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Exploring Tax Options to Curb Excessive Gambling in South Africa

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ABSTRACT Since 2010, the South African government has made various proposals to impose a gambling tax with the objective of discouraging excessive gambling in South Africa. Although the South African gambling industry is already subject to various taxes on both a national and a provincial level, the final proposal was to introduce a national gambling tax based on gambling revenue to be charged at an additional one percent levy on a uniform provincial gambling tax base. Exploratory research was conducted to explore five different tax options by measuring it against the qualities of good tax policy to conclude on their ability to discourage excessive gambling. The paper concludes by recommending the option, namely, to levy an excise tax upon gambling tickets, chips and tokens sold. This option reflects the qualities of good tax policy and might, in principle, support the objective of discouraging excessive gambling.

INTRODUCTION

Since 2010, the South African government has made various proposals to impose a gambling tax in order to discourage excessive gambling in South Africa. These proposals varied from a fifteen percent withholding tax to be levied upon gambling winnings above R25000 (National Treasury 2011: 71), to the introduction of a national gambling tax to be levied at an additional one percent based on gambling revenue (National Treasury 2012: 57). Currently, non-professional gamblers (those who participate in gambling activities as a pastime or for entertainment) in South Africa are in a neutral position for normal income tax purposes. The proceeds from gambling winnings are treated as amounts of a capital nature and do not form part of 'gross income' as defined in section 1 of the Income Tax Act (58 of 1962) as amended (the Act) (Republic of South Africa 1962). These taxpayers are also prohibited from deducting any expenditure incurred in respect to gambling activities because it has not been incurred in the production of income. For professional gamblers, it was established in *Morrison v CIR 1950* that, where gambling activities are undertaken in a scheme of profit-making or to the extent that such gambling activities constitute a business, the proceeds will be regarded as income and will constitute taxable receipts. Expenditure incurred in generating such winnings (not of a capital nature) will be allowed as a deduction against such winnings. However, any losses created (where deductions exceed income or winnings) will be 'ring-fenced' and may not be deducted from income not pertaining to such gambling. With this tax treatment as background the problem of excessive gambling and tax options available in attempt to curb excessive gambling in South Africa are explored.

Literature Review

The South African National Responsible Gambling Programme (NRGP) identifies three types of gambling behaviors, namely recreational gambling (when people gamble on social occasions with friends or colleagues), problem gambling (when people spend too much time and money on gambling), and compulsive and pathological gambling (when gamblers suffer from the psychiatric disorder of impulse control) (Ligthelm and Jonkheid 2009: 39). 'Excessive gambling' is described as the level of time and money spent on gambling which is considered to be higher than can be reasonably afforded relative to the gambler's available disposable income (Blaszczynski et al. 1999; National Research Council 1999; Subramaniam et al. 2014). It is clear that excessive gambling effectively constitutes problem gambling. Gambling behavior is considered problematic when gamblers gamble so excessively that it causes significant harm to themselves and to others (Ligthelm and Jonkheid 2009: 39) and that it disrupts or damages family, personal or recreational pursuits (Sproston et al. 2002: 41). Research has found that between five to ten people (including spouses, children, extended family members, coworkers and employers, as well as those involved in financial relationships) are affected by problem gamblers (The Scottish Centre of Social Research and Reith 2006: 42). Neal et al. (2005: 125) posited the following definition of 'problem gambling': '*[It] is characterized by difficulties in limiting money and/or time spent on gambling which leads to adverse consequences for the gambler, others, or for the community*'. 'Adverse consequences' refer to the costs of externalities associated with problem gambling, which are imposed on the government and society at large. Externalities are seen as the external effects that are created by the actions of an individual and are regarded to be negative when these actions impose a cost on another party for which he or she is not compensated (Black et al. 2008: 36). Externalities associated with excessive gambling are abuse, domestic violence, alcohol abuse (Ligthelm and Jonkheid 2009: 27, 29; Sinclair et al. 2014; Sharp et al. 2014), illegal activities and crime (Cnossen 2005; Ross et al. 2008), and its negative impact on the health and wellbeing of individuals (Goodyear-Smith et al. 2006; Skaal et al. 2015). Despite the fact that Collins (2011) reported that excessive gambling in South Africa has declined from three percent in 2008 to one percent in 2011, data from the South African National Urban Prevalence Study of Gambling Behavior (NUPSGB) suggests that about three percent of the general South African population are high at risk for problem gambling (Sharp et al. 2014). Overall gambling taxes and levies in South Africa are expected to expand by 10.7 percent compounded annually, from R2.1 billion in 2012 to R3.5 billion in 2017 (PricewaterhouseCoopers 2013b). Problem gamblers account for a substantial portion of overall gambling revenue (Productivity Commission 1999; Williams and Wood 2004; Williams et al. 2007) as well as between thirty percent to fifty percent of net gaming losses are contributed by them (Hancock et al. 2008).

The externalities associated with problem gambling remain a great concern because they impose a social cost on the government and society at large. The central argument of this paper is that the tax option applied by the government to affect gambling tax should aim to (as far as possible) internalize the costs of externalities caused by excessive gambling to those responsible for these costs, namely the problem gamblers themselves, and not to make the case for the extent of problem gambling or to quantify the social cost of gambling in South Africa.

Objectives

The primary objective of this paper was to explore different tax options (including previous proposals made by government) to identify the tax option that would affect problem gamblers towards curbing their excessive gambling. The focus was on the effect and impact that each tax option has on the gambler, which could either, be directly or indirectly, depending on the structure (tax base and tax rate) of the option.

METHODOLOGY

For the purposes of this paper, exploratory research was conducted to explore five different tax options that could be applied to discourage excessive gambling in South Africa. Exploratory research tends to focus on problems on which little or no previous research has been conducted (Brown 2006: 43) and forms a basis or platform for further conclusive research (Singh 2007: 64). Although academic evidence on the possible effectiveness of taxing gambling winnings exists currently (Oosthuizen 2010; Roberts 2012), such evidence does not explore alternative options. This paper could add to the existing body of knowledge by exploring different options, which could be expanded on in future studies. Furthermore, as exploratory studies do not intend to offer a final and conclusive solution to existing problems (Dudovskiy 2013), the current paper aimed to explore new insights in how excessive gambling could be affected by different tax options. A qualitative research approach was followed, which included relying on secondary data and reviewing relevant literature. The paper recognized the government's final proposal to impose an additional one percent national levy on a uniform provincial gambling tax base. Although this proposal might differ from any option described in this paper, this paper still provides a basis for future research and facilitates further discussion on the topic. The paper was conducted in two parts:

- First, the qualities of a good tax policy are considered to establish a basis and scope for exploring different tax options;
- Secondly, different tax options are explored by measuring them against the qualities of good tax policy to conclude inductively on their ability to discourage excessive gambling.

OBSERVATIONS AND DISCUSSION

Qualities of a Good Tax Policy

According to Bird and Zolt (2003: 34), taxes could be used as a tool to discourage certain activities and to correct negative externalities associated with these activities. Despite the obvious ability of a tax policy to generate funds for government, there are other criteria against which good tax policy is measured. Smith (1892) recognized that in order to be classified as good tax policy, the levy of taxation should comply with certain basic norms and criteria referred to as the four maxims, being equity, certainty, economy and convenience (Venter et al. 2008: 3). Policymakers, therefore, need to constantly and delicately balance the four qualities of taxation, which sometimes conflict, to ensure that fiscal policies satisfy the overall goals of a country (Ariff Ismail Loh 1997). Each of these qualities is subsequently discussed by providing a general description of each quality and referring, where possible, to the literature pertaining to gambling taxes.

Equity

The quality of equity implies that taxes levied must place the same burden on different categories of taxpayers. According to Black et al. (2008: 122), this ability-to-pay quality calls for people with equal capacity to pay the same amount of tax (horizontal equity), and for people with greater capacity to pay more tax (vertical equity). Vertical equity justifies progressive tax rates (Thompson 2010: 403). Schmidt et al. (1997: 1679) claim that it is common to condemn a government's monopoly of sale of lotteries on grounds that it is regressive (the poor are spending a greater percentage of their wealth on lotteries than the rich). Therefore, for a tax on gambling in South Africa to be equitable, it should result in all gamblers' being treated the same way at a rate, which might be progressive.

Certainty

The quality of certainty entails that the tax which a person is bound to pay should be certain and not arbitrary (Venter et al. 2008: 3). This means that the timing and manner of payment, as well as the amount, ought to be clear and certain. For purposes of this paper, certainty is considered regarding the tax base and the rate at which taxes will be levied.

Schmidt et al. (1997: 1680) interpreted certainty in the light of economic discrimination. Therefore, to comply with the quality of certainty, a policy that affects gambling tax in South Africa should be clear and fixed with reference to its tax base and the rate at which it is to be levied. In addition, such a policy should not discriminate against a specific gambling activity. Therefore, all tax options explored in this paper do not distinguish between different types of gambling modes or activities.

Economy

According to Venter et al. (2008: 3), every tax ought to be minimal for the contributor to pay, but must still achieve certain objectives, for instance, to provide the treasury of a country with the necessary funds. As the South African gambling industry is already generating significant tax revenues towards provincial and national government (PricewaterhouseCoopers 2013a: 28), it is assumed that an additional tax on gambling would achieve the underlying objective of raising revenue. Although the primary objective of any tax is to generate government revenue, this paper instead focused on each tax option's ability to discourage excessive gambling as this was touted as the reason behind the introduction of an additional tax on gambling.

Affecting the price of a legal activity by means of taxation has the intent of discouraging participation in that activity (Schmidt et al. 1997: 1680). Therefore, good tax policy should encourage good activities while it should discourage activities regarded as being sinful and socially unacceptable (Thompson 2010: 403). However, there is a risk that the introduction of any tax on gambling might result in gamblers' opting for interactive (or online) gambling, currently an illegal activity in South Africa, in attempt to avoid the liability of tax on legal gambling winnings. Although illegal gambling is still included in the general ambit of paragraph 60 of the Eighth Schedule to the Act, it is far more difficult to regulate the taxability thereof. However, this will occur only if the tax succeeded in discouraging gamblers from partaking in legal gambling (which is considered in this paper). The objective of this paper was to determine whether, in quality, the different tax options would succeed in discouraging excessive gambling. The possible shift to illegal interactive gambling as a result of the introduction of a tax option was not considered.

Williams et al. (2007: 41) considered various problem gambling prevention initiatives and concluded that the effectiveness of increasing the cost of gambling is uncertain due to insufficient evidence. That being said, they found evidence that variation of payback rates within a particular gambling format could influence spending on that format (Paton et al. 2004; Williams et al. 2007: 39). It is submitted as part of the central argument of this paper that the tax option which complies with the most of the qualities of a good tax would be preferred above other tax options in being effective in addressing problem gambling.

Convenience (Efficiency, Ease of Administration and Management Simplicity)

Good taxes are easy to collect and hard to dodge (Thompson 2010: 403). In choosing between tax policies alternatives, it is preferable to choose a tax policy that is easy to administer and to collect. Simplicity in record keeping, calculation and filing increases a taxpayer's understanding and, therefore, compliance (Schmidt et al. 1997: 1681). Complex tax systems are harder for taxpayers to comply with and more costly for authorities to administer (Congdon et al. 2009: 378). Moreover, Dhami and Aihi (2006: 646) indicated that, despite its importance, administrative issues are often ignored in the actual implementation of tax policies. Since gambling activities can take on various forms, such as the National Lottery, table games (including card games), slot machines and horse racing, the collection and administration of taxes on certain gambling activities might be complicated.

The National Lottery in South Africa is run by different operators and is not state-owned and operated, which could complicate the administration of levying taxes on winnings in South Africa. In South Africa, the National Lottery is conducted by an operator under the authority of a license for its own account where the operator pays the winnings directly to the winners. Collection of the tax in South Africa will, therefore, place the additional administrative burden on the gambling operator to disclose and make these tax payments. Furthermore, casino gambling constitutes many different gambling activities (table games, including card games, and limited payout machines), which might also complicate the administration of a tax levied upon winnings (Casino Association of South Africa 2011: 4). Thompson (2010: 406) contends that table taxes are more difficult to collect than machine taxes. Therefore, for a tax on gambling in South Africa to comply with the quality of convenience (for both the gambling operator and the gambler), it should be easy to administer, taking into account the diversity of different gambling modes and activities.

South Africa is a developing country; thus, the effect of globalization has imposed new fiscal challenges and has forced a scale-down from traditional 'easy to collect' taxes (tariffs and seigniorage) towards 'hard to collect' taxes (value-added and income taxes) (Aizenman and Jinjarak 2009: 668). When concluding on the quality of convenience, preference should be given to those options considered to be 'easy to collect' tax.

Exploring the Tax Options

There is no perfect tax policy or tax structure and, when selecting or modifying one tax versus the alternatives, trade-offs are inevitable among the criteria of good tax policy (namely equity, certainty, economy, and convenience) (Schmidt et al. 1997: 1678). According to Poterba (2010: 138), it is a recognized fact that there is often a trade-off between an efficient tax system (which has a very broad base and low rates) and an equitable tax system (which is progressive).

In general, taxes can be imposed on three bases: income, wealth, and consumption. However, it remains a much-debated issue as to which of the three bases is the best, and this will be determined by the historical and political circumstances as well as the stage of development of a country (Black et al. 2008: 118). The wealth base refers to the tax on ownership of assets and capital gains realized on the transfer of assets (Venter et al. 2008: 3). As the activity of gambling does not represent the ownership or realization of any asset, the wealth base is considered irrelevant for the purposes of this paper. The income base focuses on income earned. Both the proposals made by the South African government, namely to levy a withholding tax on gambling winnings (option 2) and to levy a national gambling tax on gross gambling revenue (option 1), would constitute a tax on income instead of on wealth or consumption.

The classification of the gambler as either professional or non-professional will determine the current income tax consequences of gambling winnings in South Africa. However, there is currently no definition of a 'professional gambler' in the Act and this necessitates reliance on case law in determining the classification. In general, professional gamblers would be subjected to income tax, whereas non-professional gamblers would not be subjected to income tax. The current income tax treatment does not provide for the equal treatment of all gamblers. Therefore, the two alternative options are to regard all gambling winnings in the hands of the gambler as either capital in nature (option 3) or as income in nature (option 4) in an attempt to curb excessive gambling.

The consumption base focuses on the sale or use of commodities (for example, Value-Added Tax (VAT) and excise duties). Venter et al. (2008) mentioned that consumption taxes take the form of price increases, which affect consumers. Gamblers in South Africa are already subject to VAT at fourteen percent on the consideration paid for gambling chips, tokens and tickets. According to the South African Revenue Service (SARS 2011), a secondary function of excise duties and levies is to influence consumer behavior. This implies that government may manipulate excise duties and levies to discourage the consumption of certain harmful products, such as those that are a threat to human health (tobacco products) and to the environment (plastic bags and electricity production from non-renewable sources). Based on the externalities of excessive gambling it could be regarded as a harmful product. However, no excise duties or levies are currently levied on gambling activities in South Africa. Another alternative option is to introduce an excise tax to be levied on gambling tickets and chips sold (option 5). Under options 2 to 5, the gamblers would represent the tax base. Another option would be to shift the focus from the gamblers to the gambling operators. In an attempt to increase the price of gambling and to discourage excessive gambling, the 2012 Budget Proposal to levy a national gambling tax on gross gambling revenue was implemented from 1 April 2013. This will affect the income and tax liability of gambling operators and will be explored as option 1.

The following five options are subsequently explored in light of the qualities of a good tax policy, and the effect and impact that they are likely to have on discouraging excessive gambling:

- *Option 1:* Levying a national gambling tax based on gross gambling revenue
- *Option 2:* Withholding tax levied on winnings
- *Option 3:* Treating gambling winnings as capital in nature (subjected to capital gains tax)
- *Option 4:* Treating gambling winnings as income in nature (subjected to income tax)
- *Option 5:* Levying an excise tax on gambling tickets and chips sold

The possible effect and impact on gamblers, based on each option's qualities of good tax policy, are analyzed and considered, as well as the possible reasons for government's decision to shift from the one proposal to the next. The effect of the final proposal, that has been adopted and implemented by government, will then be compared to three alternative options, based on the same criteria.

Option 1: Levying a National Gambling Tax Based on Gross Gambling Revenue

Under this option, the focus will shift from the gambler to the gambling operator (for example, the casino). During the 2012 Budget Speech, a national gambling tax based on gross gambling revenue (additional 1% national levy on a uniform provincial gambling tax base, including the National Lottery) was proposed, and it was subsequently introduced effective 1 April 2013.

Equity

As this option will not focus on gambling winnings, but on the gross gambling revenue of gambling service providers, the gambling income of gamblers would not be affected, and different gamblers (professional or not) would be treated equitably.

Certainty

This option would comply with the quality of certainty because the percentage is fixed, clear and unambiguous.

Economy

This option replaces the previous proposal to tax gambling winnings (option 2) in an attempt to discourage excessive gambling. Some authors have suggested that high excessive gambling justifies the need to tax the gambling industry more (Collins and Barr 2006: 32), while others have suggested that such taxes neither encourage moderation nor replace the negative externalities of gambling (Schmidt et al. 1997). The argument might be that the gambling industry would recover the additional taxes from the gamblers, therefore, serving as a pricing signal to reduce gambling. In such a case, not only would excessive gamblers be targeted, but also all gamblers, and the taxes would not be levied directly on consumption (the use of gambling activities). Furthermore, as this option is not linked directly to the income of gamblers (options 2 to 4) or consumption of gamblers (option 5), it is questionable whether it would succeed at all in discouraging excessive gambling.

Convenience (Efficiency, Ease of Administration and Management Simplicity)

This option, from the governments' perspective, would be the most attractive, because it implies only a percentage increase of an existing tax of which the administration for the taxpayer is a vested process. Moreover, the different types of gambling modes would not influence the implementation of this option.

As this tax option is levied on income, it could be categorized as a 'hard to collect' tax as described by Aizenman and Jinjarak (2009: 668). This, in principle, could negatively affect the quality of convenience.

Option 2: Withholding Tax Levied on Winnings

The government's first proposal was to levy a withholding tax at a rate of fifteen percent on each gambling winning exceeding the exempt winning threshold of R25000 (National Treasury 2011: 71). The exemption threshold of R25000 would compensate for the fact that gamblers will not be allowed to deduct any expenditure incurred in order to produce gambling winnings; Section 23(*f*) of the Act prohibits the deduction of any expense incurred pertaining to amounts received or accrued which do not constitute income. The limit of R25000 corresponds with the limit referred to in Section 28 of the Financial Intelligence Centre Act (38 of 2001), which requires all accountable and reporting institutions to report cash transactions above the prescribed limit of R25000 (Republic of South Africa 2001: 18) in an attempt to fight financial crime such as money laundering and tax evasion. Therefore, the limit of R25000 could be justified seeing that gambling operators would, in any case, be responsible for obtaining and maintaining information relating to cash transactions in excess of this limit.

Equity

Under this option, the liability of a withholding tax is laid upon all winners, comprising all types of gamblers (recreational gamblers, problem gamblers, and compulsive and pathological gamblers). The objective of the proposed tax would be to discourage excessive gambling effectively. As the focus is on the cost of externalities associated with excessive gambling, it is the problem gamblers who need to be held accountable for such costs and not the recreational gamblers who gamble for social and entertainment purposes, have pre-determined acceptable losses, cause little harm and do not place external costs on society (Lighthelm and Jonkheid 2009: 39). Also, compulsive and pathological gamblers constitute less than one percent of gamblers (South African Responsible Gambling Trust 2001: 82) and contribute very little to externalities associated with problem gambling. Although it is difficult to quantify the cost of externalities imposed by problem gamblers on government and society at large (The Scottish Centre of Social Research and Reith 2006: 42), there seems to be a mismatch between the intended target group (problem gamblers) and the group that would eventually be burdened with the tax liability (all winners).

This option would result in horizontal equity because all gamblers would be equally taxed at a rate of twenty-five percent, irrespective of the type of gambling mode. Horizontal equity is to a disadvantage for poor gamblers, they have less income available to spend on gambling activities, but will be liable for tax on their winnings at exactly the same tax rate as wealthy gamblers. This option could result in more regressive tax, taking disproportionately from the lower income groups and could, therefore, favor higher income groups with higher disposable income.

Certainty

This option would comply with the quality of certainty because the gambling service provider would inform the gambler if and when the withholding tax on winnings is being deducted. The proposed percentage and threshold would also be clear and unambiguous, which would further enhance certainty.

Economy

As this option taxes winners above a certain threshold only and not all gamblers partaking in excessive gambling, it is questionable whether this option would succeed in discouraging excessive gambling.

Convenience (Efficiency, Ease of Administration and Management Simplicity)

Under this option, the gambling operator has the responsibility to withhold the tax. This administrative burden could impose additional costs due to changes that the gambling operator would need to make in order to accommodate the collection of the tax, which in turn, would affect the tax efficiency of this option negatively.

It is not clear whether the option of a final withholding tax on winnings would be effective for all types of gambling modes. The gambling industry is diverse and the nature of the various gambling activities could require different administrative controls for the collection of a withholding tax on winnings. Casinos on their own provide a variety of gambling activities, including games of chance (such as roulette and baccarat), games of skill (such as poker or blackjack) and slot machines. In the latter case, the gambler could be provided with an electronic card to which an amount is loaded for gambling. This electronic card would keep record of all winnings and losses and provide an audit trail of the amounts that accrue to the gambler. Since a complete record of all winnings would be available, the application of a withholding tax on winnings could be an appropriate method by which to collect the tax from each winning above the exempt winning threshold. By immediately withholding the tax at fifteen percent as soon as a win takes place, only the net winnings would be made available to the gambler for subsequent play or cash-out.

The tax position for the professional gambler necessitates closer investigation under this option because it appears that this option would result in a double tax position where a withholding tax is levied on winnings (above R25000) and all winnings in the hands of the professional gambler (including winnings below R25000) are subject to normal income tax. However, the proposed withholding tax appears to integrate fairly with the current income tax regime for professional gamblers considering that professional gamblers (as opposed to non-professional gamblers) are allowed a deduction of their gambling expenditure incurred and that only winnings exceeding R25000 per win will be subject to the withholding tax.

Subsequent to the initial proposal, various stakeholders and role players in the South African gambling industry have raised their concerns regarding the implementation and practical considerations of a tax on gambling winnings. Among the greatest concerns were the possible negative economic impact on casinos (lower gambling income, which would convert to lower taxable income and the resulting lower income tax), as well as the administrative burden, which will be placed on the gambling industry in recovering and paying over the withholding tax (Casino Association of South Africa 2011).

As this tax option is levied on income, it could be categorized as a 'hard to collect' tax as described by Aizenman and Jinjarak (2009: 668). This, in principle, could affect the quality of convenience negatively.

Option 3: Treating Gambling Winnings as Capital in Nature (Capital Gains Tax)

Under this option, it is proposed that all gambling winnings received should be classified as being capital in nature for normal income tax purposes. Paragraph 60 of the Eighth Schedule to the Act provides the general rule that capital gains and losses arising from gambling, games and competitions will not be subject to capital gains tax (SARS 2010). However, capital gains of this nature might be subject to capital gains tax if the taxpayer is not a natural person and if the capital gains arise in respect to foreign gambling activities or from illegal gambling, games and competitions in South Africa (SARS 2010).

Equity

All gambling income would be treated in the same way, if all gambling winnings were viewed as capital in nature, whether the taxpayer is considered to be a professional gambler or not. For natural persons, 33.3 percent of the net capital gain (the amount of winnings after allowing for the deduction of expenditure incurred in realizing the winnings) would be included in taxable income and subjected to normal income tax. The same progressive rates of normal income tax based on taxable income and ranging from eighteen percent to forty-one percent, would then be applied for natural persons. However, only subjecting 33.3 percent of the net capital gain as a result of gambling winnings might not be fair when considering that professional gamblers would be subjected to normal income tax at a lower rate than normal salary earners. It is, therefore, submitted that this option is not more equitable than option 2.

Certainty

This option would result in compliance with the quality of certainty in respect of the tax base, provided that the implementation of the option is communicated properly to taxpayers and tax practitioners. However, the rate at which winnings would be taxed would depend on the taxable income of the taxpayer and would be taxed in accordance with the progressive rates of tax, ranging from eighteen percent to forty-one percent. Therefore, there might not be certainty about the exact rate at which winnings would be taxed, whereas the rates of other options are clear and fixed.

Economy

Regarding gambling winnings as capital in nature and, therefore, subjecting such winnings to a tax on the basis that they are capital in nature (governed by the Eighth Schedule to the Act), would result in taxes not being levied on consumption, but on income instead. Taxpayers (gamblers) would be required to declare such winnings (income) to the revenue authority on submission of their return at the end of the year of assessment during which such winnings were received or accrued. This raises concern regarding taxpayers' not declaring the winnings (income) and, in so doing, evading taxes.

According to Kirchler (2007: 200), the opportunity to evade taxes is probably the most relevant of non-compliance, and the opportunity is high when taxes are not paid at the source. The source of gambling winnings would be the gambling activity in which the gamblers participated, and the taxpayers would be required to declare such income only at the end of their year of assessment. Consequently, there is an increased risk of non-compliance (not declaring income) when reliance is placed on the taxpayers to declare such winnings after the gambling activity. In addition to the opportunity not to declare all income (or to conceal income) the risk of non-compliance is further enhanced through 'out of pocket' payments, which are more likely to result in a loss, as opposed to the situation where income is received wherein taxes have already been deducted (Kirchler 2007: 72-73). Some authors have identified various drivers of tax evasion, including individual ethics and the morality of taxpaying, trust in government and tax authorities, the probability of an audit, fines and penalties (Wenzel 2004; Kirchler 2007). In keeping with the objective of this paper, all such drivers of tax evasion were not investigated. Instead, the fact was highlighted that the risk of tax evasion (non-compliance) increases when taxes are levied that rely on the taxpayer to declare the income subjected to the tax. The risk of non-compliance is lowered when taxes are levied at the source (where the gambling activity is taking place), especially when such taxes are withheld from payments made to the taxpayer.

Convenience (Efficiency, Ease of Administration and Management Simplicity)

Administration of the option would be relatively simplified because it would be incorporated into the normal income tax administration processes of SARS. The implementation would also not be complicated seeing that it would require only the necessary amendment (addition) to be made to the Eighth Schedule to the Act. There would, however, be an additional administrative burden on the taxpayer (gambler) because the relevant supporting documentation (regarding winnings received) must be maintained and be available for inspection by SARS in terms of section 29 of the Tax Administration Act (28 of 2011) (Republic of South Africa 2011).

As this tax option is levied on income, it could be categorized as a 'hard to collect' tax as described by Aizenman and Jinjarak (2009: 668). This, in principle, could affect the quality of convenience negatively.

Option 4: Treating Gambling Winnings as Income in Nature (Income Tax)

All proceeds from gambling winnings would be regarded as income and, therefore, be subjected to normal income tax in terms of the Act. According to Ligthelm and Jonkheid (2009: 23), nearly thirty percent of gamblers who were surveyed in a study indicated that their intention would be to spend gambling winnings on either the payment of debt or household necessities. The payment of debt or household necessities is usually settled from salary income. The proceeds from gambling would, however, not be income from employment or an office held, therefore, deductions would not be limited in terms of Section 23(*m*) of the Act. The requirement of Section 11(*a*) of the Act should then be considered to establish whether expenditure incurred would be allowed as a deduction.

Equity

All gambling income would be treated in the same manner if all gambling winnings were viewed as income in nature, whether the taxpayer is considered to be a professional gambler or not. The same progressive rates of normal income tax based on taxable income and ranging from eighteen percent to forty-one percent, would then be applied for natural persons. This option would result in gambling and salary income being treated in the same manner for normal income tax purposes and is, therefore, considered to be more equitable than option 3 (where gambling winnings are treated as a capital gain and only 33.3%, if any, subjected to normal income tax).

Certainty

This option would comply with the quality of certainty in respect of the assessment base if the proposed legislation were to be incorporated into the Act and properly communicated to taxpayers and tax practitioners. However, the rate at which winnings would be taxed would depend on the taxable income of the taxpayer and taxed in accordance with the progressive rates of tax. Therefore, there might not be certainty about the exact rate at which winnings would be taxed, whereas the rate of other options is clear and fixed.

Economy

As is the case for option 3, the tax would not be levied at the source (where the gambling activity is taking place), but rather on income. Consequently, there might be a potential risk of noncompliance (not declaring income) when reliance is placed on the taxpayer to declare such winnings after the gambling activity had taken place.

Convenience (Efficiency, Ease of Administration and Management Simplicity)

Administration of this option would be relatively simplified because it would be incorporated into the normal income tax administration processes of SARS. The implementation would also not be complicated seeing that it would require only the necessary amendment (addition) to be made to the Act. There would, however, be an additional administrative burden on the taxpayer (gambler) because the necessary supporting documentation (regarding winnings received) would have to be maintained and be available for inspection by the relevant tax authority.

As this tax option is levied on income, it could be categorized as a 'hard to collect' tax as described by Aizenman and Jinjarak (2009: 668). This, in principle, could affect the quality of convenience negatively.

Option 5: Excise Tax Levied on Gambling Tickets or Chips Sold

Excise taxes on specific goods and services might seek to reduce the use of those goods and services by imposing additional costs which reflect some or all of the negative externalities generated by them (Bird and Zolt 2003: 34).

In an attempt to reduce excessive gambling, another option is to affect the attractiveness of gambling by influencing the price of participating in gambling activities by way of taxation. In practice, the assumption that price reflects social cost appears to apply for most transactions, but there might be exceptions where the parties do not (or cannot) take into consideration all the costs (Curtis 2002). Problem gamblers impose costs (externalities) on society that are not fully internalized by the current costs of participating in gambling activities which, in turn, justify the levying of an excise tax on the acquisition of gambling tickets, chips and tokens.

Under this option, all gamblers who purchase a ticket, chip or token, which enables them to participate in some sort of gambling activity, would pay an additional excise tax which would be levied in addition to the normal purchase price of a gambling ticket, chip or token. No exempt winnings threshold would apply under this option because it is not the winnings that would be taxable, but the cost of partaking in a gambling activity, irrespective of whether the gambling activity would result in a win or a loss. Hence, the tax rate that should be applied in order to levy an excise tax on gambling tickets, chips or tokens is bound to be at a lower rate (as opposed to the 15% withholding tax on winnings as discussed under option 2) in order to compensate for the fact that no exemption threshold is available. An increase in the tax base (all active participating gamblers would be liable for the tax and not only winners) would support a corresponding lower tax rate. It seems as if the tax under this option would take on the form of a sin tax. Sin taxes fall under the collection of taxes on a consumption level and serve as a mechanism to generate taxes while curbing consumption of the taxed good or service (Lorenzi 2004: 59; SARS 2011).

Equity

The concern under this option (similar to the option of withholding tax on winnings explored as option 2) is that the tax liability would fall on all gamblers and not only on problem gamblers, who are the intended target group of the introduction of the proposed tax on gambling winnings. Sin taxes are unfair to the poor because they are regressive (Lyon and Schwab 1995). Although poor gamblers might not spend more money on gambling in absolute terms, they do spend a higher proportion of their income than wealthier gamblers. If gambling were to be considered sinful or a luxury item and if tax were to be imposed based on consumption, excessive gambling might be discouraged by signaling to the gambler the negative socio-impact of gambling to the community. The option of an excise tax (effectively a sin tax) is, however, still considered to be more equitable and less regressive than the option of a withholding tax on winnings, because it would not only be winners who are taxed, but all gamblers partaking in gambling activities.

Certainty

This option would comply with the quality of certainty if the percentage were to be clear and unambiguous.

Economy

If negative individual behavior, such as excessive gambling, were to create social costs, it must be determined whether sin taxes would indeed reduce this negative behavior. Furthermore, it needs to be considered whether the revenue generated in this way could be used to cover the social costs incurred. An increase in the cost of gambling could be applied as a strategy to reduce problem gambling similar to the effectiveness of increasing the cost of alcohol and tobacco through taxation to prevent alcohol and tobacco use and abuse (Babor et al. 2003; Cnossen 2005). The most common prevention measures, such as awareness campaigns and gambling education, seems to be least effective, but in combination with policy measures (such as sin taxes) it is synergistic in reinforcing the power of each other (Williams et al. 2007). Although the immediate effects of prevention approaches on behavior is sometimes small (Sowden and Stead 2005) or even absent (Gates et al. 2005), it has been found, for example in the use of tobacco products, that a very slow but progressive decline did occur over the past 40 years as educational efforts and policy regulation (through sin taxes) has had a collective impact. This serves as proof that there is merit in imposing excise taxes in order to affect unwanted behavior.

Convenience (Efficiency, Ease of Administration and Management Simplicity)

Although the levy of an additional excise tax on tickets or chips will also impose an additional administrative cost on casinos, its implementation is far less complex when compared to the administrative measures required under the introduction of a withholding tax on winnings. An excise tax would be paid and collected in advance to the occurrence of any gambling activity. There would be no problem in determining the timing of the 'tax event', because the tax would be payable and withheld at the time that the gambling ticket, chip or token is purchased. Also, the different types of gambling modes would not influence the implementation of this design option, because practical considerations, such as keeping records of each win, play no role, as it is not the winnings that are taxable. The direct influence of the tax on the pocket of all gamblers would support the curbing of excessive gambling, making all gamblers aware of its consequences, in comparison to the option where only winners would experience the effect of the proposed tax. As it is not levied on income (as is the case with the other four options), this option could be categorized as an 'easy to collect' tax as described by Aizenman and Jinjarak (2009: 668). This, in principle, could affect the quality of convenience positively.

CONCLUSION

On the quality of equity, all five options considered in this paper deal with different gambling activities in the same way and, therefore, no distinction has been drawn between these activities. With reference to the equitable treatment of the gamblers, it has been noted that a withholding tax on gambling winnings (option 2) would affect only tax winners and not all gamblers partaking in excessive gambling. Furthermore, treating all gambling winnings as capital in nature (option 3) would not result in the equitable treatment of gamblers pursuing gambling as a career (likened to the salary from employment). Therefore, either option 1, 4 or 5 is considered to be most preferred in complying with the quality of equity.

On the quality of certainty, options 1, 2 and 5 have a fixed rate and tax base and could, therefore, result in certainty if administered properly. However, the tax rate of normal income tax for individuals (options 3 and 4) is not fixed but progressive, depending on taxable income, in which case option 1, 2 or 5 would be preferred.

On the quality of economy, it cannot be conclusively concluded whether any of the five options would succeed in discouraging excessive gambling. Option 1 does not focus on gamblers but on the gambling operators and is, of all the options, considered the least likely to succeed in discouraging excessive gambling. As both options 2 and 5 levy the tax at source (when the gambling activity is taking place) the possible risk of tax evasion is reduced. This could be compared to options 3 and 4 where reliance is placed on gamblers to only declare winnings at the end of their year of assessment. However, option 2 only taxes winners and not all gamblers partaking in excessive gambling. Therefore, option 5 is considered to be preferred in complying with the quality of economy (achieving the objective of discouraging excessive gambling). On the quality of convenience, it was noted that option 2 places an excessive burden on gambling service providers, especially in casinos where there is a wide variety of gambling activities; it would be difficult to establish when the winnings should be taxed and the withholding tax withheld. Both options 3 and 4 rely on self-administration by taxpayers, and the fact that these two options do not levy tax at the source (when the winnings have been realized) increases the risk of tax evasion and non-compliance. Option 1 would be the most convenient to implement because it merely requires the increase of an existing tax. However, option 5 could be implemented as an increase of existing excise duties and, therefore, also be as convenient as option 1, with the added benefit of focusing directly on gamblers and not on the gambling operator. Option 5 has this added benefit because it could be regarded as an 'easy to collect tax'

Table 1: Concluding summary of most preferred options for each quality of good tax policy

Quality of good tax policy	*Consideration for purposes of this paper*	*Most preferred options*
Equity	Most likely to result in equitable treatment of different gamblers and gambling activities	Option 1: National gambling tax Option 4: Income tax; and Option 5: Excise tax
Certainty	Most likely to result in the most certainty to gamblers and gambling service providers	Option 1: National gambling tax; Option 2: Withholding tax; and Option 5: Excise tax
Economy	Most likely to succeed in discouraging excessive gambling	Option 5: Excise tax
Convenience	Most likely to result in the least administrative burden	Option 1: National gambling tax; and Option 5: Excise tax

for the tax authority seeing that it is not an income tax or value-added tax like the other options. The conclusion on the preferred option (or options) for each quality is summarized in Table 1.

RECOMMENDATIONS

Therefore, it is recommended that option 5, where an excise tax is levied on gambling tickets, chips and tokens, be considered and investigated further as a way to discourage excessive gambling in South Africa. This option is levied at the source of the gambling activity and has a direct, immediate cost implication for the gambler. This paper found that this option would be more likely to curb excessive gambling than any of the other options based on the qualities of good tax policy. Ultimately, the reason why individuals persist in excessive gambling patterns remains puzzling and there might not be a singular intervention that is the ‘golden standard’ or best practice. Beside the tax options considered in this paper, there are various psychological treatments, including those suggested could be considered in future research in an attempt to identify other options to curb excessive gambling.

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