



Review

# Taxing the Digital Economy through Consumption Taxes (VAT) in African Countries: Possibilities, Constraints and Implications

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**Abstract:** Owing to the Fourth Industrial revolution and digital transformation, the digital economy has grown substantially globally and in Africa. Despite the positive outcomes such as advancements in technology, improvements in business models and expansion in digital financial inclusion, negative implications include the erosion of tax bases due to the invisible nature of digital transactions. Although the digital economy is one of the biggest and quickest growing sectors in the African continent, its contribution to tax revenue is negligible. Developed and developing countries are grappling to find effective ways of mobilizing revenues from this hard to tax economy. African countries have turned to digital services taxes, value added taxes and withholding taxes in a bid to collect revenue from the digital economy to broaden their tax bases. There is intense debate among policymakers, governments, development bodies and tax bodies on the most effective way to tax the digital economy. Through a conceptual analysis based on a critical review of the literature, this article contributes to the ongoing debate by assessing the possibilities and constraints of taxing the digital economy in Africa using value added tax (VAT). The paper reviewed 55 articles, most of them current, published between 2014 and 2022, reflecting embryonic nature of the subject area. The findings on the opportunities include the existence of VAT regulation, increased revenue mobilization and efficiency gains, while challenges include ambiguities in legislation, capacity constraints and tax knowledge gaps. The implications of using VAT to collect tax from the digital economy encompass increased cost of digital services, decreased access, increased inequality and impediment on employment creation, poverty reduction, digital financial inclusion, and the realization of the sustainable development goals.

**Keywords:** VAT; digital economy; taxation; consumption tax; constraints



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## 1. Introduction

The digital economy has grown dramatically worldwide, leading to the emergence of new business transactions and the growth in e-commerce and online transactions. Digitalization of the economy is viewed as a propeller for growth, innovation as well as societal change and connectivity (Organization for Economic Co-operation and Development (OECD) (2020); Schiavone Panni 2019). Despite the advantages linked to the expansion of the digital economy, several challenges have also originated. Key areas of the economy such as industries, entrepreneurial development, innovation and technology, fiscal policy and taxation have faced problems emanating from the substantial growth of the digital economy (Ahmed and Gillwald 2020). Simbarashe (2020, p. 178) asseverates, "Among these, tax implications of the digitalized economy are perhaps the most urgent issue for policymakers, governments, civil societies and international organizations". Taxation is a not only a revenue generation problem but also a development issue, a regulation matter, a financial inclusion concern and a topic that touches on the fulfilment of the United Nations (UN) Sustainable Development Goals (SDGs).

The change in business models and the widening of global digitalization has enabled MNEs and other ordinary companies to penetrate global tax jurisdictions where they only have markets but no physical presence (Kelbesa 2020; Munoz et al. 2022). These companies have managed to generate profits in ways, which have challenged the existing international tax laws' adequacy in handling and tapping tax revenue from the digital economy (OECD 2019, 2020). The African continent is not immune to these challenges (Kirsten 2019; Latif 2019, 2020; African Tax Administration Forum (ATAF) (2019a), 2019b). The digital economy has led to a consequential digital presence and investments by digital MNEs such as Amazon, Google, Netflix, Facebook, and Uber. Most African revenue authorities and their governments have started to take a special interest in how to mobilize revenue from the seemingly intricate digital economy.

MNEs had been previously operating in these market jurisdictions such as Africa, but their activities have immensely increased in breadth, scope, and intensity. The widening of the activities is due to the expansion in digital transformation, together with the advancement in communication and information technology (Akpen 2021; Bunn et al. 2020; Deloitte 2020a; Simbarashe 2020). Digitalization has brought significant modification to the way businesses conduct their activities and transactions as well as to tax administration. The changes in the business world and the fact that they now lean more on digitalization was fueled by the COVID-19 pandemic. This accordingly calls for changes to be incorporated in regulation, infrastructural development, tax policy construction and tax administration.

The invisibility and borderless feature of digital transactions makes levying and collecting taxes on them a formidable task for all economies (both developed and developing) and more so in African countries where tax administration capacities are weak, coupled with underdeveloped technologies as well as resources constraints. Identifying digital businesses, determining the scope of their activities, tracing their revenues, gathering, and verifying information that leads to the determination of tax liability is difficult for countries in general (Lowry 2019) and more challenging for African countries (Santoro et al. 2022; Simbarashe 2020).

While revenue authorities continue to face the revenue collection predicaments emanating from the growing presence of the digital economy, digital transformation continues to heighten innovation and the emergence of complex business models. Tax administration in Africa remains unclear on the most effective and efficient way to tax the digital economy, yet the challenges arising from novel technologies and intricate business models continue to mount, increasing the likelihood of tax revenue leakages. Digital transformation has indeed raised questions on whether the current international tax legislation remain applicable and adequate for tax revenue mobilization in this globalized and digitally transformed business environment. The current legislation includes the OECD transfer pricing guidelines and UN guidelines on transfer pricing (TP) as well as various unilateral TP rules (arm's length principle). While considerable efforts have been made to regulate base erosion and profit shifting (BEPS) through BEPS projects (Simbarashe 2020), OECD TP guidelines (Kabala and Ndulo 2018) and ATAF guidelines on intangibles (ATAF 2020), the key challenges in taxing the digital economy have remained insufficiently addressed (Ahmed and Gillwald 2020; Kelbesa 2020; Rukundo 2020). The BEPS Inclusive Framework on BEPS and on Addressing the Challenges in the Taxation of the Digital Economy discussions have been ongoing, and the implementation of the negotiations have been delayed to the frustration of member countries, with some of these countries resorting to enacting their own individual tax rules on the digital economy. Divergent views have emerged among member nations. In relation to the OECD consensus-based rules, ATAF, on behalf of African countries, has posed questions on the effectiveness and inclusiveness of the proposed provisions and pillars guiding the envisaged implementation (Becker 2021). The thorny areas revolve around the applicability of OECD guidelines in the African contexts. Firstly, the issues of the effectiveness of international digital services tax rules in curbing tax avoidance and evasion by MNEs in Africa. Secondly, how the consensus-based rules take

into consideration the shortcomings of African tax administration authorities and other resource constraints. These issues raise concern on whether the playing field is level when viewed in the context of developed and developing country perspectives.

From the extant literature, African countries have moved towards finding their own ways to tax digital income. Some have introduced new direct digital taxes that are akin to corporate tax rates (Tunisia, Zimbabwe, Kenya, and Nigeria) (Becker 2021), others have used withholding taxes while others have expanded their consumption taxes or VAT regimes (Zimbabwe, South Africa) (Simbarashe 2020). These methods are not without their fair share of challenges and shortcomings. Firstly, with direct taxes, the difficulty lies in the establishment of the taxable nexus in accordance with the existing international tax laws. For example, the physical permanent establishment or the adequate physical presence. Secondly, digital MNEs such as Amazon, Facebook, Netflix, YouTube, and Twitter can engage in aggressive BEPS due to the mobility and intangibility of their assets. With the shift of the economy from the brick-and-mortar nature of businesses to the novel digital commercialization, BEPS is likely to broaden. Africa must find a suitable and efficient way to tax the digital economy.

Taxation of the digital economy remains explored to a limited extent due to its infancy. While some studies have focused on the need to tax the digital economy (de Lima Carvalho 2020; Ismail 2020; Schiavone Panni 2019) and some on the challenges of taxing the economy (Gulkova et al. 2019; Ndajiwo 2020; Saint-Amans 2017; Turina 2020), the methods of taxing the digital economy both direct and indirect remain comparatively unassessed. This paper focuses on the use of indirect or consumption taxes to tax the digital economy, the possibilities of effective revenue mobilization, constraints, and other associated ramifications. This study makes two vital contributions. Firstly, to the academic body of knowledge and literature on the taxation of the digital economy in general and specifically to using VAT to mobilize revenue from this economy. As highlighted previously, there is a paucity of literature that evaluates taxation of the digital of the economy using VAT in Africa. This study gives a comprehensive insight into the VAT legislation and administration that is still in its nascent stages of development and implementation in the digital economy in Africa. While Simbarashe (2020) gave an overview of the VAT legislation adopted by African countries in response to the growth of the digital economy, the authors did not conceptually analyze the practicability of administering the regulations, and the possible constraints and implications that can be encountered. Secondly, through a conceptual analysis of the VAT legislation and its applicability to the digital economy and by unpacking the likely pros and cons of VAT administration in this economy, the paper makes a practical contribution to policy formulation. Taxation is not only about collecting revenue but also about driving growth in the economy, encourage usage of goods and services as well stimulating international trade and investments. Therefore, by unpacking the key strengths of the VAT policy, the legislative shortcomings and possible areas of improvement, this paper helps inform future VAT policy amendments and new policy designs in African countries.

This paper found out that the VAT legislation with respect to taxing the digital economy was not fully developed in most African countries and that in some cases key terms and provisions of the VAT Acts were not clearly explained. The paper also found out that VAT is a cost that increases the prices of digital services and products, thus unfavorably affecting their usage. For example, if VAT is levied on services such as mobile money services, internet data, mobile phones and other digital products, this would affect usage, profitability of companies, corporate tax revenue, digital financial inclusion, and the fruition of the SDGs.

Having given the background of the conceptual analysis in this section, the next section explains the methodology employed to gather relevant literature upon which the evaluative review was conducted to generate insights on VAT administration in the digital economy, the possible opportunities, challenges, and implications associated with the VAT legislation enforcement. Section 3 covers the conceptual analysis conducted to unpack and analyze the VAT regulation in Africa's digital economy by focusing on selected

African counties. Section 4 articulates the implications and recommendations for future VAT policy construction and amendments in relation to the digital economy. Section 5 gives the conclusion, recommendations, limitations, and areas of further research.

## 2. Review Methodology

This article discusses the use of consumption taxes to mobilize revenue from the digital economy in Africa, mainly focusing on VAT. A critical qualitative literature review approach was adopted. The researcher conducted an evaluative analysis and interpretive critique of legislation documents, policy briefs and other previous literature to conceptualize the views of various researchers in relation VAT legislation in the digital economy. The researcher sought to give an analysis on the VAT regulation, the possible benefits, and challenges as well as implications of tax revenue mobilization in the digital economy using VAT in Africa. As proclaimed by Snyder (2019), a critical review of the literature enables researchers to gather relevant literature, discuss it, appraise, comment on it, and synthesize it. This equips researchers to give a comprehensive picture of the subject area. A critical literature review aids researchers in drawing out divergent and converging views on the subject area as well as identify research gaps, policy gaps and methodological gaps that could be explored further by future researchers (Mpofu 2021b; Paré et al. 2015; Snyder 2019). In evaluating the literature, the researcher in this case was able to draw out controversial areas such as the ambiguities in definitions such as place of supply and electronic services in the VAT legislation.

The researcher reviewed documentation on the VAT legislation towards taxing the digital economy in African countries. The documentation reviewed includes VAT Acts from the different African countries, especially those that have put the VAT legislation in place to tax the digital economy (Zimbabwe, South Africa, Angola, and Cameroon, among others). The article also assessed policy briefs released by accounting firms such as Deloitte, PWC and KPMG, among others, on VAT legislation on digital services. These were complemented by an examination of documents from tax bodies such as ATAF, developmental bodies such as the OECD and working papers from developmental research bodies such as the Institute of Development Studies (IDS) and the International Centre of Tax and the Development (ICTD) and other similar bodies. This was in addition to the review of previous studies on the taxation of the digital economy using indirect taxes, consumption taxes or VAT in Africa. The literature search was carried out through the Google scholar search engine. The search provided only a few papers, with most of them focusing on South Africa, which has been taxing the digital economy since 2014 using VAT legislation. To buttress the literature, the researcher used forward and backward snowballing to search for the more recent and previous works of the authors of the relevant articles, respectively. This yielded a few other articles. In total, 55 articles were reviewed. Therefore, to increase the diversity of the sources and make the review more meaningful, the researcher used a combination of the resources mentioned above (peer reviewed journal articles, policy briefs, working papers from development bodies and discussion papers from accounting firms). This was to overcome the limitation of the scarcity in literature linked the novel nature of the issue of taxing the digital economy in Africa. Data were reviewed until the saturation point was achieved, this being the point where further reviewing did not reveal any novel information other than what was already established (Sebele-Mpofu 2020b).

Thematic analysis was employed to present and discuss the findings of review. This was in line with the advantages of thematic analysis expounded by Braun and Clarke (2006, 2019). Data were presented in accordance with the key focal objects of the research, that is, the possibilities, constraints, and possible implications of the use of consumption taxes (VAT) to tax the digital economy. The main themes were further split into subthemes guided by the facts that emerged from the review. Accordingly, sources used were also referenced both in-text and in the reference list to enhance the traceability, confirmability, and trustworthiness of the research.

### 3. VAT Administration on the Digital Economy in Africa

This section presents a conceptual analysis based on an evaluative review of the literature on VAT administration and taxing the digital economy in Africa, focusing on opportunities, constraints, and implications. The sections guiding the analysis focus on VAT legislation, possibilities of mobilizing revenue from the digital economy using VAT and the challenges to effective VAT administration in the digital economy as well as the implications of levying VAT on digital transactions.

#### 3.1. Consumption Taxes and Digital Economy Taxation

The broadening of the VAT legislation, especially the term 'electronic services', included anything ranging from software to advertising. As an output from the Global Forum on VAT set by the OECD in 2012, in September 2016 the OECD released guidelines to help countries to curb tax avoidance in the digital sector (Deloitte 2020b). These guidelines incorporated the destination principle to make non-residents service providers in market jurisdictions (country where consumers or users of the digital services are) liable for VAT in the market jurisdictions. Foreign digital service providers were obliged to register for VAT or appoint to registered domestic representative to do so on their behalf; this makes tax compliance and enforcement problematic (TaxWatch 2021).

VAT is normally referred to as a destination-based or consumption tax chargeable on a consumer. VAT is a broad-based tax levied on the consumption of goods and services (Beebeejaun 2020; Kruger and Moss-Holdstock 2014; Rooi 2015). The seller is the one who normally collects the tax. VAT is often applied on the price. VAT is a major fountain of tax revenue for most governments globally. In Africa, VAT is argued to contribute approximately 30% of national revenues (TaxWatch 2021).

The characteristics of VAT include: (1) Applicable to transactions on or the supply of goods and services; (2) calculated as a proportion of the price charged for the sale of goods; (3) chargeable at each stage of production or distribution; and (4) input tax (VAT) can be claimed. The mechanics of VAT computation are such that businesses can claim input tax that they have incurred in making taxable supplies (Lowry 2019; Russo 2019). For example, a company that sells clothing adds VAT/Goods and Services Tax (GST) to the prices of the clothes they manufacture and sell (output VAT). The company also buys a car for its sales and distribution. The purchase of the car would attract VAT (input VAT). Therefore, to arrive at the VAT payable or refundable the calculation is as follows: Output VAT-Input VAT = VAT payable or refundable.

Therefore, having explained the mechanics of VAT, the next sections look at the use of VAT in mobilizing revenue from the digital economy in international forum (briefly) (Section 3.1.1) and in Africa (Section 3.2).

#### 3.1.1. The Application of VAT Regulation in the Digital Economy and the International Tax Platform

The unprecedented growth in digital activities globally motivated countries and international development bodies and tax bodies to explore possible ways to tap tax revenues from this novel economy. One such possible approach was the application of VAT legislation to the digital economy. Debates surround the adequacy and effectiveness of VAT regulation in fostering tax compliance and productive revenue mobilization at minimal administration and compliance costs. In most countries, VAT was never levied on digital transactions due to the absence of physical presence, hence significant revenues were being lost. This placed domestic companies supplying electronic services in an unfavorable position, since in incorporating the legal obligation to charge VAT to their consumers, their prices increased (Beebeejaun 2020; Lowry 2019; Munoz et al. 2022). Furthermore, the disadvantaged position was compounded by the registration and administration burdens, the VAT assessment, collection, and remittance costs as well as filing procedures. The OECD taskforce made recommendations to guide countries to build a fair and level taxation playing field and to protect the individual countries' ability to levy VAT. Four ways of

collecting VAT are recommended. Firstly, the traditional VAT collection approach, where the assessment for VAT is carried out at the border. Secondly, the vendor collection method, whereby non-resident foreign companies are responsible for the imposition, collection, and remittance of VAT to the market jurisdiction (destination principle). Thirdly, the intermediary collection method, that is, using intermediaries to collect VAT on behalf. Lastly, the reverse charge mechanism (Beebeejaun 2020). The destination principle which is adopted by most countries (South Africa, Mauritius, Indonesia, Kenya, Zimbabwe, and Cameroon) is argued to provide certainty and predictability in revenue mobilization through VAT.

### 3.2. Consumption or Indirect Taxes and Taxation of the Digital Economy in Africa

Resources mobilization from the digital economy is essential for post COVID-19 pandemic national reconstruction (Onuoha and Gillwald 2022), as economic activity was adversely affected. Revenue mobilization declined, and public expenditure immensely widened as countries committed substantial resources to fighting the pandemic. The situation is more precarious in Africa where revenue mobilization is generally weak, and countries are often faced with budget deficits (Mpofu 2021a; Sebele-Mpofu 2020a). Intangible assets have gained a significant role in the digital economy, with MNEs gaining a greater share of their value creation from intangible assets. These assets include intellectual property, trademarks and copyrights that are easily and invisibly shifted across borders and that are difficult to value for TP due to lack of comparables. TP abuse becomes easy in this case, siphoning Africa of millions needed to fund health, security, education, infrastructural development, and economic growth (Sebele-Mpofu et al. 2021b; United Nations Conference Trade and Development (UNCTAD) (2020)). The debate in relation to VAT and the digital economy revolve around the opportunities, constraints, and implications. There is on-going discussion globally and in Africa specifically on whether or not to tax the digital economy and if so, using what method or tax head and at what rates. Table 1 provides an insight into the VAT provisions, collection mechanisms and tax rates used by some selected African countries. Table 1 foregrounds the overview of indirect taxes towards taxing the digital economy in Africa. The table gives a synopsis of selected countries' VAT provisions and the effective dates of legislation implementation.

**Table 1.** Summary of VAT regulations in selected African Countries.

Country	Legal/Statutory Provisions	Effective Date	Reference(s)
Algeria	On 12 December 2019, the country broadened its VAT legislation to incorporate sales of digital services, which are liable to a downward revised rate of 9%. The law remains silent on the registration provisions for non-resident providers No VAT liability threshold.	1 January 2020	(Bunn et al. 2020; Kelbesa 2020; Simbarashe 2020)
Kenya	From September 2013, Kenya levied VAT on digital services provided by foreign suppliers to the country 'residents. Kenya broadened its indirect tax policy in 2019 to include sales generated through digital sales markets, making VAT chargeable on these sales. Furthermore, the country widened the provisions for self-assessment under VAT.	1 January 2020	(Kapkai et al. 2021; Sigadah 2018; Simbarashe 2020; TaxWatch 2021)
Cameroon	The country introduced VAT on digital services. The provisions are such that the sale of goods and services to both businesses and individuals shall be VAT chargeable. All operators of e-platforms must register o VAT in relation to each transaction.	17 January 2020	(Simbarashe 2020; TaxWatch 2021)
Ghana	In 2013, Ghana put in place VAT regulations that if non-resident vendors selling/providing services to customers in Ghana should register for VAT. Threshold: GH 200,000 (estimated 25,000).	1 January 2014	(Simbarashe 2020; TaxWatch 2021).

Table 1. Cont.

Country	Legal/Statutory Provisions	Effective Date	Reference(s)
Zimbabwe	The company put in place legislative requirements for non-resident vendors of television, radio and other digital services to customers or users in Zimbabwe to register, collect and remit VAT.	January 2020	(Becker 2021; Deloitte 2020a; KPMG 2020; Simbarashe 2020)
Tanzania	The country's tax rules require non-resident providers of business to customers of telecoms services and e-commerce services to be registered for VAT.	1 July 2015	(Liganya 2020; Price Waterhouse Coopers 2020; Simbarashe 2020)
Uganda	The country's revenue authority (Uganda Revenue Authority) released a public notice requirement for non-resident vendors or providers of digital services to customers in Uganda to register for VAT and collect the Tax.	1 July 2018	(Simbarashe 2020)
South Africa	South Africa had initially enacted VAT legislation in 2013 and the regulations became effective in 2014. These regulations were broadened in 2019 with broader definition for electronic services. The country's VAT legislation requirement is that foreign providers of digital services must register as VAT vendors, collect VAT at a rate of 15% and remit it. The registration threshold was stipulated to be ZAR 1 million.	January 2019	(Kabwe and van Zyl 2021; Van Zyl 2014; Van Zyl 2013; Stephanus P. Van Zyl and Schulze 2014)
Angola	VAT rules were drafted in October 2019, which became effective in January 2020, providing that digital service suppliers must register with the country's revenue authority (Angolan Tax Authority) or appoint a local agent to collect and remit VAT in Angola.	January 2020	(Simbarashe 2020)
Morocco	The country's tax code provides that any service rendered or used within the Moroccan territory is liable to the country's VAT at a rate of 20% that is applicable to digital services.	2019	(Simbarashe 2020)
Nigeria	Section 10 of (Nigeria's VAT Act 1993), No 102 provides that non-resident firms conducting business in Nigeria must register for tax, using the address of the person of whom the company has a standing contract. Accordingly, the non-resident company shall include tax charge on its invoice and the recipient of the service shall remit the tax to the Federal Inland Revenue Services (FIRS) in the currency of the whole transaction.	2020	(Ahmad et al. 2021)
Malawi	VAT on internet service was re-introduced in July 2013 at a threshold of MWK 10M (estimated at f 9.500).	2013	(TaxWatch 2021)

Author's Compilation from Various Sources.

From Table 1, it is evident that many African countries must formulate legislation to tax the digital economy through VAT/ GST. The VAT regulations presented in Table 1 require non-resident digital firms to register for VAT or to appoint a domestic representative to do so on their behalf. Despite the enactment of the new VAT on digital taxation laws or the widening of existing regulations to encompass the digital services, non-compliance by digital MNEs operating in Africa such as Facebook, Amazon, Netflix, and Google among others is still high and problematic (Simbarashe 2020; TaxWatch 2021).

African countries are losing a lot of revenue from the non-taxation of digital transactions. Initially, the South Africa VAT regulation on digital transactions was introduced in 2014 to cover a smaller section of electronic services; the definition was widened on 1 April 2019 to encompass electronic services provided by electronic communication or electronic agents or through the internet (Beebeejaun 2020; Bowmans 2020). Between 2014 and 2019, South African Revenue Authority Services (SARs) revenue authorities collected more than ZAR 600 million/year and an estimated ZAR 3 billion (USD 215 million) within the 5 years, (TaxWatch 2021). With the broadening of the VAT legislation in 2019 to include all electronic sectors, the SARs might improve revenue generation significantly. Discussions on the most effective way to mobilize tax from the digital economy have revolved around the superiority of VAT over Digital Services Taxes (DSTs) and the appropriateness of using VAT/GST to collect tax from the digital economy.

### 3.3. Benefits for Taxing the Digital Economy in Africa Using VAT

[Ndajiwo \(2020\)](#), while focusing on Ghana, Kenya, Rwanda, Senegal, and Uganda, expostulates that these African countries have an opportunity to mobilize taxes through VAT due to its comparative administrative ease. The researcher adds that the fact that VAT legal frameworks are already in existence, in contrast to the recently enacted DSTs, is an opportunity to exploit VAT in taxing the digital economy. [Russo \(2019\)](#) describes VAT as a low hanging fruit and that VAT ensures neutrality in taxation of foreign and local companies. For example, in South Africa, the VAT threshold of ZAR 1 million is applicable to both domestic and foreign companies, thus ensuring equity and neutrality in the treatment of companies. [Ahmad et al. \(2021\)](#) asserts that those who advocate in favor of consumption taxes submit that they promote investment and savings, thus promoting efficiency in the economy. On the other hand, critics claim that consumption taxes negatively affect the poor as they commit the greater portion of their income to financing necessities, therefore regressively affecting them, as VAT does not consider the ability to pay. VAT is also criticized for shifting the incidence of the tax burden to consumers ([Ahmad et al. 2021](#); [Kim 2020](#); [Russo 2019](#)). This section explores the possibilities and advantages of employing VAT in taxing the digital economy.

#### 3.3.1. Superiority of VAT to Turnovers

[Russo \(2019\)](#) argues that VAT is more appropriate for taxing digital services than DSTs and posits that VAT is superior to corporate taxes on efficiency grounds. ([Russo 2019](#)) points to three important positive effects of VAT: (1) VAT does not lead to a distortion in business decision for example production, supply, and usage; (2) uniformity—VAT does not differ based on the total companies in the supply chain, not cascading; (3) effectiveness. [Turina \(2018\)](#) argues that modifying the VAT legislation to cover digital services is a more appropriate option and economically superior option to mobilize tax revenue from the digital economy compared to DSTs and withholding taxes. It is easy for businesses (digital services consumers) to account for VAT from the supplier through the reverse charge mechanism for Business-to-Business (B2B) interactions. It is quite challenging and not viable for Business to Customer (B2C) interactions. Difficulties in enforcing compliance are alluded to in some African countries (Nigeria, Kenya and Rwanda) ([TaxWatch 2021](#)). Despite acknowledging the possible superiority of consumption taxes, efficiency advantages and the fact that they circumvent tax cascading, it is important to note that there is ongoing argumentation regarding the conception of value creation in the digital taxes discussion ([Kennedy 2019](#); [Kim 2020](#); [Lowry 2019](#)). Stakeholders disagree on what constitutes value creation and how the value is created or added and by who (corporates or users).

#### 3.3.2. Efficiency

[Adhikari \(2016\)](#) alludes to significant support for VAT-driven efficiency gains. While consumption taxes such as VAT are efficient and administrable, income taxes promote equity. Consumption taxes have the ability to avoid the dead weight loss of taxation, and to enable significant savings by individuals as well as investment and capital formation, and consequently higher economic productivity enhances efficiency ([Kim 2020](#)). In terms of administrability, those in favor of consumption taxes point to reduced complexity as a strength of these taxes. Researchers point out that despite the ease of administration, VAT passes the tax burden to consumers, thus making them regressive and violating the fairness and equity canons of taxation ([Kim 2020](#); [Lowry 2019](#)). Researchers disagree on the regressive effects of VAT, with the [OECD \(2014\)](#) concluding from a study of 38 countries, that in 20 of these OECD countries, consumption taxes that encompassed excise and VAT, were nearly proportional or moderately progressive when evaluated for expenditure as opposed to income.

### 3.3.3. Creation of a Competitive E-Commerce Environment

Where African countries apply uniform registration thresholds for VAT registration for both domestic and foreign companies, equity, fairness, and neutrality are ensured, as discriminatory policies are avoided. The principles of an ideal tax policy emphasize the need for equity in tax policy and accordingly as outlined in tax morale literature (Luttmer and Singhal 2014; Sebele-Mpofu 2021), tax morale increases if taxpayers perceive that they are treated fairly, thus increasing voluntary tax compliance. Owing to the infant nature of the VAT legislation on the digital economy and the difficulties in enforcement due to lack of power by the revenue authorities and their commissioner generals to do so across territorial borders (Kabwe and van Zyl 2021), voluntary tax compliance is key. The fair digital taxation environment can indirectly encourage investment in the digital services sector, novel technological advancements, economic growth, digital financial inclusion, and fruition of the SDGs, such as gender equality (SDG5), decent work and economic growth (SDG8) and responsible consumption and production, (SDG12) among others.

### 3.3.4. Increased Tax Revenue Mobilization

Tax revenue mobilization is described as a stable, reliable, and predictable way of generating revenue for developing countries (Mpofu 2021c; Sebele-Mpofu 2021). African countries rely considerably on taxation for domestic revenue mobilization, the tax prominent heads being VAT and corporate tax. VAT is said to contribute around 30% or more towards African countries' overall tax revenue (TaxWatch 2021). Therefore, employing VAT to tax digital services could increase domestic revenue. Taxation is both a financing and development matter, therefore improved revenue prospects would lead to improved government funding as well as expenditure on education, health, security, infrastructure, and general economic development. Ultimately, increased government funding would lead to the realization of SDGs such as reduced poverty (SDG1), zero hunger (SDG2), good health and wellbeing (SDG3) and reduced inequalities (SDG10) among others.

### 3.4. Constraints to Effectively Taxing the Digital Economy in Africa Using Consumption Taxes

Non-tax compliance by digital or tech giants as they fail to collect VAT leading to large sums of revenue going uncollected negatively affects economic growth in African countries. Digital MNEs are failing to collect the VAT from their African customers and remit it to African companies (TaxWatch 2021). Therefore, they are contravening the African countries' VAT or GST in some jurisdictions. Different challenges are affecting the applicability and effectiveness of VAT legislation in taxing the digital economy globally and these might apply to the African countries, but they also vary considerably due the developed and developing country context differences. These variations could lie on administration and enforcement capacities, the state of development of VAT legislation, political power differences and clarity in legislation. Convergences on these challenges could be on the intangibility or borderless nature of digital services, as well as the ambiguities in key definitions. Janse van Vuuren (2019) and Rukundo (2020) allude to administrative challenges and increases in compliance and administrative burdens including costs. While assessing VAT legislation on the digital economy in Nigeria, Etim et al. (2020) point to the following challenges: outdated VAT legislation, poor legislation implementation, infrastructural gaps, technology, intricacies of digital transactions and the possibility of double taxation. Hadzhieva (2019) and Simbarashe (2020) posit that foreign companies raise concerns about the inconsistency in VAT legislation, the absence of double taxation agreements which compounds uncertainty and administrative responsibility, as well as advancing the probability of double taxation. This section discusses the challenges faced by African countries in the administration of VAT regulations on digital services despite the existence of legislation as set out in Table 1.

### 3.4.1. Invisible or Borderless Nature of Digital Transactions

VAT is exigent to apply to digital transactions. Contrary to the situation with the importation of tangible goods, where it is easy to levy tax, the intangibility and invisibility of digital services makes it challenging for tax authorities to enforce VAT on their importation, as they cannot be subjected to border checks (Kennedy 2019; Lowry 2019; Ngeno 2020; Kapkai et al. 2021). It might be challenging to collect VAT from companies with insignificant or minimal presence in market jurisdictions (Kennedy 2019).

### 3.4.2. Ambiguities in VAT Legislation Provisions

The TaxWatch (2021) points out that some digital MNEs such as Google, Microsoft and Facebook stated that they were complying with VAT legislation in some African countries where the legislation was clear and, in some countries, they failed to comply because the legislation was unclear. According to Kabwe and van Zyl (2021) ambiguities crystallize themselves around key definitions of important terms such as digital services, electronic services, 'supply' of digital services as well as the 'place' of supply. To levy VAT on a transaction, it must be initially demonstrated that the goods or services supplied fall within the purview of the VAT Act or legislation. The articulation of fundamental definitions becomes crucial in this regard.

- Definitions of Digital Services and Electronic Services

In some African countries, the definition of what constitutes digital services or electronic services is lean and fraught with vagueness. Kabwe and van Zyl (2021) assert that most of the VAT legislation and even that targeting the digital economy has not been regularly amended or updated in line with technological advancements, digital transformation, and the continuously evolving and emerging novel as well as complex business models. Most of the regulation has remained static and lagging technological developments in the digital economy. For example, in South Africa, the regulation remained static from promulgation in 2014 until 18 March 2019 when they were revised, and the revision became effective on 1 April 2019 (5 years after initial formulation and implementation). The revision was aimed to make the definition of electronic services expansive to give leeway for amendment in response to changes in business digital environment and advances in technological activities (Kabwe and van Zyl 2021). In Table 1, it is evident that countries such as Ghana and Malawi have not updated their VAT regulations despite the dynamism of the digital economy.

- Supply of Digital Services

For example, while focusing on South Africa, Kabwe and van Zyl (2021) allude to the fact that the VAT Act does not spell out distinct place of supply guidelines or what constitutes a supply. The place of supply must be derived from interpreting Section 7(1) of the South African VAT Act (the charging section) and Section 14 of the same Act (the section provides for the reverse charge framework). In the South African VAT Act, the definition of digital services is broad, and the Act defines these services as those outlined by the Minister of Finance in the legislation. Different international jurisdictions as well as African jurisdictions adopt different definitions for digital services and there are variations on the list of those that levied VAT. According to Kabwe and van Zyl (2021, p. 505) "the lack of international coordination and cooperation regarding a uniform definition of digital goods has resulted in a lot of confusion and uncertainty for foreign businesses". The complex and cumbersome rules will discourage digital MNEs from supplying customers in some tax jurisdictions. The variations in VAT regulations also make it difficult for foreign digital companies to comply, as they must familiarize themselves with VAT legislation in all countries they supply with digital services. The uncertainty in VAT regulations can have potentially pervasive effects on international trade, economic development, digital transformation, digital financial inclusion, and the accomplishment of the UN Sustainable Development Goals (SDGs) in developing countries and Africa is no oddity.

- Place of Supply

In some African countries, the VAT legislation on how to ascertain the place of supply is not clearly articulated. For example, [Kabwe and van Zyl \(2021\)](#) posit that South Africa's new expanded rules have increased the interpretation conundrum of the use and consumption principle in establishing the place of supply. The place of supply definition remains unclear and not definitive. Furthermore, the researchers state that the all-inclusive definition given by the VAT Act does not differentiate between B2B and B2C, yet the OECD calls for a clear distinction between the two in both explication and treatment. Most African countries employ and lean on the destination principle as the rationale to impose VAT, implying the taxation of an economic activity is dependent on where the service is consumed and used. Despite the destination principle seeming to be clear, it is generally complicated for revenue authorities to determine that a supply of services happened within their country. Therefore, ascertaining the place of supply is pivotal to the administration and enforcement of VAT legislation on digital services. There are times where it is easy to employ the use and consumption principle to identify the place of supply and instances where the place of supply cannot be easily identified, meaning proxies must be applied. The problem is that the VAT legislation does not articulate possible proxies or alternative rules for identifying the place of supply if the use and consumption principle is inadequate in addressing the situation. Citing [Rooi \(2015\)](#), [Kabwe and van Zyl \(2021\)](#), p. 508) portend that "if the place of supply is unidentifiable, then it becomes impractical, ineffective and inefficient to implement the relevant legislation". In South Africa, the link between enterprise and place of supply also poses challenges. Though broad and encompassing even foreign companies that supply services to South Africa on a regular basis (deemed to be carrying on an enterprise), the problem arises where the provider of digital services cannot be linked to any physical presence in the world but conducts his business activities in the cloud ([Kabwe and van Zyl 2021](#)). Therefore, with the absence of transparent and decisive 'place of supply' provisions, it is challenging to assign the transaction to a particular sovereignty, and to require them to account for VAT.

### 3.4.3. Complexity of Some of the Provision of the VAT Legislation

The complexity of tax legislation has a negative influence on tax administration, enforcement, and compliance ([Liganya 2020](#); [Mpofu 2021a](#)). The [TaxWatch \(2021\)](#) points to a lack of simplified registration rules affecting VAT compliance in Nigeria. The report further alludes to difficulties for digital suppliers with no physical presence to comply with VAT regulations, as they might not be keen to register for VAT. The report also points out that in Senegal, the challenge is that the country has no system in place for digital services suppliers to remotely register for VAT in Senegal while they are in their foreign domiciles. In Tanzania, [Liganya \(2020\)](#) also alludes to the complexity of tax legislation, coupled with the lack of awareness as well as the lack of clarity in the legal and regulatory framework for taxing the digital economy. Therefore, there is a need for a simplified registration and compliance regime for foreign companies to register and collect VAT at a rate equal to the rate used for domestic companies. In South Africa, [Kabwe and van Zyl \(2021\)](#), raise the issue of residency, which is used as proxy in the determination of whether the transaction was supplied to South Africa and hence liable for VAT, where the place of supply rules are not sufficient or distinctive enough to support the taxing of the transaction. The researchers argue that while the VAT Act provides three conditions for deemed residency determination, it is not clear on who is responsible for establishing the residence of the person receiving electronic services. These conditions include the residence of recipient in South Africa, payment of the transaction originating in South Africa and the business address or residential address of the customer being in South Africa ([Van Zyl 2014](#); [Van Zyl and Schulze 2014](#)). It is as if the foreign company is saddled with this responsibility. This seemingly brings unwarranted administrative responsibility on foreign companies. This complexity seems to contradict OECD guidelines that encourage clarity and simplicity in the construction of tax rules to allow for easy comprehension of the provisions of the Act, how to account for a transaction,

when and how to do so as well as the likely consequences of not complying. The adequacy and accuracy of the three conditions in determining residency remains debatable. Many questions arise regarding scenarios where the foreign company fails to identify all the three conditions provided by the Act. The conditions or proxies are much wider in developed country legislation, such as that of Australia. These include the recipient's bank address, the recipient's billing address, the recipient's IP address, the user's fixed land line via which the service in question was provided with and other additional commercially applicable information (Kabwe and van Zyl 2021). Perhaps African countries can assess some of these proxies and their relevance to their contexts to tighten the legislative provisions to minimize disputes and ambiguities.

#### 3.4.4. Registration

There are different provisions in the African countries referring to who must register for VAT. For example, in Zimbabwe, the Act refers to a registered operator who must levy and collect tax on goods and services supplied in the furtherance of trade, and in South Africa, a vendor must charge and collect VAT on goods and services supplied by a vendor in furtherance of his enterprise. There is sometimes confusion on who has the ultimate responsibility to register for VAT. In some instances, the responsibility falls on the foreign entity and in some cases the local customer or user of services (reverse charge mechanism).

#### 3.4.5. Administration, Monitoring and Enforcement Challenges

These are divided into administrative challenges and monitoring and enforcement challenges for easier discussion.

- Administrative Constraints

According to Rukundo (2020) and Sigadah (2018), administrative constraints should never be overlooked. Despite the VAT legislation provisions, online advertising companies are not complying. The researchers further allude to the fact that African revenue authorities are resource repressed, face capacity challenges and have feeble legal and administrative frameworks. The countries also face problems in accessing data and enforcing legal tax obligations on foreign companies (Mpofu 2021b; Sebele-Mpofu et al. 2021a). For example, according to The TaxWatch (2021), Kabwe and van Zyl (2021) and Bunn et al. (2020), despite African countries having put in place and announced the legislative conditions for digital MNEs to register for VAT, no notice has been taken of these. Political power imbalances are also at play causing administrative and compliance challenges. The TaxWatch (2021) point out the discriminatory treatment of the African continent, which could be linked to the absence of an opportunity to offset input tax against output tax. For example, VAT collected by Google in the UK is offset against input VAT charges for purchases of taxable supplies from the UK. VAT-free sales become preferable for digital MNEs when dealing with African countries, as they reduce the cost to users or customers, thus increasing sales. The segregated treatment is even evident on different African countries. For example, Google charged VAT for South African accounts, while for other African countries, they argued that the consumers in these other countries should self-assess to pay VAT through reverse charge method (TaxWatch 2021). With respect to Facebook, African countries with Facebook invoices that are inclusive of VAT include South Africa, Cameroon, and Zimbabwe. Cameroon and Zimbabwe invoices started reflecting the VAT charges recently.

MNEs tend to argue that African countries' legislation on VAT is not clear; this is despite the African countries having put the regulations in place, the policy briefs that are released by large Accountancy firms (such as Deloitte, KPMG, and Price Waterhouse Coopers (PWC)) and other development bodies on recent development in legislation in Africa. The lack of clarity in legislation concerns might hold water to some extent, but to a greater extent, political and trade power imbalances (near monopoly) could be the main reason for non-compliance.

- Monitoring and Enforcement Challenges

The lack of clarity in VAT legislation aiming to tax the digital economy is a concern in African countries. In Tanzania, [Liganya \(2020\)](#) alludes to the fact that legislation outlining how e-commerce transactions should be taxed is not clear. With specific reference to South Africa, [Kabwe and van Zyl \(2021, p. 516\)](#) raise thought-provoking concerns portending “Currently, there are no provisions in the VAT Act that enable SARs to monitor the compliance of foreign businesses. Moreover, there are currently no provisions in place within the VAT Act that impose penalties on foreign suppliers of “electronic services” in event of non-compliance”. The other African countries are no exception to this. [Ngeno \(2020\)](#) and [Kapkai et al. \(2021\)](#) allude to enforcement challenges in Kenya. Even though the non-compliance penalties and interest thereon applicable to VAT defaulters in general is applicable, the Commissioner generally is not granted additional extra-jurisdictional power to collect unpaid taxes and accompanying penalties as well as interest. With no information exchange treaties and multilateral treaties in place, extra-territorial enforcement of VAT legislation becomes difficult if not impracticable. While Tax Commissioner Generals in African countries with VAT legislation on digital services are theoretically empowered to impose penalties for failure to register for VAT on foreign companies supplying digital services in African countries, the practicality of enforcing these penalties remains doubtful. According to [Kabwe and van Zyl \(2021\)](#) under these circumstances, the only reason that could compel foreign companies to comply with VAT legislation on digital services is the need to protect their names and avoid reputational damages for failure to comply. This is not something that African revenue authorities can rely on to foster compliance. It is something that they have no control over.

#### 3.4.6. Lack of Knowledge and Awareness

There is lack of knowledge and awareness regarding taxes directed towards the taxation of the digital economy, including both DSTs and VAT in African countries, perhaps due to the infancy of regulations. The dearth of tax knowledge affects both tax administrators and taxpayers ([Mpofu 2021a](#)). Articulating this challenge with respect to South Africa, [Kabwe and van Zyl \(2021\)](#) state that the reverse charge framework is a fall-back option, in cases where a foreign company registered for VAT does not collect VAT from a South African customer. SARs normally reverts to the customer to claim the VAT not collected and paid, because in terms of the Act, the customer must self-assess. SARs officials seemed not to be aware of the reverse mechanism assessment ([Kabwe and van Zyl 2021](#)). In some cases, foreign companies are not aware of the VAT legislation on digital services. This signals the need for effective communication and dissemination of information as well as taxpayer education programs. Without adequate knowledge and awareness, in both B2B and B2C scenarios, the taxpayer may fail to account for VAT due to ignorance or perceptions that it is a burdensome, time-consuming and unnecessary. Revenue authorities in Africa lean more on the honesty of consumers when it comes to the reverse charge framework ([Van Zyl and Schulze 2014](#)). This is a weakness in legislation; otherwise, there must be a legal provision in the Act to enforce compliance with specific reference to the reverse charge apparatus. There is indeed a likelihood that a substantial number of B2C transactions escape the VAT legislation. Revenue authorities might consider them insignificant; they might not be substantial when viewed individually, but might be material when aggregated, thus leading to the erosion of the tax base in African countries.

#### 4. Implications and Recommendations for Future VAT Policy in Africa with Respect to the Digital Economy

This section discusses the implications of employing VAT as a tax revenue mobilization tool in African countries and discusses possible suggestions for ameliorating VAT administration and its effectiveness at tapping tax revenues from the digital economy.

#### 4.1. Implications

Several implications could be attributed to the implementation of VAT legislation in taxing the digital economy. These ramifications must be effectively assessed in conjunction with the possible constraints as well as the likely opportunities and advantages of applying VAT legislation to the digital economy. [Etim et al. \(2020\)](#) submit the following possible consequences of applying VAT legislation: increased administration and compliance costs, negative effects on other government policies and tax heads, heightened tax evasion and resistance to policy and increased tax burden for consumers. The application could further lead to a reduction in consumption, change in consumption patterns, modifications to the market structure and increased uncertainty for the future growth of the digital economy ([Guyu 2019](#); [Munoz et al. 2022](#)).

[Katz \(2015\)](#), while focusing on Gabon, pinpointed problems that could possibly emanate from charging tax on the digital economy. These challenges were explored from the perspectives of telecommunications and e-service providers and consumers. [Katz \(2015\)](#) drew four major conclusions. Firstly, from the consumers' point of view, digital taxes heighten the affordability challenges in the adoption of technology as the tax cost increases the price. The increase in the prices of digital services could negatively affect not only affordability but access and usage. This could affect the growth and profitability of small telecoms business, ultimately affecting the tax heads such as income tax (both corporate and pay as you earn (PAYE)), leading to a fall in tax revenues. VAT could also affect startups and small and medium enterprises as well as self-employment. Overall, this affects employment creation; more so in African countries such as Zimbabwe, Kenya, Nigeria, and South Africa where unemployment is high among youths and these youths have been exploiting the digital space to engage in self-employment. For example, [Isiandinso and Omoju \(2019\)](#) and [Etim et al. \(2020\)](#) cited the Nigerian Investment Promotion Commission table that Nigeria was envisaged to generate USD 88 billion and create over 3 million by the year 2021. Zimbabwe is argued to have the second biggest informal economy in the world which, contributes approximately over 60% of GDP ([Medina and Schneider 2018](#)). As of December 2019, Kenya's internet penetration was approximated at 89.5% ([Kapkai et al. 2021](#)). If all these projections and statistics are anything to go by. The affordability constraints of digital services could further perpetuate unemployment, poverty, and inequality, leading to a failure to attain the UN SDGs and indirectly crippling digital financial inclusion efforts.

Secondly, even though consumption taxes can be pushed to consumers, the responsibility to account for and pay VAT rests with the digital or e-service providers who may in turn be faced with a decrease in infrastructural investment. This could arise if taxes lead to a reduction in the total amount accessible for capital expenditure. Thirdly, taxes result in taxation asymmetry between global digital providers in the digital sector. For example, companies such as Amazon, Netflix, Google, and Facebook are taxed on online advertising, whereas other online advertising companies and social networks fall outside the ambit of digital taxation. Lastly, the origination of manipulative tax avoidance schemes lead to revenue leakages and losses in market jurisdictions when digital MNEs engage in tax avoidance and evasion measures that result in base erosion and profit shifting (BEPS) ([Katz 2015](#)). [Chang \(2019\)](#) states that 80% of Netflix revenues is attributable to international subscribers. While citing [Statista \(2020a, 2020b\)](#), [Beebeejaun \(2020\)](#) states that Facebook made USD 18.7 billion from advertising in the first quarter of 2020 and Google generated USD 160 billion. They also made 74 billion for the year 2019 from advertisements. [Beebeejaun \(2020\)](#) states that some of these digital MNEs engage in BEPS-shifting behavior by shifting profits to tax havens to the detriment of market jurisdictions where these profits are generated. Concerns regarding usage reduction, market distortions and possible negative impacts on economic growth were also proclaimed by [Becker \(2021\)](#), [Kennedy \(2019\)](#), [Lowry \(2019\)](#) and [Munoz et al. \(2022\)](#).

In addition, some researchers have criticized digital taxes for impeding the adoption of novel technologies and this may curtail economic growth and development, negatively affecting financial inclusion and the realization of the SDGs ([Munoz et al. 2022](#), [Kearney 2014](#);

Becker 2021). Youssef et al. (2021) emphasizes the role of technology and the digital economy on entrepreneurial development. The researchers posit that digital technologies are playing a fundamental role in the transformation of the global economy, especially the modification of entrepreneurship activities and processes. Levying VAT on digital services and products affects the adoption and usage of technologies, thus negatively affecting entrepreneurial development.

Kearney (2014) alludes to a negative correlation between taxation of wireless services providers' prices and the growth in the 3G internet penetration in emerging market countries. Affirming this, Beebeejaun (2020) states that taxes may disincentivize the provision of broadband mobile network in ways that are detrimental to strategic public policy construction and planning. Domus et al. (2017) and Kapkai et al. (2021) raise the possibility of double taxation implications arising from taxing services such international roaming that could possibly give rise to VAT in the home country and the foreign country visited.

The lack of clarity in VAT legislation, especially in the definition of key terms could be a weakness for most African countries' VAT legislation on the taxation of digital services that can be exploited by MNEs to evade taxes or even those expected to account for VAT through the reverse charge mechanism. In addition, the fact that the place of supply rules must be inferred from reading certain sections of the Statutes in isolation or in conjunction with others is problematic in itself. While referring to South Africa, Kabwe and van Zyl (2021) affirm this. The researchers adduce that deducing the place of supply by a combined reading of the charging provision (Section 7(1) of the South African VAT Act and Section 1, which defines vendor, electronic services, and enterprise as well as Section 14, which outlines the place of supply, is confusing for foreign digital services suppliers who are not conversant with South African laws. This could lead to companies genuinely failing to comply out of ignorance or lack of understanding of VAT legislation in African countries, noncompliance due to legislation complexity (unintentional) and not outright tax invasion (Mpofu 2021c). While in terms of the law, ignorance is no defense, Kabwe and van Zyl (2021) asseverate that complexity and lack of clarity in the structure of the VAT legislation on digital transaction could be a vital factor in non-compliance with the tax legislation and an increase in the administrative burdens for tax authorities. Sometimes, revenue authority officers must grapple with numerous calls and emails seeking clarification on the ambiguous areas in legislation, thus leading to frustration and, at times, their seemingly uncooperative nature.

#### Practical and Policy Implications for the Results

The implications discussed above, and the results of the study point to gaps in three areas. These areas are: (1) the level of development of VAT legislation towards taxing the digital economies; (2) VAT legislation implementation and administration; and (3) the evaluative analysis of the possible negative externalities or consequences of the VAT policy on the digital economy and the economy at large in African countries.

The first gap suggests that African governments and policy would need to reassess and further develop their VAT legislation to cover the current crevices as they open loopholes for abuse. For effective enforcement, legislation must be free from ambiguities and vague provisions as these provide ammunition for taxpayers to avoid taxes, manipulate tax laws to their advantages or even successfully argue their cases in the court of law. All this happens to the detriment of effective domestic revenue mobilization, yet taxes contribute significantly to total national revenue in African countries.

Regarding the second gap, addressing the implementation challenges would equip both the revenue authorities and taxpayers to ensure effective VAT administration, enforcement, and compliance. Lastly, with respect to the third gap, it is key to evaluate policy, both proposed and current, in terms of the cost and benefit analysis, the negative externalities, strengths and weaknesses and the impact on the economy. Tax policy requires governments to continuously evaluate, adjust, and re-adjust in relation to the outcomes of the evaluation to ensure efficiency and effectiveness as well as adherence to other canons of taxation.

Tax policy must be able to address other functions of tax policy and not blindly focus on revenue generation.

#### 4.2. Recommendations

This section addresses recommendations derived from the review and Figure 1 foregrounds the discussions. Figure 1 makes suggestions related to the VAT legislation construction, implementation, and administration as well as areas to focus on in reducing the negative implications on the digital economy and other sectors of the economy.



**Figure 1.** Summary of Recommendations to improving VAT legislation with respect to the digital economy. Source: Author's Compilation.

##### 4.2.1. Full Development of VAT Legislation, Clarity in Definitions, Continuous Revisit and Amendment of VAT Legislation

The researcher acknowledges that most of the tax legislation towards mobilizing revenue from the digital economy is still its nascent stages and is still being developed; therefore African countries are encouraged to work tirelessly towards ironing out the shortcomings. The countries must bring clarity in critical definitions and find ways of effectively communicating the legislation to foreign companies that supply digital services. Key definitions such as digital services, electronic services and place of supply must be clearly defined to enhance the transparency and simplicity of VAT on digital services regulation. Alternative treatment of the place of supply or the possible proxies for establishing it where it is not easy to apply the use and consumption principle must be provided for in regulation. Therefore, tax law should not be static because the business environment evolves, and taxpayers are always devising new ways to avoid and evade tax. Tax law and, in this case, tax legislation on digital transactions should be updated regularly to keep abreast with developments in the digital sector and changes in technology.

##### 4.2.2. Cooperation, Collaboration and Learning from One Another by African Countries

Researchers such as [Kabwe and van Zyl \(2021\)](#) call for international cooperation and consensus on an acceptable or universal definition on the definition of digital services. This article reiterates this call, acknowledging that to apply the registration measures, and administer and enforce VAT legislation on digital transactions on a unilateralism

basis is challenging if not nearly impossible. International coordination and cooperation are key. This has been affirmed by several researchers who urge African countries to join, critique and contribute on international platforms on matters that concern them (Ahmed et al. 2021; Ahmed and Gillwald 2020; Onuoha and Gillwald 2022). Rukundo (2020, p. 22) specifically states, “African countries should participate in global debates through regional and international organizations, pushing for reform and for the development of international tax rules that consider their interests as source or market jurisdictions”. While acknowledging the importance of their participation, it is important to note that African countries negotiate from a politically, economically and resource-disadvantaged or weak position.

This article also encourages African countries to work on a continental or regional definition for digital services, electronic services, and place of supply to reduce the complexity of VAT regulation on digital services. African countries should also learn from the mistakes and successes of each other and other developed countries and use the lessons drawn to improve their own digital tax legislation. For example, to limit the inundation with queries and questions, SARs inaugurated a Frequently Asked Question (FAQ) section on the revenue services’ website in July 2019. This section is regularly updated. This is a worthwhile development that other African countries could draw on and improve, especially in the context of concerns regarding the ease of accessing the section and navigation raised by Kabwe and van Zyl (2021). Affirming the need for African countries to cooperate sincerely and effectively, Onuoha and Gillwald (2022, p. 20) state: “This will require close collaboration and synergies between the relevant regional institutions on the continent, including economic blocs, the AfCFTA and the ATAF secretariats, in the evolution of policy process that allows African countries to debate issues between themselves without fragmentation, and as a first chance of effectively negotiating their way out of the current North–South hegemony”.

The idea is for the African nations to strongly influence tax policy as a unified front and to ensure MNEs pay taxes in the country where the revenue was generated (market jurisdictions).

#### 4.2.3. Capacity Building, Training, Information Dissemination

Revenue authorities need to build capacity to tax the digital economy, train officers and disseminate information to stakeholders on the new or expanded VAT legislation targeting the digital economy. The invisible nature of the digital economy requires revenue authorities to capacitate their workforce with technical skills and knowledge to match this intricate sector. It is also vital for revenue authorities to be capacitated with financial resources so that they invest in digital and technological infrastructure that is current to be able to tap revenue from the sector. The audit departments in revenue authorities must be equipped to use technology to follow the digital footprints of transactions if tax compliance is to be effectively monitored and enforced. African nations could perhaps share technical resources and expertise through trainings and seminars conducted through ATAF or by seconding personnel to revenue authorities that have been using VAT to tax the digital economy for some time, such as SARs or other more developed economies.

#### 4.2.4. Cost and Benefit Analysis

African governments are encouraged to do a cost and benefit analysis in relation to possible digital tax revenue mobilization and the likely creation of taxing distortions, before constructing a relevant indirect (VAT) system. Policymakers must consider the trade-off on revenue mobilization and other costs. Tax systems must build efficiency and reduce the cost of collection, guard against over-taxation and minimize the possible adverse consequences. It is crucial for governments to strike an equilibrium between collecting tax revenue from the digital economy and other important functions of taxation in the economy such as promoting economic growth, redistributing resources, and fulfilling the SDGs such as reducing inequalities, eradicating poverty, creating decent jobs, providing

reliable health services and affordable education. Considering these other roles of taxation, governments must assess how levying VAT will affect these other roles and make evidence-based decisions. Tax policy construction must always strive to adhere to the principles of taxation such as economy, equity, simplicity, convenience, economy, neutrality, efficiency, transparency, and effectiveness.

## 5. Conclusions

As the digital economy continues to grow, technology continues to advancing and business models continue to evolve, a new set of challenges for tax administrators will continue to emerge. Revenue authorities must come to reality with the continuous growth of the digital economy and find ways of productively taxing the sector, otherwise significant tax revenue will go untapped. This would be a challenge for African countries that rely heavily on taxes such as corporate tax and VAT to fund government expenditure. The article concludes that revenue collection from the digital economy in African countries remains a formidable task. The issue of which is the most effective method or tax head to use to tax the digital economy remains hotly contested among stakeholders such academics, governments, and tax authorities. While the review revealed some opportunities and strengths of using VAT, challenges and weaknesses were also evident. This points to perhaps the need for future empirical research in countries that have implemented DSTs policy and the VAT policy to evaluate each policy and even make a comparative analysis of the performance of the tax heads (VAT and the DSTs or turnover taxes). This article recommends the need for policymakers to improve on the legislative transparency and clarity of VAT legislation, improve on administration capacity and collaborate on both continental and international levels to build a strong VAT policy and improve administration and enforcement. Since this article is a review article that is based on a review of secondary literature and previous studies, the discussions and findings might be subjective as their foundation is based on the work of others. Secondly, as the conceptual analysis is qualitative in nature, perhaps future researchers could focus on empirical research on the subject area and employ primary data or a quantitative approach. Studies based on literature reviews such as this one rely on secondary data as opposed to primary data to base their findings on, and therefore this is a limitation for this study. Further studies could focus on conducting empirical assessment of the application of VAT legislation in taxing the digital economy in Africa.

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