

eJournal of Tax Research

Volume 14, Number 3

December 2016

CONTENTS

- 531 Understanding tax morale of SMEs: A qualitative study
Recep Yücedođru and John Hasseldine
- 567 Business process management as a tax risk identification and
management method
Evadne Bronkhorst and Elze Leask
- 587 Effects of tax reform on average personal income tax burden and
tax progressivity in Germany under the particular consideration
of bracket creep
Chang Woon Nam and Christoph Zeiner
- 601 The implementation of informal sector taxation: Evidence from
selected African countries
Godwin Dube and Daniela Casale
- 624 The UK general anti abuse rule: Lessons for Australia?
Benjamin Kujinga
- 650 Are Australians under or over confident when it comes to tax
literacy, and why does it matter?
Toni Chardon, Brett Freudenberg and Mark Brimble
- 683 Tax policy challenges in an era of political transition: The case
of Egypt
Mahmoud M Abdellatif and Binh Tran-Nam
- 707 Developing a sustainable tax base through a financial transaction
tax: An analysis of suitability for the New Zealand environment
Simoné Pycke, Jagdeep Singh-Ladhar and Howard Davey
- 719 Filling the land tax void: New Zealand standpoint
Ranjana Gupta

CONTENTS CONTINUED

- 741** Delineating the fiscal borders of Australia's non-profit tax concessions
Natalie Silver, Myles McGregor-Lowndes and Julie-Anne Tarr
- 766** Does selecting a taxpayer for audit violate civil rights—a critical analysis of the Pakistani High Court's decision?
Najeeb Memon and Christian Lorenz

Business process management as a tax risk identification and management method

Evadne Bronkhorst¹ and Elze Leask²

Abstract

In the current economic climate, corporate governance is a priority for enterprises globally. Corporate governance aims to create value for affected stakeholders. One way in which this can be achieved is through risk identification and management. Where risks are properly identified and managed, the threats posed to the achievement of enterprises' strategic goals are mitigated. Tax is one of the aspects that create a need for the implementation of appropriate risk identification and management methods. Although prior research has been conducted regarding possible tax risk identification and management methods, very little is known about Business Process Management (BPM) as a tax risk identification and management method. This article contributes by using an exploratory case study to highlight that BPM can be a valuable risk identification and management method within the tax risk arena. BPM allows for risk identification and management of processes that cut across functional lines. Because BPM is process-driven, it accounts for process variances and can therefore be used as a tax risk identification and management method by any enterprise in relation to any tax type.

Keywords: Tax risk management, corporate governance, Business Process Management, excise tax, risk identification and management.

¹ Senior Lecturer in Taxation, Department of Taxation, Faculty of Economic and Management Sciences, University of Pretoria, Gauteng, RSA. Email: bronkhorstevadne@gmail.com

² MCom Taxation Alumni, Department of Taxation, Faculty of Economic and Management Sciences, University of Pretoria, Gauteng, RSA.

1. INTRODUCTION

During the 1980s and 1990s, tax functions mainly focused on cost management and shareholder value creation. While these objectives remain important, tax risk management is becoming a more significant part of modern day tax functions. This is attributable to an increase in tax risk due to an increase in the complexity of the current tax environment. Globalisation, technological innovation and the risk-based regulatory compliance initiatives of revenue authorities are just some of the factors that have created a more complex tax environment.³

Tax risk management has recently been classified as a separate element of corporate governance.⁴ Because this is a recent phenomenon, a dearth of empirical research exists on how enterprises rate various types of tax risks and how they have incorporated tax risk management into their governance policies and procedures.⁵ This implies that enterprises are becoming aware of a separate tax risk environment and the importance of managing and containing this environment.

Tax risks can be identified, managed and mitigated in a variety of ways. However, little is known about Business Process Management (BPM) as a tax risk identification and management method. Usually, BPM research focuses on enterprise wide process management improvement without specifically considering the impact on tax risk identification and management.⁶

Each enterprise, irrespective of its size and where it is incorporated and located, consists of certain functions and processes. Typically, an enterprise will have the following functions: revenue and receipts, purchases and payments, inventory and production, human resources, investment and financing, as well as accounting and finance. The tax function is usually included in the accounting and finance function.⁷

Processes cut across functional lines. Processes are those activities that convert inputs into outputs in order to achieve the goals of the enterprise and to satisfy its customers. Customers can be internal or external to the organisation.⁸ Internal customers are represented by the different functions in an enterprise. The tax function is an internal customer of all the other functions of an enterprise, as it relies on the processes executed by other functions to produce the information required to complete tax returns and perform other tax compliance related tasks. As the tax function relies on

³ S James, 'Behavioural Economics and the Risks of Tax Administration' (2012) 10 *eJournal of Tax Research* 2, 347; C Lavermicocca, 'Tax risk management practices and their impact on tax compliance behaviour—The views of tax executives from large Australian companies' (2011) 9 *eJournal of Tax Research* 1, 89; B Wood 'Tax Governance: The New Priority in Risk Management' (2004) 80 *Chain Store Age* 9, 1.

⁴ James, above n 3, 349; HF Wunder, 'Tax Risk Management and the Multinational Enterprise, (2009) 18 *Journal of International Accounting, Auditing and Taxation*, 15.

⁵ Wunder, above n 4, 15.

⁶ RG Lee and BG Dale, 'Business Process Management: A Review and Evaluation' (1998) 4 *Business Process Management Journal* 3, 215–217.

⁷ P Von Wielligh and F Prinsloo (eds), *Auditing Fundamentals in a South African Context* (Oxford University Press, 2014).

⁸ Lee and Dale, above n 6.

outputs from a number of processes within the enterprise, tax risk could be better addressed by managing processes instead of functions.⁹

The complexity of these processes and the manner in which they are managed will undoubtedly differ from enterprise to enterprise due to factors such as operational requirements, risk appetite, organisational structure and the type of business philosophy adopted by management. One thing that will not differ, however, is the need for effective and efficient process management.

BPM is one of the methods that can be used to improve process management through the documentation and analysis of organisational processes. BPM focuses on processes rather than functions. BPM is flexible as it allows for process management improvement of both complex and less complex processes in both large and small enterprises. This makes it possible to illustrate that BPM can be applied as a tax risk identification and management method by any enterprise situated anywhere in the world.

2. PURPOSE STATEMENT

The aim of this research is to use a case study to highlight whether or not BPM can be a valuable tax risk identification and management method.

In the next section the research design and methods will be discussed. The succeeding sections will provide a brief background on excise taxes in the South African oil and gas industry, as well as relevant tax risks and the management thereof. This will be followed by a discussion of BPM as a risk identification and management method and the role it can play in tax risk management. The article then concludes with a discussion of the research process and results.

3. RESEARCH DESIGN AND METHODS

An exploratory case study was chosen for this qualitative research. A case study is normally chosen where the research needs to determine how something operates.¹⁰ Therefore a case study was appropriate to achieve the aim of this research, as it was necessary to understand the actual tax processes of an enterprise, as well as the risks and internal controls relating to such processes in an open real-time environment. To allow for a more in-depth analysis, the case study subject matter was limited to one specific tax type within one enterprise.

The identified knowledge gap required a case study subject that has not yet implemented BPM in its tax processes. Company A (a multinational enterprise operating in the South African oil and gas industry) was chosen because of the availability and accessibility of case study data. At the time of the research, Company A was about to implement BPM within certain areas of the company (including its tax function).

⁹ Lee and Dale, above n 6.

¹⁰ P Baxter and S Jack, 'Qualitative Case Study Methodology: Study Design and Implementation for Novice Researchers' (2008) 13 *The Qualitative Report* 4, 548.

Company A is well known in the global oil and gas industry. Its headquarter company was founded more than one hundred years ago. Within the South African environment, Company A operates not only by importing and refining crude oil, but also by importing refined products that can be used directly within the market. For tax risk identification and management, Company A currently makes use of tax control frameworks and a global tax strategy. Due to risks associated with intellectual capital and other areas, it was agreed with the national tax manager of Company A that the identity of Company A would not be made known in this research.

Excise taxes were elected as the focus of the case study. Excise taxes present one of the biggest tax risks to enterprises in the oil and gas industry. This is attributable to a variety of causes, among others the fact that their main source of profit emanates from excisable products, such as diesel, and the consequential sheer monetary risks that can arise from non-compliance with tax legislation. Arguably, it would therefore be in the interest of enterprises within this industry to manage their excise tax risks effectively and efficiently.

The key stakeholders in the South African oil and gas industry are: BP Southern Africa, Chevron South Africa, Engen Petroleum, PetroSA, Sasol Oil, Shell South Africa and Total South Africa.¹¹ Until very recently there were very few non-refining wholesalers in South Africa.¹² The refining capacity of these key stakeholders is outlined in Table 1.

Table 1: Refining Capacity of Seven Key Stakeholders in the South African Oil and Gas Industry¹³

Name	Crude throughput (barrels per day)	Market share	Ownership
Chevref	100 000	14.5%	Chevron South Africa
Enref	105 000	15.3%	Engen Petroleum
Natref	108 000	15.7% (10%:5.7%)	Sasol/Total South Africa (64:36)
Sapref	180 000	26.2% (13.1%:13.1%)	Shell South Africa/BP Southern Africa (50:50)
Sasol Secunda	150 000	21.8%	Sasol
PetroSA	45 000	6.5%	PetroSA
TOTAL	688 000	100%	

¹¹ Company A is included among these seven key stakeholders.

¹² South African Petroleum Industry Association, *2013 Annual Report*, (2013), 1 <<http://www.sapia.co.za/publications/annual-reports.html>>.

¹³ South African Petroleum Industry Association, above n 12, 39.

Apart from PetroSA, the capabilities of the key stakeholders are distributed relatively evenly (refer Table 1). Therefore, it is submitted that each of these stakeholders would be exposed to similar excise tax risks, and any of these stakeholders would therefore be a valid case study subject. Company A, as one of the key stakeholders in the oil and gas industry, can be regarded as representative of the industry and consequently viewed as a valid case study subject.

Therefore it was considered appropriate to limit the case study to one company in the South African oil and gas industry. This helps to establish clarity in data gathering and allows more research monitoring capacity to ensure that data is not manipulated.¹⁴ The complete end-to-end process of the excise tax environment of Company A was analysed. This assisted in creating a tax risk register that is as complete as it can possibly be and facilitated achievement of the research objectives.

4. BACKGROUND

This article will focus on the identification of and response to risks, as part of the overall risk management process. The aim of this article is not to suggest a 'one-size-fits all' framework, but rather a starting point for modifying risk mitigation systems to suit the needs of the enterprise concerned. It is submitted that the underlying principles of this research can be considered for application to any tax type and by any enterprise.

The case study was based on the operational and compliance tax risks in the excise tax environment of a South African enterprise in the oil and gas industry. Consequently, a brief overview of the South African excise tax environment, its impact on tax risks and also relevant tax risk management strategies will aid an understanding of the research process and results.

4.1 South African excise taxes in the oil and gas industry

Revenue from taxes and levies is the main source of governmental income in South Africa. For the 2013–14 financial year, 88.9 per cent of governmental revenue emanated from taxes and levies.¹⁵ There has been an increase in annual revenue collections and a consequent increase in the tax risk exposure of enterprises as a result of an increase in the monetary value of their tax liabilities.¹⁶ This exposure can be even further magnified if tax risks are not properly managed.

One of the taxes that have contributed to an increase in enterprises' South African tax risk exposure is excise taxes. These taxes generated total revenue of R72.7 billion in the 2013–14 financial year. Of this total, fuel levies accounted for R43.7 billion and other excise taxes for R29.0 billion. For each of the financial years included in the period from 2009 to 2014, revenue from fuel levies and other excise taxes has experienced nominal growth averaging 10.9 per cent and 8.1 per cent per annum respectively. Nominal growth represents the growth rate unadjusted for inflation.¹⁷

¹⁴ Baxter and Jack, above n 10, 548.

¹⁵ National Treasury and South African Revenue Service *2014 Tax Statistics*, (2014), 5
<<http://www.treasury.gov.za/publications/tax%20statistics/2014/TStats%202014%20WEB.pdf>>.

¹⁶ Ibid.

¹⁷ Ibid, at 17.

In addition to the significant monetary exposure, regular changes in legislation and operational requirements further contribute to widening risk exposure. Therefore, effective excise tax risk management should be clearly defined to address compliance and operational risks.

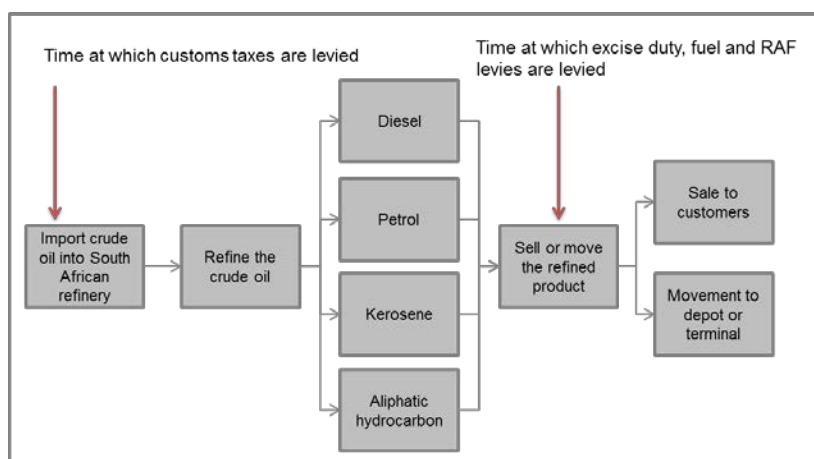
Owing to the imposition of a number of excise taxes on fuel, risks originating from South African excise taxes are particularly relevant for enterprises in the oil and gas industry. For this research, excise taxes refer to those excise taxes administered by the South African Revenue Service (SARS) that are relevant to the oil and gas industry. Excise taxes include excise duties, fuel levies and Road Accident Fund (RAF) levies which are imposed on a duty at source basis (DAS) on every movement of excisable goods out of a refinery or duty-free storage facility.¹⁸

The liability and payment dates for different excise taxes may vary, which in turn influences the complexity of an enterprise's tax environment. A typical supply chain of a South African enterprise in the oil and gas industry will normally comprise of the following:

1. Importation of crude oil for further processing in South Africa (Part 1)
2. Refining of the crude oil into any of the four main fuels, namely diesel, petrol, kerosene and aliphatic hydrocarbon solvent (Part 2)
3. Movement of the fuel product to the recipient/customer (Part 3).¹⁹

Figure 1 provides an overview of the supply chain of an enterprise in the oil and gas industry and highlights the relevant taxing points.

Figure 1: Supply Chain of an Enterprise in the Oil and Gas Industry



In the absence of rebates and refunds, Part 1 of the supply chain will create a customs tax liability, while Part 2 will create an excise tax liability. These liabilities are determined having regard to the relevant legislative framework.

¹⁸ South African Revenue Service, *Frequently Asked Questions: Duty at Source* (2014) <<http://www.sars.gov.za/FAQs/Pages/608.aspx>>; South African Revenue Service, *Excise Duties and Levies* (2015) <<http://www.sars.gov.za/ClientSegments/Customs-Excise/Excise/Pages/default.aspx>>.

¹⁹ S Oladunjoye, R Price, N Rahman and J Wells, 'Transfer Pricing: Transfer Pricing in the Oil and Gas Sector: A Primer' (2012) *International Tax Review*, July, 1–20.

4.1.1 Compliance and operational risk in the South African excise tax environment

Within a South African excise tax context, the key legislative framework consists of the *Customs and Excise Act No. 91 of 1964* (the Act), and the relevant Schedules and Rules to the Act. In accordance with the Act, the purpose of the legislative framework from a risk management, as well as the automation of processes perspective is to facilitate:

1. Movement of excisable goods entering or exiting the borders of the Republic of South Africa
2. Imposition of taxes on excisable goods manufactured locally as well as their imported equivalents.

This gives rise to compliance and operational risks.²⁰ Compliance risk is the risk associated with an enterprise's tax compliance obligations and that arise primarily from the timely submission of compliant tax returns. Operational risk is the risk associated with the manner in which tax law and regulations are applied in the business and operations of an enterprise.²¹

In recent years, the compliance and operational risks in the South African customs and excise tax environment are more pronounced due to tax modernisation initiatives.²² The Modernisation Programme was formulated during ten years of planning and research. After becoming a Party to the Revised Kyoto Convention, issued by the World Customs Organization, SARS had to make substantial changes to its business model.²³

The idea behind the modernisation was for SARS to change the manner in which it operates and collects customs and excise taxes. This includes approaching the customs and excise tax environment from a risk management perspective, as well as the automation of processes. The modernisation project was originally launched in 2009, with an initial five-year plan, in order to address problems within the operating environment of SARS.²⁴ These changes also contribute to the operational complexity of excise taxes, since processes need to adapt, not only to the change in administrative requirements, but also to the stricter policies of SARS.

An enterprise's monthly excise duty, fuel levy and RAF levy liabilities are based on the volume of product sold to customers or transferred to a depot or terminal (refer to Figure 1), reduced by allowable deductions and rebates afforded in accordance with Schedule No. 4, Schedule No. 5 and Schedule No. 6 to the Act. Consequently,

²⁰ Lavermicocca, above n 3, 96.

²¹ PricewaterhouseCoopers, *Tax Risk Management*, (2004), 4 <<https://www.pwc.co.za/en/assets/pdf/pwc-tax-risk-management-guide.pdf>>.

²² South African Revenue Service, *Excise Modernisation* (2014) <<http://www.sars.gov.za/ClientSegments/Customs-Excise/Excise/Pages/Excise-modernisation.aspx>>.

²³ M Poverello, *Customs Modernisation* (2011) <<http://mpoverello.com/sars-customs-modernisation/comment-page-1/#comment-426>>.

²⁴ South African Revenue Service, above n 22; South African Revenue Service, *Customs Modernisation* (2014) <<http://www.sars.gov.za/ClientSegments/Customs-Excise/AboutCustoms/Pages/Modernisation.aspx>>.

allowable deductions and rebates reduce an enterprise's excise tax liability.²⁵ This determination is depicted by the following formula:

$$\begin{aligned} & [\text{Bulk volume (litres)} - \text{rebates} - \text{deductions}] \times \text{relevant rates of duty / levy} \\ & \text{(determined annually in April)} \\ & = \text{Total duty / levy payable (Excise duty, fuel levy and RAF levy)} \end{aligned}$$

The enterprise then transfers the determined liability for each of these excise taxes to a DA160 return (*DA160: Petroleum Products Account for Manufacturing Warehouses—external form*) on a monthly basis. This is a prescribed SARS return that includes supporting schedules and fixed formulas.²⁶

The proper completion of the monthly DA160 return is crucial to ensure that the correct amount is paid to SARS. Until September 2013, the return was filed manually. In September 2013, the online e-filing system was launched and now the DA160 return is filed electronically.²⁷

South African excise tax risks for enterprises are high, given the magnitude of these enterprises' exposure to excise taxes and the importance of taxes as a source of governmental revenue. Excise taxes account for 8.1 per cent of collected revenue and have increased consistently.²⁸ An enterprise's excise tax risk exposure is further increased by the significant penalties that can be imposed in the event of non-compliance. According to section 80 of the Act, the possible penalties for non-compliance include fines and/or imprisonment of persons involved in the management of the enterprise.

Table 2 provides a summary of the key excise tax risks of South African enterprises and associates them with the relevant risk categories.

²⁵ South African Revenue Service, *Legislative Framework* (2013)
<<http://www.sars.gov.za/ClientSegments/Customs-Excise/Pages/Legislative-Framework.aspx>>.

²⁶ South African Revenue Service, *Excise External Directive Oil Industry*, (2014), 5
<<http://www.sars.gov.za/AllDocs/OpsDocs/Policies/SE-FL-04%20-%20Oil%20Industry%20-%20External%20Directive.pdf>>.

²⁷ South African Revenue Service, *Excise Modernisation and Efiling*, (2013)
<<http://www.sars.gov.za/ClientSegments/Customs-Excise/Excise/Pages/Excise-Modernisation-and-eFiling.aspx>>.

²⁸ National Treasury and South African Revenue Service, above n 15, 8.

Table 2: South African Excise Tax Risks of Enterprises in the Oil and Gas Industry

Type of risk	Description
Compliance risk	<ul style="list-style-type: none"> - South African excise taxes are governed by a complex legislative framework which increases the likelihood of non-compliance due to incorrect interpretation and application of legislative provisions. - Incorrect rates and levies may be used. This risk is more prominent after the rate changes that normally occur annually on the first Wednesday in April. - Non-compliance with reporting standards as defined in the Act. - Incorrect information included in the DA160 return.
Operational risk	<ul style="list-style-type: none"> - The modernised electronic filing (e-filing) system has not been in place for very long. This may lead to unexpected risks where all the different return scenarios have not been tested. - Incorrect information received from other functions. - Information/supporting documentation not supplied to the tax function in a timely manner, thus causing delays in reporting. - The operational requirements of the South African excise tax environment are complex and require detailed and accurate record-keeping, thus increasing the likelihood of not being able to satisfy relevant requirements.

By identifying and managing the risks that relate to the South African excise tax environment, a tax function can ensure that the enterprise is governed in such a manner that compliance and transparency are enhanced and organisational objectives achieved.

Although most of the excise tax risks are external to the tax function's operations, accountability rests with the tax function. It is thus necessary to manage and mitigate these risks with appropriate risk identification and management methods.

4.2 Tax risk management

Value is created by identifying opportunity, taking risks, and generating a return on such opportunities. Value generation lies in the pursuit of strategic opportunities. In pursuing these opportunities, enterprises encounter risks. While taking risks are part of any enterprise's day-to-day functioning, the key to success is to effectively manage and mitigate risks that threaten the achievement of the enterprise's objectives. For example, where legislative compliance is one of the enterprise's objectives, it is important to identify and manage those risks which can hamper the enterprise from complying with relevant legislative requirements.

The risk management process consists of the six steps, as depicted in Table 3.

Table 3: Steps in the Risk Management Process²⁹

Step	Objective
1. Risk identification	To produce a comprehensive list of risks
2. Develop assessment criteria	To develop common assessment criteria having regard to the impact and likelihood of each risk
3. Assess risks	To assign a value to each identified risk, having regard to the developed criteria
4. Assess risk interactions	To use appropriate techniques to manage risk interaction
5. Prioritise risks	To prioritise risks by comparing the risk level with its overall impact
6. Respond to risks	To develop response plans based on a cost / benefit analysis, a risk strategy and exploration of different response options

It is advisable to manage tax risks in a proactive manner. In other words, tax risk management should be a precautionary step rather than a defence mechanism.³⁰

It is the authors' opinion that precautionary tax risk management requires an enterprise to proactively engage in understanding the interdependencies between the tax function and other functions. Proactive engagement enables an enterprise to ensure that its tax risk management practices are sufficiently comprehensive.

Furthermore, tax risk management should not only be seen as a corporate governance obligation. An enterprise should recognise that the tax function relies on all processes for information, and that processes sometimes involve more than one function within an enterprise. This requires the incorporation of risk management as a key part of the strategic planning processes done by each function within the enterprise. By incorporating risk management at an operational level, operational risks can be addressed more effectively.³¹ This can only be achieved if the enterprise has the knowledge and expertise to enable this. To ensure that risk management is incorporated at an operational level, it is advisable to task specific individuals within each function with the responsibility to oversee the integration process.³²

It is only when an enterprise incorporates tax risk management within each process in the enterprise (irrespective of what function is involved), that the tax function can be empowered to attain key objectives such as transparency, sound governance, risk management, organisational alignment, as well as tax planning.³³

²⁹ Committee of Sponsoring Organisations of the Treadway Commission, above n 29, 2.

³⁰ DN Erasmus, *Tax Intelligence: The Seven Habitual Tax Mistakes Made By Companies*, 1 <<http://www.erasmusontax.com/>>; R Hoyng, S Kloosterhof and A MacPherson, *Tax Risk Management: From Risk to Opportunity*, (2010), 23 <http://www.ibfd.org/IBFD-Products/Tax-Risk-Management#tab_0>.

³¹ KPMG, *No Paper Chase: Transforming Risk Management at Energy and Resource Companies*, (2013), 2–3 <<http://www.kpmg.com/global/en/issuesandinsights/articlespublications/documents/no-paper-chase.pdf>>.

³² Ibid, at 4.

³³ Wood, above n 3.

As stated earlier, this research aims to highlight whether or not BPM can be a valuable tax risk identification and management method. The focus will therefore be on Step 1 and Step 6 (as per Table 3), as these are the steps where BPM can add the most value.

4.2.1 *Shortcomings of traditional tax risk identification and management methods*

Tax risks can be identified, managed and mitigated in a variety of ways. The methods that are commonly applied and well researched are tax strategies and tax control frameworks.³⁴

A tax strategy is the plan of action that is created to achieve the specific tax aims or goals of an enterprise. It should be aligned with the general organisational strategy and should clearly define and reflect the tax function's activities, vision, mission and priorities.³⁵ An enterprise's tax strategy will invariably be influenced by the tax control framework. A tax control framework is a data structure that organises and categorises an enterprise's internal controls, thereby creating business value and minimising risk.³⁶ Appendix A provides a brief summary of the strengths and shortcomings of tax strategies and tax control frameworks.

By implementing BPM, the effectiveness of tax strategies and tax control frameworks may be improved. This is because BPM assists an enterprise in improving the documentation of its processes. Where an enterprise is able to better understand all the processes that have an impact on the tax function, the enterprise would be better informed on how the tax function's plan of action should be amended to contribute to the achievement of an enterprise's strategic goals. This improved understanding of business processes may also enable an enterprise to improve the tax control framework by highlighting the functions that will be better positioned to implement and monitor certain internal controls.³⁷

4.2.2 *Business Process Management*

In the last decade, enterprises have become more aware of the importance of their business processes.³⁸ This has contributed to the popularity of BPM. BPM is a method that can be used to analyse and document organisational processes, so that they may be monitored, measured and controlled. The aim of BPM is to redesign, modify and improve organisational processes where necessary. By redesigning and modifying the existing processes, BPM assists an enterprise in meeting strategic goals. BPM is beneficial because it establishes consistent and uniform processes, supports timely risk identification and good management practice, and enables enterprises to

³⁴ Erasmus, above n 30; Hoyng et al., above n 30; A Johnston, 'The Explosion of Tax Risk' (2006) 17 *International Tax Review* 10, 24.

³⁵ Erasmus, above n 30, 10; Oxford Dictionaries, *Strategy* (2014) <<http://www.oxforddictionaries.com/definition/english/strategy>>.

³⁶ TechTarget, *Control Framework* (2014) <<http://searchcompliance.techtarget.com/definition/control-framework>>.

³⁷ Hoyng et al., above n 30, 43.

³⁸ J Natovich, 'Business Process Management Systems: The Internal Control Perspective' (2009) 6 *ISACA Journal* <<http://www.isaca.org/Journal/archives/2009/Volume-6/Pages/Business-Process-Management-Systems-andnbsp-andnbsp-The-Internal-Control-Perspective.aspx>>.

operate in efficient and effective environments.³⁹ The benefits of BPM far outweigh its disadvantages (refer to Appendix B).

Traditionally the focus was on the operational and functional aspects of BPM. BPM recently evolved from being used for the re-engineering of business processes to focusing on the following:

1. Providing a competitive advantage through business processes: It is of the utmost importance that business processes should be well designed in order to ensure the success of any enterprise.
2. The management of processes: In order to avoid the division of different functions within an enterprise, it is vital to be reminded that, more often than not, processes are cross-functional. Thus, enterprises should focus on the end-to-end management of processes.
3. The agility of processes: Any enterprise should thus focus on the improvement and adaption of their processes. To ensure agility, the automation of business processes is suggested.⁴⁰

Within BPM lies knowledge management which will assist in, as the concept suggests, the management of the gathered processes in such a manner that information assets are distributed and utilised to their full capacity. Knowledge management originated in the consulting community after enterprises started to realise the value that could be created by sharing and linking knowledge across geographic locations.⁴¹ The most central idea relating to knowledge management is to capture current knowledge within an enterprise and to effectively distribute and retain such knowledge across the enterprise.⁴²

Transparency is one of the greatest benefits of knowledge management because it opens clear and defined channels of communication. Knowledge that was once hidden will now be openly and explicitly available across the enterprise; lessons learned and best practice can be shared globally. Teams are encouraged to share knowledge, rather than reinventing the wheel.⁴³

If BPM and knowledge management are implemented correctly, the response to tax risks can be improved as a result of transparent processes and improved knowledge availability. This will also enable enterprises to create unique knowledge assets, such as knowledge relating to products, available markets, technology and competition.⁴⁴ The identification and mitigation of tax risks can be shared internationally and

³⁹ Association of Business Process Management Professionals, *What is BPM Anyway? Business Process Management Explained* (2007) <<http://www.bpminstitute.org/resources/articles/what-bpm-anyway-business-process-management-explained>>.

⁴⁰ Natovich, above n 38.

⁴¹ MED Koenig, *What is KM? Knowledge Management Explained* (2012) <<http://www.kmworld.com/Articles/Editorial/What-Is-.../What-is-KM-Knowledge-Management-Explained-82405.aspx>>.

⁴² M Rouse, *Business Process Management (BPM)* (2011) <<http://searchcio.techtarget.com/definition/business-process-management>>.

⁴³ Knowledge Management Online, *Knowledge Management Online* (2005) <<http://www.knowledge-management-online.com/the-importance-of-knowledge-management.html>>.

⁴⁴ A Macintosh, *Knowledge Management* (1999) <<http://www.aiai.ed.ac.uk/~alm/kamlnks.html>>.

expertise surrounding specific risk mitigation processes will be retained within the enterprise.

BPM can be implemented by mapping processes in an end-to-end manner. These maps highlight possible gaps within processes which can be indicative of risks. Mapping also provides enterprises with a succinct view of the current and desired state of processes, and facilitates focused risk management and resource allocation.⁴⁵

Another method of BPM implementation that facilitates knowledge management and knowledge sharing is the creation of standard operating procedures (SOPs) that support the visually mapped processes. SOPs are implemented to describe the processes, and to assist with role and responsibility assignment.⁴⁶ An effective SOP will not only describe how policies should be implemented but also describe the details relating to the who, the what, the where, the when and the how.⁴⁷

The use of BPM is not a familiar topic within tax risk management circles. Likewise, knowledge management, as it relates to taxation, has received little attention. Different areas exist within tax functions that could be impacted by knowledge management, namely: legislative knowledge, administrative knowledge, awareness and correct interpretation of tax legislation, and administrative constraints relating to legislation.

Although both tax strategies and tax control frameworks are beneficial, risk and internal control gaps may still be overlooked. Such gaps may cause risk scenarios that materialise if they are not addressed. It is advisable that risk and internal control gaps should be identified and managed as broadly and as soon as possible.

By aligning BPM with other risk identification and management methods, risk and internal control gaps may be addressed at an earlier stage. This is due to BPM creating a broader perspective by mapping the applicable process in an end-to-end manner. The broader perspective creates the opportunity for an enterprise to view multiple layers of internal control and to further identify duplicated internal controls where they exist.

The research results discussed in the next section highlight that BPM can be used as an ideal complement to other tax risk identification and management methods.

5. RESEARCH PROCESS AND RESULTS

The research conducted for this project was done over a period of seven months. Data regarding the risks and internal controls in the original excise tax processes of Company A (before the implementation of BPM) were made available in the form of the latest tax risk register of Company A. Company A updates this register on a quarterly basis and the latest available information before the implementation of BPM was dated 31 March 2014.

⁴⁵ D Cracknell, H Messan, M Moulick and H Sempangi, *Process Mapping in Practice*, (2005), 4 <http://www.microsave.net/files/pdf/Process_Mapping_in_Practice.pdf>.

⁴⁶ Interfacing, *Standard Operating Procedures (SOP)* (2014) <<http://www.interfacing.com/business-process-management-solutions/standard-operating-procedures-SOP-Mapping>>.

⁴⁷ Iowa State University, *Overview of standard operating procedures (SOPs)*, (2015), 1 <<https://iastate.app.box.com/s/729ez60hcojs55ag9osd>>.

5.1 Research process

As part of the research process, one of the researchers spent time with the following employees of Company A:

1. The national tax manager: The national tax manager is the head of the tax function of Company A's Southern African operations. This includes both the direct and indirect tax streams for countries in Southern Africa, such as South Africa and Mozambique.
2. The subject matter expert: For this case study, the subject matter expert is the Indirect Tax Specialist (specifically relating to South African excise taxes). The subject matter expert is responsible for ensuring that Company A complies with all its excise tax duties.
3. The process owner: The process owner is the individual ultimately responsible for the South African excise tax processes. In this case study the national tax manager is also the process owner. It is not always the case that the head of a department within Company A will also be the process owner.

The research process essentially entailed the following:

1. One of the researchers obtained the tax risk register that was created by Company A prior to the implementation of BPM.
2. One of the researchers spent time with the subject matter expert and national tax manager/process owner of Company A to observe the performance of the excise tax processes. The researcher then documented the observed processes.
3. To confirm the accuracy of the observations documented by the researcher, the subject matter expert and national tax manager/process owner of Company A then reviewed the documented excise tax processes.
4. One of the researchers then created a visual representation of the documented excise tax processes by using the BPM feature of the software that Company A uses for recording processes and risk management. Although the software is an off-the-shelf product that is available for purchase by any enterprise, it has been customised to suit the specific needs of Company A. Company A used the BPM feature of the software to record tax processes for the first time during this case study. The visual representation consisted of a process flow diagram. A process flow diagram effectively converts written processes into pictures. It allows users to link separately documented processes with each other, which makes it easier to view an entire process in one centralised place.
5. To confirm the accuracy of the visual representations created by the researcher, the visual representations were reviewed by the subject matter expert and national tax manager/process owner of Company A.
6. The tax risk register (as mentioned in Point 1) was then updated to reflect the risks evident from the process flow diagram. This update was done by the national tax manager/the process owner, the subject matter expert, and one of the researchers.

7. One of the researchers then compared the tax risk register created after BPM (as mentioned in Point 6), with the tax risk register that existed before BPM was implemented (as mentioned in point 1). The results of this comparison are documented in Table 4 in Section 5.2 of this article.

By being able to view the entire process in one document, an enterprise can form a comprehensive view of risks and better evaluate whether or not all the desired internal controls are in place. A process flow diagram highlights:

1. The links between different processes within an enterprise
2. Risks that span across more than one function in the enterprise and that requires cross-functional internal controls to address the shared risks
3. The unnecessary duplication of internal controls
4. Risks that the enterprise thought were mitigated but are not currently being mitigated through appropriate internal controls, that is, internal control gaps.⁴⁸

The BPM software that was used by Company A also includes a functionality that enables one to embed SOPs within the process flow diagram. As stated above in Section 4.2.2, SOPs are another method of BPM implementation that facilitates knowledge management and knowledge sharing. SOPs are separate written documents that define each step within a documented process. They also state the official procedures that should be followed in specifically identified scenarios in order to mitigate compliance or operational risks. Just as the BPM software can be used to convert the documented written processes into a visual representation, the BPM software can be used to embed the SOPs in the process flow diagram.

The SOPs also clearly define the function that is responsible for the relevant part of a process, as well as the roles and responsibilities of each individual involved. This enables an enterprise to evaluate whether or not there is appropriate segregation of duties, by highlighting those areas of a process that need to be executed by different employees. Segregation of duties assists in strengthening an enterprise's internal control framework.

By embedding SOPs in a process flow diagram, it also empowers the enterprise to identify those parts of the process that do not have SOPs in place, but that requires SOPs.

As part of the creation of the process flow diagram, Company A also used the BPM software to embed its current SOPs in the process flow diagram. These SOPs are accessible in an un-editable format throughout Company A. This ensures that knowledge sharing takes place.

Where possible, the process flow diagram and SOPs may be made available to external parties as well, such as the revenue authorities, to aid understanding of the excise tax processes that are followed. Even where it may not be possible to share the process flow diagram and SOPs with external parties, personnel may be better equipped to assist external parties with queries. This is because personnel can use the

⁴⁸ KJ Henderson, 'What Are the Benefits of Business Process Mapping?' (2016), *Houston Chronical* (online), <<http://smallbusiness.chron.com/benefits-business-process-mapping-3246.html>>.

process flow diagram to identify the relevant function responsible for a specific part of a process. They can then refer the external parties to the function that is in the best position to assist them with their query. Because the responsible function has a working knowledge of the SOPs that relate to the specific part of the process, the responsible function will then also be in a better position to explain the SOPs to the external parties.

The following measures were taken to ensure the accuracy and completeness of the collected data:

1. The official current process risks and internal controls of Company A (in the form of a risk register) were obtained.
2. The appropriate personnel of Company A were interviewed to confirm their understanding of the process.
3. Company A's internal BPM software and methodology was used to document processes. The software allows enterprises to map organisational processes visually, assists in the creation of SOPs, and the creation of organisational data in one central storage system.⁴⁹
4. The accuracy of the documented processes was confirmed through a review performed by the relevant personnel of Company A.

5.2 Research results

The research results analysis will focus on the effect of the implementation of BPM on the identification and management of risks. The findings are documented in Table 4.

Table 4: Summary of the Effect of BPM on the Excise Tax Risk Environment

Number of additional risks identified	Number of additional internal controls identified	Number of internal controls re-designed	Number of internal controls removed
1	3	7	0

Table 4 indicates that the implementation of BPM positively influenced the risk environment of Company A. While the impact of BPM may appear to be nominal, the value of BPM should not be judged merely by the number of additional controls or the number of controls re-designed, but rather by its ability to facilitate the process which underscores the design of internal controls.

Before BPM, the tax function had to rely on the processes and SOPs that the tax function had documented in isolation, not knowing whether or not risks that impact the tax function are being addressed by other functions. The process flow diagram created a comprehensive view of the processes that influence the tax function. It also

⁴⁹ Software AG, *ARIS Business Process Analysis* (2015)
<http://www.softwareag.com/corporate/products/aris_alfabet/bpa/overview/default.asp>.

identified those functions that are involved in these processes. Therefore, BPM empowers an enterprise to convert from function-based management to process-based management. This has important implications for the tax function. The tax function takes responsibility for tax compliance of the enterprise as a whole but is not responsible for producing all the information required to facilitate tax compliance. The tax function is dependent on information produced by other functions. For example, the tax function of Company A needs information about volume movements from other functions to enable it to determine Company A's monthly excise tax liability.

The process flow diagram of the excise tax processes of Company A, allowed the tax function to link its own processes with that of other functions within Company A. By identifying the interfacing processes as they relate to other functions, the opportunity was created to implement cross-functional controls.

The process flow diagram and embedded SOPs can be supplied to both internal and external auditors as well as to the revenue authorities when reviews of the processes are performed. Due to the detailed nature of the SOPs, the internal auditors have a benchmark against which any reviews can be performed. The auditors and the revenue authorities may use the SOPs to attain a faster and better understanding of the internal excise tax processes of Company A, as well as the identified risks and the related internal controls, thus leading to more effective and efficient audits. The use of reviews by internal and external auditors is one of the broader internal controls that the tax function of Company A relies on for assurance of the excise tax processes followed and the internal controls that are implemented to address identified excise tax risks.

Another benefit stemming from BPM is the attainment of improved segregation of duties. Clearly defined segregation of duties is one of the controls within the tax risk management strategy of Company A that was not clearly defined before the implementation of BPM. This resulted in instances where proper segregation of duties was not achieved. BPM influenced the ability of the tax function to segregate duties, not only within the tax function but also in functions that work closely with the tax function. BPM created a comprehensive view of the processes performed by the tax and other related functions and made it possible to define the specific roles and responsibilities of the individuals involved. These newly defined roles and responsibilities created the opportunity to address the following:

1. The elimination of the possibility that activities are performed by more than one person or more than one function.
2. The incorrect utilisation of resources due to not having a comprehensive end-to-end process view.

In this case study the value of BPM emanated from the manner in which it facilitated tax risk identification and management. BPM did not dictate the flow of the process or the controls that were implemented; it simply became a facilitative method to provide a framework within which effective tax risk identification and management can function. Each enterprise may choose to implement this in a different manner which will influence the outcomes thereof.

6. CONCLUSION

The research set out to highlight whether or not BPM can be a valuable tax risk identification and management method. The research results indicated that the implementation of BPM leads to the ability to share knowledge and create a broader view of tax processes. Industry specialist knowledge can be easily shared with external parties such as internal auditors, external auditors and the revenue authorities because of the creation of a process flow diagram and SOPs, as part of BPM.

The creation of formal documentation of tax processes that cuts across functional lines mitigates one of the most important risks that the tax function faces. The tax function relies on information from other functions that are not specifically geared for tax purposes. The formal documentation strengthens the communication and information components of the internal control environment. The SOPs act as an internal control vehicle that contributes by way of creating a clearer view of the cross functional roles and responsibilities. This enhances accountability and improves corporate governance.

Therefore, BPM may be an ideal complement to popular tax risk management methods, such as tax strategies and tax controls frameworks, because it highlights the role that the tax function and other functions play in managing the enterprise's tax risk. BPM acknowledges that an enterprise is a collection of functions. It is all of these functions that impact upon the strategy of the enterprise. A greater awareness of the role of other functions in the enterprise empowers the tax function to improve its formulation of its tax strategy, which should be a constituent of the overall strategy. It also provides the tax function with a better understanding of what internal controls have been implemented by other functions in the enterprise. This knowledge may equip the tax function to create a more comprehensive tax control framework by incorporating those internal controls that are the responsibility of other functions.

7. APPENDICES

Appendix A: Strengths and shortcomings of tax strategies and tax control frameworks⁵⁰

Tax strategy		Tax control framework	
Strengths	Shortcomings	Strengths	Shortcomings
Enables an enterprise to specifically identify those risks that may hamper the achievement of the enterprise’s strategic goals	Does not focus on operational procedures and risks	Supports the objective of creating an effective, efficient and transparent environment	Understates internal controls, because it is not always possible to view the entire internal control framework at once
	Operational risks may be overlooked	Supports organisational strategy through tax planning and pre-mitigation of risks	
Enables the identification of different groups of risks	Lacks detailed focus which may hamper the achievement of a function’s goals within an enterprise	Facilitates resource allocation	

⁵⁰ Erasmus, above n 30, 1; Hoyng et al., above n 30, 22 and 43; Johnston, above n 34, at 2; M Leitch, M. *Why the COSO Framework Needs Improvement* (2005) <<http://www.irmi.com/expert/articles/2005/leitch04.aspx>>; TechTarget, above n 36.

Appendix B: Advantages and disadvantages of BPM⁵¹

Advantages
Increased accountability between functions and individuals
Improved reliability of individuals and teams
Healthier relationships with stakeholders, specifically revenue authorities, due to early identification and disclosure of risks
Easier regulatory compliance
Improved functional (tax and others) resource management, specifically the defining of roles and responsibilities of individuals relating to tax risk management
Greater staff satisfaction which leads to knowledge being retained within the enterprise, thus creating a knowledgeable and capable tax function
Improved processes and greater efficiency
The creation of consistent and standardised processes throughout the enterprise
Earlier risk and opportunity identification
Greater transparency of processes, which influences the creation of tax controls for identified process gaps and risks
Prevention of negative impacts of tax risks due to early mitigation and elimination
Alignment of the tax strategy with the organisational strategy
Disadvantages
Requires specific skills and knowledge in order to be performed and implemented properly
BPM may become expensive where the enterprise decides to source external expertise to help with BPM implementation
If employee buy-in is not obtained and the BPM strategy is not properly explained to employees, BPM implementation may cause lowered employee morale due to changes in employees' roles and responsibilities
BPM may lose its impact where the enterprise does not dedicate resources to regularly updating processes by using BPM methods. This may cause the knowledge gained to be lost when employees leave the employ of the enterprise

⁵¹ Business Analyst Learnings, *The Top 3 Benefits of BPM and More* (2013) <<http://businessanalystlearnings.com/blog/2013/1/7/tk94nt1hjqprr6edqjpuqqjywmzr87>>; Natovich, above n 38, 1; K Nixon, 'Top 5 Benefits of Good Business Process Management' on Comindware, *Collaborative Minds Blog* (13 February 2015) <<https://www.comindware.com/blog/leadership/benefits-of-business-process-management/>>; University of San Francisco, *Benefits of Business Process Management*, (2015) <<http://www.usanfranonline.com/resources/business-process-management/benefits-of-business-process-management/#.U1eaCfmSy8w>>; Yourdictionary, *Process Management: Advantages and Disadvantages* (2014) <<http://www.yourdictionary.com/process-management>>.