

Is tax resistance a legit form of revolt?

By [Patricia Williams](#)

23 May 2017

At the 2016 Tax Indaba, Sars Commissioner Tom Moyane called for 'tax morality'. However, today 'tax morality' holds a different meaning, as more taxpayers are asking themselves if, in good conscience, they can pay taxes in the same manner, as they have done in the past.



© Sergey Jarochkin – [123RF.com](#)

A 2012 paper, titled 'Understanding the determinants of tax compliance behavior as a prerequisite for increasing public levies,' by Batrancea et al, states this in relation to political determinants. "The structure of a tax system can also hinder taxpayers' willingness to comply, if they perceive the system as being too bureaucratic, with a high tax burden, and a high number of taxes. In the same vein, an inefficient fiscal policy mirrored in squandering of public funds and low quality of public goods makes taxpayers think twice before paying the entire share of their tax liabilities."

Increasing taxes in South Africa

Many of these political determinants of non-compliance are present within the South African tax context. Individuals have a high tax burden and there are a high number of taxes. Apart from all of our existing taxes, such as income tax, capital gains tax, VAT, PAYE, mineral royalties, transfer duty, donations tax, estate duty and securities transfer tax, the Budget Review 2017 confirmed that we should anticipate new sugar tax, carbon tax, national gambling tax and acid mine drainage tax. Then we have been asked recently to give our submissions to the Davis Tax Committee on various potential wealth taxes.

In addition, the magnitude of the misuse and abuse of funds by government and parastatals is staggering. A cursory view of information already within the public eye makes this abundantly clear. The squandering of public funds is therefore also a matter of general knowledge.

Tax resistance has a long history

In his book, 'The economic psychology of tax behavior', Erich Kirchler states, "...it has been suggested that tax resistance has played a significant role in the collapse of several major world orders, including the Egyptian, Roman, Spanish and Aztec empires." Viewed in this context, if one believes that the current use of government funds is wrongful and one

believes that tax resistance would play a significant role in the collapse of this order, how would one conclude that funding the current government order is the moral choice?

Society's moral outrage against state capture and against fruitless and wasteful expenditure by government employees and parastatals has been harnessed against Sars, the collector of government funds.

Apart from the crisis of confidence in government, trust in Sars itself has been eroded over the past year, with multiple allegations in the public eye in relation to Sars staff and leadership. This is important because trust is a critical factor in voluntary tax compliance.

In the circumstances, one would expect Sars to rather focus on the legality of paying one's taxes, rather than the morality, since it is clear that government and Sars do not have the moral high ground, in the views of taxpayers. Nowadays, when one pays one's taxes to Sars, one may potentially be caught in a crisis of conscience in relation to one's part in financing a corrupt system through tax payments.

Lawful options considered

Engaging in a tax revolt would be an act of civil disobedience and would be unlawful. While society as a whole has felt the need to engage in this type of behaviour in various contexts in the past, this would really be the exception rather than the rule. Upholding the rule of law is paramount in our society, and there are other manners of engaging in tax resistance that would not be unlawful, such as engaging in legitimate tax planning. The effects of this form of tax resistance would typically only be properly felt by the fiscus over the medium term.

Sars has already expressed concerns around "a disturbing trend whereby tax compliance levels are beginning to deteriorate." A knee-jerk reaction by Sars may be to impose higher penalties. However, it is interesting to note that various studies have found that higher levels of tax-related penalties are counterproductive in cases where there is limited trust or perceived unfairness. In these circumstances, perceived "unfair" penalties result in higher levels of tax aggressiveness by taxpayers.

Sars options

What is needed from Sars is not a show of power, but rather a show of service. Whereas the law would not allow Sars to condone a tax revolt, Sars should understand that tax resistance is a legitimate expression of dissatisfaction with the status quo. Sars should:

- Ensure that any taxes sought are clearly set out in the relevant legislation;
- Avoid heavy-handed policing of tax laws;
- Treat taxpayers respectfully, and apply penalties in a restrained manner;
- Commit to a service charter that is more than merely compliance with legal minimums; and
- Enforce tax rules against all persons (including the politically connected), not only the "soft targets" and people who

are voluntarily compliant.

In particular, all available law relating to base erosion and profit shifting should be properly applied to collect taxes that are legitimately due, without over-burdening individual taxpayers.

ABOUT THE AUTHOR

Patricia Williams is a tax dispute resolution expert for Bowmans.

For more, visit: <https://www.bizcommunity.com>