On Point*

Ghana Tax News in a snapshot

September 2009

*connectedthinking PRICEWATERHOUSECOOPERS

Welcome to this maiden edition of *On point*, an abridged version of our newsletter "The Lead" which aims to give you Ghana Tax News in a snapshot. This edition focuses solely on two new tax initiatives passed in Ghana in connection with National Fiscal Stabilisation and Pensions.

Legislative updates & Impact on businesses

National Fiscal Stabilisation Levy Act, 2009 (NFSL)

The NFSL Act was passed by Parliament and received presidential assent on the 20 July 2009 and has become operational. The Act imposes an additional 5% levy on profits before tax for years 2009 and 2010 on certain specified industries. The levy is similar to the National Reconstruction Levy introduced by the previous Government in 2001 and withdrawn in 2007.

Affected industries

These include banks (excluding rural and community banks), non-bank financial institutions, insurance companies, and communications companies liable to collect and pay the communication service tax, mining companies, and breweries.

Why the NSFL Act

The Government seeks to raise revenue for fiscal stabilisation of the economy and to provide for related matters.

Scope

The levy applies to entities in the industries specified above whether such entities may be enjoying a tax holiday or exemption from direct or indirect tax under the provision of any other enactment.

Tax deductibility

The levy payable is not an allowable expense in ascertaining the income of the person under the Internal Revenue Service Act, 2000 (Act 592) (IRA).

Assessment

The levy is imposed under the provisional assessment system whereby the Commissioner computes and assesses the taxpayer based on his best judgement at the commencement of the year.

In determining the levy payable the Commissioner shall consider the profits before tax on the affected entities for the two preceding years of assessment before the 2009 tax year.

However, where the entity has not been assessed to tax for the two preceding tax years (i.e. 2007 and 2008 depending on the accounting period),or has not furnished a return or estimate to the Internal Revenue Service (IRS) as required under section 72 and 78 of the IRA, the Commissioner may use his judgement to make the provisional assessment.

Time of payment

The levy is payable on quarterly basis from end of September 2009 up until December 2010. IRS is mandated to collect the levy.

Penalties & recovery of the levy

Provisions of the IRA for collection, enforcement, refunds and penalties also apply to the collection of the levy as if it is collected under the IRA.

The National Pensions Act (NPA), 2008 (Act 766)

The President of Ghana formally launched the National Pensions Act, 2008 (Act 766) on 16 September 2009. The NPA is expected to be implemented from 1 January 2010.

The National Pension Reform Bill was passed by Parliament and received Presidential assent in December 2008. The new Pensions Law caters for the establishment of a contributory three-tier pension scheme.

Prior to the introduction of the NPA, contributions made by employers on behalf of employees into provident funds were taxable on the employees. Fund managers were also assessed to tax on their taxable incomes.

Under the new Pensions Act, investment income including capital gains from the investment of scheme funds shall for the purpose of income tax be treated as deductible income.

What has been introduced?

The contributory three-tier pension scheme works broadly as follows:

Tier 1: A mandatory basic national social security scheme which will incorporate an improved system of (the existing) Social Security and National Insurance Trust (SSNIT) benefits and shall be mandatory for all employees in both private and public sectors (payment of only monthly pensions and related benefits such as survivors' benefits) - will be managed by a restructured SSNIT.

Tier 2: A mandatory, fully funded but privately managed occupational (or work based) pension scheme. This is designed primarily to give contributors higher lump-sum benefits than presently available under the existing SSNIT pension scheme or Cap 30 pension schemes; and

Tier 3: A voluntary provident fund and personal pension scheme which will be privately managed by approved Trustees.

Change in contributions

The new three-tier pension scheme requires an additional contribution rate of 1% to be shared equally between employers and employees. Employers will pay 13% (instead of the current rate of 12.5%) and employees pay 5.5% (instead of 5%) making a total contribution of 18.5% (instead of the current 17.5%).

Out of the total contribution of 18.5%, employers will remit 13.5% to a restructured SSNIT towards the first tier pension scheme. The remaining 5% will be remitted to the privately managed second tier for.

Tax implications:

Contributions of up to 35% will be tax-exempt. The first and second tier mandatory schemes will be eligible for a full tax exemption i.e. up to the total contribution of 18.5% of income.

In addition, the third tier voluntary scheme will have a maximum tax exemption of 16.5%.

Those in the Informal sector who contribute to the third tier but do not contribute to the compulsory scheme will also be allowed the full 35% tax exemption.

Contact us if you would like to receive a copy of our newsletter in full or to discuss any aspects of this snapshot.

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