

## **Governance of Income Tax**

Fiscal evasion is both an undesirable and a criminal practice. There is more ambiguity however, over the meaning of tax avoidance and tax mitigation. The confusion extends to what is 'impermissible' tax avoidance and legitimate mitigation through tax planning. This reflects the very dynamic and changing nature of tax regulations. As a consequence, companies need to ensure that the process of managing their fiscal affairs is adequately governed.

Globalization, deregulation and technological advances have led to increasingly sophisticated and aggressive impermissible tax avoidance schemes. In addition, the inherent 'discontinuities' in any tax system, together with complex new financial instruments have made it clear that specific anti-avoidance legislation is insufficient on its own to solve the problem. This has highlighted the need in South Africa for a stronger General Anti-Avoidance Rule (GAAR) found in section 103 of the Income Tax Act, 1962 (58 of 1962).

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