



This edition of **On Point**, our abridged tax newsletter, focuses on recent amendments to the Ghanaian Tax Laws and general updates regarding tax issues in Ghana.

Amendment to the Free Zones Act, 1995 (Act 504)

The Parliament of the Republic of Ghana has passed an amendment to the Free Zones Act, 1995 (Act 504) by issuing a Legislative Instrument (L.I. 1963) to clarify the tax rate applicable to Free Zone Entities (FZE) after the expiration of the ten (10) year tax holiday.

Prior to the introduction of L.I 1963, FZE were required to be subject to corporate income tax at a rate of up to 8% after the expiration of the 10 year tax holiday. This created some uncertainties on the applicable income tax rates for the FZE after the tax holiday.

The L.I. 1963 FZE clarifies the uncertainties regarding the corporate income tax rates of FZEs after the tax holiday as follows:

Company	Rate
Agro processing companies outside Regional Capitals	0%
Agro processing companies in the Northern, Upper East and Upper West Regions	0%
Agro processing companies in Regional Capital and Tema in the Greater Accra Regions except Northern, Upper East and Upper West Regions	4%
Wood processing companies	8%
Commercial companies	8%
Service companies	8%
Enclave developers	8%
Manufacturing companies outside Regional Capital	5%
Garment and textile manufacturing companies	4%
Other manufacturing companies	6%

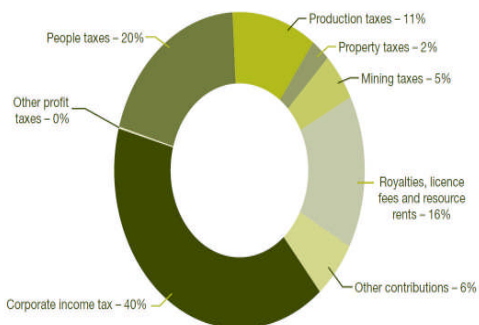
The corporate income rates above are effective from 17 March 2010. This implies that from this date, FZEs falling within any of the above categories (after the expiration of the tax holiday) would be required to apply the corporate income tax rates as specified above.



Focus on Mining:

Total Tax Contribution - Having knowledge of all your tax contributions could help facilitate dialogue with the tax authorities.

Corporate tax is usually given all the attention when it comes to taxes. The recent results of PwCs 2008 Total Tax Contribution (TTC) Global Study for the Mining Sector shows that corporate income tax accounts for 40% of total taxes borne by mining companies. This means more than 50% of the taxes paid by mining firms are not reported on the face of the financial statement. These taxes which are otherwise not reported in the financial statements include royalties, employee taxes, irrecoverable VAT and other payments made to local authorities (district or municipal). Because TTC measures cash payments, it takes into account any such tax breaks, which reduce the amounts paid.



The Study was carried out using the PricewaterhouseCoopers' TTC Framework which measures an organization's economic contribution in taxes, taking into account business taxes borne, as well as those collected on behalf of government. The framework provides a standardised consistent framework to quantify and highlight taxes which otherwise might would not be visible to stakeholders.

Through TTC, we are able to compute the Total Tax Rate-which is the burden for all taxes borne by a company in relation to profitability- which is all taxes above and below the line. Therefore for a company which pays no corporate tax because it is in a loss position, it might have a positive Total Tax Rate if it is paying other taxes in royalties (above the line) for example.

Due to the standardized nature of the framework, it can be used on a country, global or on an industry basis (foods industry, banking, oil companies etc.) to collect tax data and benchmark the results against other companies.

Highlights of the Study - Ghana

- One company made a large contribution to the government and public finances in Ghana in 2008 totalling approx. \$9 million. Of this, less than 1% is corporate tax with other taxes and contributions making up more than 99% of the total;
- Total contribution to government for Africa averages 11.3% and a Ghanaian average of 9.7%.
- Taxes and contributions borne as a percentage of turnover, for Africa is 7.5% and the Ghanaian average of 7.2%. This is expected to go high with the introduction of 5% stabilization levy and revision of royalty rates to 5% and the industry maturing.

The cost of taxes and contributions borne measured in relation to profits – the Total Tax Rate – increased in these 2008 results to 39.3%. The increase over 2007 is due to the impact of the downturn. Profit and corporate income taxes fell, but other amounts did not and thus become relatively more expensive.

Benefits of taking part in a TTC Survey:

Each company that takes part in our studies receives in return a report on their own company's TTC. For most, this is the first time they have seen these figures, and a total for what they pay. In our experience, this is important management information that can increase internal visibility over the impact of all the different taxes and contributions and can be used in a number of ways, including informing decisions on business investment, the management of all tax figures, and the use of tax resource.

We also suggest companies consider the benefits of including this TTC information in its external relations, such as in its annual financial statements.

General Tax Updates

Pension Contributions of Expatriate Staff in Ghana

The National Pensions Act, 2008 (Act 766) ("NPA") requires that employers make contributions towards pensions (i.e. Social Security Fund) on behalf of their employees for each month. There is a total contribution is 18.5% of the basic salaries of employees each month (i.e. 13% contribution by the employer and 5.5% by the employee). The NPA does not specifically preclude expatriate employees/staff from making contributions toward the SSF.

However in practice, expatriate staff do not usually contribute towards the SSF.

SSNIT officials have recently indicated that expatriate employees/staff who do not expect to remain in Ghana for the minimum period required to enjoy benefits of making SSF contributions, would not strictly be required to

contribute toward the SSF, if and only if they can provide evidence to the fact that they make pension contributions in their respective home countries.

Petroleum (Exploration and Production) Bill, 2010

The Parliament of the Republic of Ghana through its Select Committee for Mines and Energy has sent an invitation to the general public to make contributions to the proposed Petroleum (Exploration and Production) Bill, 2010 ("Bill").

The bill which provides petroleum exploration and production, as well as related matters (including local content) will repeal the current Petroleum (Exploration and Production) Law, 1984, P.N.D.C.L 84.

It is widely expected that this new Bill when finally passed into an Act (together with its Legislative Instruments), would contribute to strengthening the regulatory framework of Ghana's upstream oil and gas industry.

Available publications

Copies of the following publications are available to be sent to you upon request:

- 2010 Tax Facts and Figures;
- Top Ten Tax Issues in Ghana's Oil and Gas Sector;
- Tax Compliance Due Dates 2010 and 2011; and
- Quick Guide to Setting up in Ghana.

Please contact us further in relation to this or any of the issues discussed in this newsletter via our contact details below:

Contact us if you would like to discuss any aspects of this snapshot.

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