesson plan that help in changing these laws onto an expanded version to help in accountability and enhancement In terms of enforcement and their purpose to deliver a community free from exploitation and I'm just laws that seem arbitrary before their own guidance.

5.1.4 Summary of Chapter Four

Chapter Four presented an expanded version of the contents, structure, and achievement required for Double Taxation Treaties (DTTs), fostering them within both international law and local legal systems. The comprehensive account of how DTTs function as instruments of international fiscal cooperation, designed to curb the burden of double taxation and promote territorial trade, and prevent avoidance. The Chapter firstly began by explaining, double taxation. It arises when the same income or capital is taxed in more than one jurisdiction or country, a situation that can deter investment, temper with business outcome, and hinder economic growth. To provide a solution, countries enter into bilateral Double Taxation Agreements (DTAs), which involves two countries or Conventions (DTCs) that gives effect to taxing rights between country of origin (where the income arises) and the residence country (where the taxpayer resides).

The chapter upheld, that such treaties assert their authority from the Vienna Convention on the Law of Treaties or mutual agreement (1969), which enshrines the principle of pacta sunt servanda (Article 26) that treaties in force must be performed in good faith. Thus, when two countries sign a DTA, they assume both international and domestic obligations to implement its provisions effectively.

The regime Framework, a typical of DTA that follows, the OECD Model Tax Convention or the UN Model Convention, with the provisions that identify and define the scope of the treaty, this ultimately ranks into income covered, and the types for relief from double taxation. The preamble of most agreements give mutual goals to remove double taxation without deterring for taxation or tax evasion this creates a balance that exist at the heart of multilateral understanding in agreement formation.

5.1.5 Recommendations

This study echoes with a strong recommends that Zambia incorporate a comprehensive and equitable legal framework to control the administration of tax relief. The genesis of a Consolidated Tax Relief Act, is to harmonize the laws and curb any inconsistencies that hardens it’s transparent, and accountability I’m implementation. It can be noted, that’s greater transparency should be ensured by subjecting the Minister of Finance’s discretionary powers to parliamentary oversight and requiring the publication of all exclusion granted.

It is further recommended that the Zambia Revenue Authority be strengthened and granted more operational independence to enhance fairness and efficiency in tax administration. Digital modernization and continuous staff training would also improve compliance monitoring and reduce corruption. Moreover, the government should review existing double taxation agreements to prevent treaty abuse and to align Zambia's system with international standards.

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