

4. Appendix

Abridged Version of INCOME TAX ACT, 2015 (Act 896)

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Introduction

The Government of Ghana introduced the Income Tax Act, 2015 (Act 896), to provide for the imposition of income tax and for related purposes. This represents an abridged version of Act 896.

Imposition of income tax

A person is liable to pay income tax on that person's chargeable income or on final withholding payment received during the year of assessment.

Income tax is payable by applying the relevant rates.

A person is allowed a deduction for foreign tax credit.

Chargeable income

Chargeable income is made up of income from employment, business or investment less any allowable deduction.

Chargeable income from each source of income is determined separately.

Assessable income

Assessable income is income of a person from any employment, business or investment.

A resident person's assessable income is that person's worldwide income from all sources.

A non-resident person's assessable income is that person's income from Ghana.

The assessable income of a non-resident person, who has a permanent establishment in Ghana is the income of the permanent establishment.

Income has its source in Ghana if the income is accrued or derived in Ghana.

Income from employment

An individual's employment income is the gains and profits from the employment, for the year or during the year.

This includes salary, wages, leave pay, fees, commissions, gratuities, overtime pay, bonuses and other benefits and allowances paid in cash or given in kind.

The following are excluded from the calculation of employment income:

- final withholding payment;
- discharge or reimbursement of an expense incurred by an individual, on behalf of the employer that serves the proper business purposes of the employer;

- a discharge or reimbursement of the dental, medical or health insurance expenses of an individual, where the benefit is available to each full-time employee on equal terms; and
- redundancy pay, among others.

Income from business

A person's business income is the gains and profits from that business for the year or during the year.

This includes:

- service fees, consideration received in respect of trading stock, a gain from realisation of capital assets and liabilities of the business;
- an amount derived as consideration for accepting a restriction on the capacity, of the person to conduct the business;
- a gift received by the person in respect of the business; and
- any amount derived that is effectively connected with the business, that would otherwise be included in calculating a person's income from an investment, among others.

The following are excluded from the calculation of business income:

- exempt amounts;
- final withholding payment; and
- any amount included in the calculation of a person's employment income.

Income from investment

A person's investment income is the gains and profits from the investment for the year or during the year.

This includes:

- dividends, interest, annuity, natural resource payment, rent and royalty;
- a gain from the realisation of an investment asset;
- an amount obtained as consideration for accepting a restriction on the capacity of the individual to conduct the investment; and
- any gift received in respect of the investment among others.

The following are excluded from the calculation of investment income:

- exempt amounts;
- final withholding payment; and
- any amount included in the calculation of a person's income from employment or business.

Exempt amounts

Exempt amounts include:

- salary, allowances, facilities, pension and gratuity of the President;

- income directly connected to the Government or local authorities activities;
- income of a non-commercial public corporation;
- pension;
- income of a cocoa farmer from cocoa; or
- any other exemption granted by law.

Deductions

An expense is deductible if it is wholly, exclusively and necessarily incurred by the person in the production of the business or investment income for the year.

A deduction shall be disallowed for an expense that is of a capital nature.

An expense that is of a capital nature includes an expense that secures a benefit that lasts for more than twelve (12) months.

Allowable deductions

Allowable deductions include the following:

- interest incurred by a person in borrowing money or in the production of income;
- trading stock;
- repairs and improvements;
- research and development expenses;
- losses on realisation of assets and liabilities;
- financial costs under certain conditions; and
- losses from business or investment.

Year of assessment and basis period

The year of assessment for a person is the calendar year.

The basis period of a person is:

- in the case of an individual or a partnership, the calendar year; and
- in the case of a company or a trust, the accounting year or any other period approved by the Commissioner-General.

Method of accounting for income tax

An individual shall account on a cash basis, when ascertaining their income from employment or investment.

Companies shall account for tax purposes on accrual basis.

A person, other than a company, shall account on either a cash or accrual basis, whichever most clearly reflects the income of that person.

Cash basis accounting

A person derives an amount when a payment is received by, or made available to that person and incurs an expense or other amount when the expense or other amount is paid by that person.

Accrual basis accounting

A person derives an amount when the amount is receivable by the person. A person incurs an expense or other amount when the expense or other amount is payable by the person.

Claim of right

An amount is treated as derived if the person claims to be entitled to receive it.

An amount is treated as incurred if the person claims to be entitled to pay the amount.

Reversal of amount including bad debt

A deducted expense which is later recovered shall be included in calculating the income of the person, at the time of recovery.

An amount included in calculating income that is later refunded shall be deducted from the income of the person, at the time of refund.

Long-term contracts

Amounts required to be included or deducted in calculating income with respect to a long-term contract, is done on the basis of the percentage of the contract completed.

The percentage of completion is determined by comparing the total expenses incurred, before the end of the basis period with the estimated contract expenses.

Foreign currency and financial instruments

In calculating income from a business or investment, a person is required to include an amount or may deduct an amount in relation to a financial instrument.

Quantification according to market value

Market value is determined on the basis of the arm's length standard or in the case of an asset, without regard to any restriction on transfer of the asset or the fact that the asset is not otherwise convertible into a payment of money or money's worth.

Indirect payments

A person who indirectly benefits from a payment; or directs that another person is to be the payee of a payment and the payer intends the payment to benefit the person who gave the directive, the Commissioner-General may treat that person as:

- the payee of the payment;
- the payer of the payment; or
- the payee of the payment and as making an equal payment to the person who would be considered the payee of the payment.

An intention of the payer includes an associate of the payer; or a third person under an arrangement with the payer; or with an associate of the payer.

Jointly owned investment

Income is apportioned among joint owners of an income, from investment in proportion to their interests.

Where the interests of joint owners cannot be ascertained, the interests of the joint owners shall be treated as equal.

Compensation and recovery payments

Compensation payments are included in calculating the income of a person and takes its character from the amount compensated for.

Annuities, instalment sales and finance leases.

Finance lease payments in the acquisition of an asset or under an instalment sale is treated as interest and repayment of capital by the lessee or buyer.

Annuity payment shall be treated as interest and a repayment of capital under a loan made by that person to the payer of the annuity.

An income of a lessor under an operating lease shall include the whole amount of rent paid under the lease.

Arm's length standard and arrangements between associates

Where an arrangement exists between persons who are in a controlled relationship, the persons shall calculate their income, and tax payable, according to the arm's length standard.

The arm's length standard requires persons who are in a controlled relationship, to quantify, characterise, apportion and allocate amounts to be included in or deducted from income to reflect an arrangement that would have been made between independent persons.

Income splitting

Where a person attempts to split income with another person, the Commissioner-General may, prevent a reduction in tax payable.

The Commissioner-General may adjust the amount to be included in or deducted from income for the purpose of calculating the income of each person; or re-characterise the source and type of any income, loss, amount or payment.

Thin capitalisation

The thin capitalisation rule requires a debt to equity ratio of three to one (3:1). This does not apply to resident financial institutions.

General anti-avoidance rule

In determining a tax liability, the Commissioner-General may re-characterise or disregard an arrangement that is entered into or carried out as part of a tax avoidance scheme which is fictitious or does not have a substantial economic effect; or whose form does not reflect its substance.

Calculation of gains and losses

A gain is the excess of consideration received over the cost of the asset; or the lesser of liability compared to the amount outstanding at the time of realisation.

A loss is when the cost of the asset exceeds the sum of the consideration received for the asset at the time of realisation.

Cost of an asset

The cost of an asset, includes expenditure incurred by the person:

- in the acquisition of the asset;
- in altering, improving, maintaining or repairing the asset; and
- incidental expenditure incurred in acquiring and realising the asset.

The cost of an asset excludes consumption expenditure incurred by the owner; expenditure deducted from the owner's income; or expenditure included in the cost of another asset.

Consideration received

Consideration is the amount derived for owning an asset. This includes an amount derived from altering the value of that asset, cost of repairing the asset or otherwise; and an amount derived by that person or an entitlement for that person to derive an amount in the future in respect of realising that asset.

Final withholding payment or an amount to be directly included in calculating the income of that person is treated as exempt amount.

Realisation of asset

A person who owns an asset realises the asset:

- if that person parts with the ownership of that asset, including when that asset is sold, exchanged, transferred, distributed, redeemed, destroyed, lost, expired or surrendered;
- in the case of an asset of a person who ceases to exist, including by reason of death, immediately before that person ceased to exist;

- in the case of an asset other than trading stock or a depreciable asset, if the sum of consideration received by that person from the sale of the asset exceeds the cost of that asset;
- in the case of an asset that is a debt claim owned by a person other than a financial institution, if that person:
 - reasonably believes that the debt claim will not be satisfied;
 - has taken reasonable steps in pursuing the debt claim; and
 - has written off the debt claim as a bad debt.
- where the person uses trading stock, a depreciable asset, a capital asset of a business or an investment asset in a way that changes the original characterisation of that asset.

There shall be no realisation of an asset accruing to or derived by a company arising out of a merger, amalgamation or re-organisation of the company where there is continuity of underlying ownership of the asset of at least fifty percent (50%).

Liabilities

The cost of a liability of a person is determined using the expenditure incurred in realising the liability. The consideration received for a liability of a person is determined using the amounts derived in incurring the liability.

Reversal of amounts

A person who includes expenditure in a liability or in the cost of an asset and later recovers that expenditure, shall include the amount recovered in the consideration received for the asset or liability.

Where an amount that is included in the consideration received by a person for an asset; or is refunded due to a legal obligation to do so, that person may include the amount refunded in the cost of the asset.

Cost of trading stock and fungible assets

In determining the cost of trading stock, amounts expended on repairs, improvements or depreciation is not to be included.

Absorption cost method is used in determining the amount that is eligible for inclusion in the cost of the trading stock.

Where an asset is a fungible asset, the first-in-first-out method or the average cost method is used.

Realisation with retention of asset

Where under the following special rules a person:

- writes off a debt as being bad;

- changes the use of an asset;
- changes the underlying ownership of an entity by more than fifty percent (50%); or
- changes residence,

that person is deemed to have parted with the asset at the time of the realisation and is treated as having derived an amount equal to the market value of the asset, and in the re-acquisition, incurred an expenditure equal to the market value.

Transfer of asset to spouse or former spouse

Where an individual transfers property to a spouse or former spouse, as a result of;

- death;
- divorce settlement; or
- bona fide separation agreement,

that individual is treated as having derived an amount in respect of the realisation equal to the net cost of the asset immediately before the realisation and the spouse or former spouse is treated as incurring an expenditure equal to the net cost of the asset.

Transfer of asset on death

Where an individual realises an asset on death; by way of transfer of ownership of the asset to another person that individual is treated as deriving an amount in respect of the realisation equal to the market value of the asset, at the time of realisation. The person who acquires the asset is treated as incurring an expenditure equal to the market value of the asset.

Transfer of asset for no consideration

Where a person realises an asset by way of:

- transfer of ownership of the asset to a person who is in a controlled relationship with that person;
- transfer to any other person;
- gift other than under a will;
- upon intestacy; or
- by way of transfer to the spouse, child or parent of that person,

that person is treated as having derived an amount in respect of that realisation equal to the greater of the market value of the asset or the net cost of the asset immediately before the realisation; and is treated as incurring an expenditure of the amount equal to the market value or the net cost of the asset immediately before the acquisition.

Realisation of asset with replacement asset

Where a person:

- realises an asset by parting with the ownership of that asset through sale, exchange; transfer, distribution, redemption, destruction, loss, expiration or surrender;
- acquires an asset of the same type to replace the asset to be realised, and the acquisition was done within six (6) months before the date of realisation of the asset; and

- acquires an asset of the same type to replace the asset realised within one (1) year after the realisation of the asset,

that person, is treated as having derived an amount equal to the net cost of the asset immediately before the realisation and incurred an expenditure in acquiring the replacement asset.

Realisation of asset by way of merger, amalgamation or re-organisation

Where a company makes a gain from the realisation of an asset as a result of a merger, amalgamation or a re-organisation of that company; and there is a continuity with at least fifty percent (50%) of the underlying ownership in the asset, the gain is exempt from tax.

Transfer by way of security, finance lease or instalment sale

Where a person provides an asset as security for a debt owed by that person:

- in the case of a mortgage, the mortgagor is treated as still owning the asset and the mortgagee is treated as owning a secured debt over the asset; and
- in the case of a finance lease, the lessor is treated as transferring ownership of the asset to the lessee.

Where the lessee returns the asset to the lessor before the lease expires, the asset shall be treated as having been transferred to the lessor.

Realisation by separation

Where a person who owns an asset creates a permanent right or an obligation in another person, that person is treated as realising part of the asset.

Where the right or obligation created is temporary, that person is treated as acquiring a new asset or incurring a new liability.

A right or an obligation is considered permanent where the right or obligation is to last for more than fifty (50) years.

Apportionment of costs and consideration received

Where a person acquires more than one asset at the same time by way of transfer, the expenditure incurred in acquiring each asset is apportioned between the assets according to the market value of each of the assets at the time of acquisition.

Where a person realises more than one asset by way of transfer, the amounts derived in realising each asset is apportioned between the assets according to the market value of each of the assets at the time of realisation.

Where a person who owns an asset realises part of the asset, the net cost of the asset immediately before the realisation is apportioned between the part of the asset realised and the part retained according to the market value of the asset on the date of realisation.

Personal reliefs

A resident individual is entitled to deduct specified personal reliefs from his assessable income to arrive at the chargeable income.

Partnerships

A partnership is not liable to pay income tax; and is not entitled to tax credit. The partnership is liable to pay final withholding taxes.

The income or loss of a partnership is allocated to the partners.

Income derived and expenditure incurred by a partner for and on behalf of the partnership is treated as income derived or expenditure incurred by the partnership.

An asset owned or a liability owed by a partner for and on behalf the partnership is treated as an asset or a liability of the partnership.

Where at least two existing partners remain in the partnership after a change in the partnership, the partnership is treated as one and the same.

Partnership income or loss

The income or loss of a partnership for a year of assessment is the income or loss of the partnership for that year.

Taxation of partners

The income of a partner from a partnership, shall include the partner's share in the partnership income and exclude the share of the partner's loss in the partnership.

A disposal of interest of a partner in a partnership shall be treated as a gain and be included in the income of the partner.

Tax paid by a partnership shall be allocated to the partners in proportion to the interest of the individual partners and treated as paid by the partners.

Cost of and consideration received for partnership interest

The following shall be taken into consideration in calculating the cost of a partner's share:

- the amount included in calculating the income of that partner at the time of the inclusion of the amount; and
- the partner's share of exempt amounts and final withholding.

The following shall be taken into account in calculating the consideration received for a partner's share:

- the amount deducted in calculating the income of the partner at the time of deduction of the amount;
- the partner's share of the distributed income; and
- the partner's share of domestic or excluded expenditure.

Taxation of trusts

A trust is taxed separately from the beneficiaries of the trust.

Where a group of persons are trustees for more than one trust, the income of each trust shall be calculated separately.

In calculating the tax liability of a trust, the trust shall be treated as an entity.

An amount received and expenditure incurred by a trust or a trustee, is an amount received or an expenditure incurred by the trust.

An asset owned or liability owed by a trust or a trustee is an asset or a liability of the trust.

Taxation of a beneficiary of a trust

A distribution of a resident trust is tax exempt if the distribution is in the hands of the beneficiary.

A distribution of a non-resident trust is included in calculating the income of the beneficiary.

A gain on the disposal of the interest of a beneficiary in a trust is included in calculating the income of the beneficiary.

Taxation of companies

A company is liable to tax separately from its shareholders.

An amount received and an expenditure incurred by the managers or shareholders, in respect of the company is deemed to be received or incurred by that company even when that company lacks the legal capacity to receive that amount or incur that expenditure.

An asset owned and a liability owed by the managers or shareholders, for the purpose of a company is deemed to be owned or owed by that company even when that company lacks the legal capacity to own that asset or owe that liability.

A person shall give effect to an arrangement between a company and a manager and a shareholder.

Taxation of shareholders

A resident company which pays a dividend to a shareholder shall withhold tax on the amount paid out as dividend.

The calculation of the income of a shareholder shall include:

- dividend paid by a non-resident company to the shareholder; and
- a gain made on the disposal of the shares.

A dividend is exempt if it is received by a resident company that controls directly or indirectly at least twenty-five percent (25%) of the voting power of the dividend-paying resident company.

The exemption excludes dividend paid in respect of redeemable shares or in respect of re-characterisation under anti-avoidance rules.

Branch profit tax

A non-resident person who carries on business through a permanent establishment shall pay a final tax on the repatriated profit earned.

Asset dealing between entities and members

Upon realisation of an asset by way of transfer of ownership between an entity and one of its members, the transferor is deemed to have received an amount equal to the market value before realisation and the transferee is deemed to have incurred an expenditure equal to the amount.

Change in ownership

The assets and liabilities of an entity is realised where the underlying ownership changes by more than fifty percent (50%) within three (3) years.

Such an entity shall not:

- deduct financial costs;
- carry over losses;
- claim reversal of amounts including bad debt; or
- carry back losses.

Petroleum operations

Tax is imposed on income of a person engaged in petroleum operations and is calculated for each year of assessment. A person's income from separate petroleum operations are taxed separately.

Where two or more persons apart from a partnership hold a petroleum right each person is taxed separately.

Petroleum tax is paid in the currency provided for in an applicable petroleum agreement or in cedis where there is no agreement.

Separate petroleum operations

Each petroleum operation relating to a petroleum right is regarded as a separate petroleum operation.

Exploration and development operations

A person who incurs a revenue or capital expenditure in the course of exploration and development operations shall place the expenditure in a single pool. The expenditure is not part of the cost and is not entitled to capital allowance until commencement of petroleum operations.

Upon commencement of production, the exploration and development expenditure is capitalised and capital allowance is granted.

Income from petroleum operations

The income of a person from petroleum operations includes:

- the market value of the petroleum product at the time of disposal
- a compensation received from an insurance policy in respect of loss or destruction of petroleum;
- amount received for sale of information pertaining to the operations or petroleum reserves;
- a gain from the disposal or assignment of interest;
- surplus from decommissioning fund;
- reimbursement of cost and premium received; and
- any other incidental revenue received.

Deductions for petroleum operations

The following shall be included as deductions from the assessable income:

- annual rental charges and royalties paid;
- capital allowances granted;
- contributions to and other expenses incurred in respect of a decommissioning fund;
- expenses incurred in the closure of operations; and
- any other expenses incurred.

The following deductions are not allowed:

- research and development expenditure;

- amount not wholly, exclusively and necessarily incurred in acquiring or improving the valuable asset used in the operation;
- expense not based on arm's length;
- bonus payments; or
- expenditure incurred for breach of Petroleum Agreement.

Losses from petroleum operations

An unrelieved loss shall be deducted by the person in the order in which the loss is incurred. It may be deducted from only future income from that separate petroleum operation.

Disposal of petroleum rights

A person who holds interest in an entity that holds a petroleum right is treated as holding interest as a capital asset employed in the business.

An entity is considered to have disposed of and re-acquired its interest by incurring an expenditure equal to the amount received where the underlying ownership changes by five percent (5%) or more.

The consideration for the disposal is equal to the amount received, amount receivable or the market value, whichever is higher.

Decommissioning fund

Decommissioning fund for decommissioning purposes is exempt from tax.

Any surplus amount after decommissioning shall be included in calculating the income.

Withholding tax for petroleum operations

Dividend paid by a resident petroleum company to another resident petroleum company is subject to withholding tax.

Income of expatriate employees employed by contractors or subcontractors for petroleum is subject to tax and withholding tax.

In the case of a non-resident person the tax withheld is final.

Furnishing of quarterly return of income

A person shall furnish the Commissioner- General with a return containing an estimate of the chargeable income and an estimate of the tax due on the chargeable income of the person and a remittance in settlement of the estimated tax.

Furnishing of annual returns of income

A person shall furnish the Commissioner- General with a return for each separate operation within four (4) months after the year of assessment.

The return shall include, the person's particulars, remuneration and other financial details.

Dispute regarding price applicable to petroleum produced shall be resolved by adopting the person's proposed price.

Request for further information by Commissioner-General

The Commissioner-General may request for further information where necessary.

Payment of tax by quarterly instalment for petroleum operations

Tax for a quarterly period is due and payable thirty (30) days after the end of the quarter to which the tax relates.

Minerals and mining operations

Tax is imposed on income of a person engaged in mineral operations and is calculated for each year of assessment.

A person's income from separate mineral operations are taxed separately.

Where two or more persons apart from a partnership hold a mineral right each person is taxed separately.

Separate mineral operations

Mineral operation relating to a mine and shared processing facility are regarded as a separate operation.

Reconnaissance and prospecting operations

A person who incurs a revenue or capital expenditure in the course of reconnaissance or prospecting operations shall place the expenditure in a single pool. The expenditure is neither treated as part of the cost nor is it entitled to capital allowance until commencement of production.

Upon commencement of production, the reconnaissance and prospecting expenditure is capitalised and capital allowance is granted.

Income from mineral operations

The income of a person from mineral operations includes:

- income received from disposal of minerals.
- a compensation received from an insurance policy in respect of loss or destruction of minerals;

- amount received for sale of information pertaining to the operations or mineral reserves;
- a gain from the disposal or assignment of interest;
- surplus from an approved rehabilitation fund; and
- other incidental revenue received.

Deductions for mineral operations

The following shall be included as deductions from the assessable income:

- ground rent and royalties paid;
- capital allowances granted;
- contributions to and other expenses incurred in respect of an approved rehabilitation fund;
- expenses incurred in the course of reclamation and closure of the mineral operation; and
- any other expenses incurred.

The following amounts are not allowed to be deducted from assessable income:

- research and development expenditure;
- amount not wholly, exclusively and necessarily incurred in acquiring or improving the valuable asset used in the operation;
- expense not based on arm's length standard;
- bonus payments; or
- expenditure incurred for breach of Mineral Agreement.

Losses from mineral operations

An unrelieved loss shall be deducted by the person in the order in which the loss is incurred. It may be deducted from only future income from that separate mineral operation.

Disposal of mineral rights

A person who holds interest in an entity that holds a mineral right is treated as holding interest as a capital asset employed.

An entity is considered to have disposed of and re-acquired its interest by incurring an expenditure equal to the amount received where the underlying ownership changes by five percent (5%) or more.

The consideration for the disposal is equal to the amount received, amount receivable or the market value, whichever is higher.

Approved rehabilitation funds

An approved rehabilitation fund for rehabilitation purposes is exempt from tax.

Any surplus amount after rehabilitation shall be included in calculating the income.

Withholding tax

Dividend paid by a resident mining company to another resident company is subject to withholding tax.

A resident person who pays for unprocessed precious mineral shall withhold the tax.

In the case of a non-resident person the tax withheld is final.

Payments made by an individual or the holder of a small-scale mining licence to a labourer or payments received by a holder of large scale mining lease are exempt from withholding tax.

Banking business

A person who engages in a banking business shall keep the books of accounts of the banking business and any other business separate.

The income or loss of a banking business is computed separately from the income or loss of the other business activity for the year of assessment.

Debt claim

In conducting a banking business, a provision for a debt claim that has been included in calculating income or that constitutes advance payment of the principal sum is deductible.

A reversal of the provisions described above is included in computing income from the banking business.

General insurance business

A person who engages in a general insurance business shall treat the general insurance business separately from any other business.

The income or loss of an insurance business is computed separately from the income or loss of the other business activity for the year of assessment.

Income derived from general insurance business shall include:

- premiums received;
- proceeds derived under a contract of re-insurance; and
- the amount of any reserve for unexpired risk.

The following shall be deducted from the income:

- proceeds incurred in conducting the business;
- premium incurred under the contract of re-insurance; and

- any reserved amount for unexpired risk.

Life insurance business

A person who engages in a life insurance business shall treat the life insurance business separately from any other business.

The income or loss of an insurance business is computed separately from the income or loss of the other business activity for the year of assessment.

Income derived from life insurance business shall exclude premiums received and proceeds derived under a contract of re- insurance.

Proceeds incurred and premium incurred under the contract of re-insurance should be included in calculating the income from life insurance business.

Proceeds from insurance

A gain of an insured person from life insurance is exempt from tax when the proceeds are paid to the insured person, by a resident insurer. It is however included in calculating the income of the insured person, where the proceeds are paid by a non-resident insurer.

Taxation of retirement funds

Retirement contributions are exempt from tax.

Retirement payments are not deductible by a retirement fund.

Retirement payments from retirement funds

The income from an interest in a retirement fund shall exclude, a retirement payment made by a resident fund, and include in the income, a gain from an interest in a non-resident retirement fund.

Approval of charitable organisation

An entity that meets the following criteria may be approved by the Commissioner-General as a charitable organisation:

- charitable institutions of a public nature;
- religious institutions of a public nature; and
- body of persons formed to promote social or sporting activities,

that entity must have a written constitution that prohibits it from engaging in any form of political activities or conferring private benefit.

The income of a charitable organisation is exempt from tax but excludes income from business.

The Commissioner-General may revoke the approval for a good cause.

Clubs and trade associations

A club, a trade association and any similar institution is treated as a company and any activity engaged in, by them is deemed as conducted in the course of a single business.

The income of the above company, shall include the following:

- any entrance fees;
- subscriptions; and
- other amounts received from members of the club or trade associations.

The income of the clubs or trade association is exempt from tax. This does not apply to business income.

Building societies and friendly societies

A building society or friendly society is regarded as a company for income tax purposes.

The income of a statutory building society or a registered building society, or a statutory friendly society or a registered friendly society is exempt from tax if:

- only individuals are eligible to be members of that society and make contributions to that society;
- the organisation does not engage in party political activities, or support any political party or use its platform to engage in party politics; and
- the Commissioner-General has given a ruling that the society complies with the provisions above.

Contributions and donations to a worthwhile cause

A donation or contribution to a worthwhile cause approved by the Government is an allowable expense.

The following are worthwhile causes:

- an approved charitable organisation;
- a scheme of scholarship for an academic, technical, professional or other course of study;
- development of any rural or urban area;
- sports development or sports promotion; and
- any other worthwhile cause approved by the Commissioner-General.

Resident person

An individual is resident in Ghana for tax purposes if that individual is:

- a citizen, unless he has and lives in a permanent home outside of the country;
- present in the country during that year for an aggregate period of one hundred eighty three (183) days or more in any twelve (12) month period;
- an employee or an official of the Government of Ghana posted abroad; or

- a citizen who is temporarily absent from the country for a period of not more than three hundred and sixty five (365) days continuous, where he has a permanent home in Ghana.

A partnership is resident in the country if any of the partners resided in the country at any time during the year.

A trust is resident in the country for a year of assessment if:

- that trust is established in the country;
- a trustee of the trust is resident in the country at any time during that year; or a person resident in the country directs or may direct senior managerial decisions of the trust at any time during the year, whether the directive is given alone or jointly with other persons; or
- directly or through one or more interposed entities.

A company is resident in the country for a year of assessment if:

- that company is incorporated under the Companies Act; or
- the management and control of the affairs of that company are exercised in the country at any time during that year.

Change of residence

A resident person in the country is deemed to be resident for the whole year.

A resident individual present for at least one hundred and eighty three (183) days or more is resident from the start of the one hundred and eighty three (183) days.

The cost of an asset of a non-resident person is the open market value at the time of becoming a resident.

The asset of a resident person is realised on the date of becoming non-resident and the realised amount is the open market value.

Domestic asset of a person immediately before becoming and after ceasing to be a resident is not realisable.

Source of income and quarantining of foreign losses

Income of a person employed with a source outside the country shall be calculated separately from income derived in the country.

Business or investment income or loss with a source outside the country shall be calculated separately from income derived in the country.

Income earned or loss incurred from an employment, business or investment has a source in the country if the amount included exceeds the amount deducted in computing that income or loss.

Employment income derived from within the country shall be deducted from a person's world-wide income.

Business and investment income derived or loss incurred from, within the country shall be calculated as part of a person's world-wide income.

Source of amount directly included and directly deducted

An amount included as part of income has a source in a country if the consideration or gain received involves a domestic asset or liability or the payment has a source in the country.

Payments sourced from the country

The following are inclusive of payments that have a source in Ghana:

- dividends paid by a resident company;
- interests paid;
- rent paid for the use of an asset;
- royalties paid for the use of an asset;
- premiums for general insurance paid; or
- natural resource payments.

Principles of taxation

A permanent establishment is subject to tax separate from its owners.

A permanent establishment shall withhold tax on payments made and pay withholding tax on payments received.

The tax payments shall be on instalment basis.

Activities, assets, and liabilities of a permanent establishment

An activity of a permanent establishment is treated as conducted in the course of a single business and is that activity conducted by the owner through a permanent establishment.

The following activities are inclusive of those conducted by a Ghanaian permanent establishment:

- employment of a resident individual; and
- sale of same or similar trading stock by the owner as those sold by the permanent establishment.

Income or loss of a permanent establishment

Business income attributed to a permanent establishment shall include the amounts derived in respect of an asset and liability owed and payments received in respect of an asset and liability owed.

Foreign source of income of a resident

The foreign income of a resident person is taxable except, where the employment income of the resident individual is from a foreign source and derived from a non-resident employer; or where a resident person is an employer and the individual is present in a foreign country for at least one hundred and eighty three (183) days continuous.

Foreign tax credit

A resident person other than a partnership may claim foreign tax credit in respect of tax paid to a foreign country.

A person may relinquish a foreign tax credit and claim it as a deduction.

Withholding by employer

The income of an employee is subject to withholding tax by the employer.

The obligation of the employer to withhold the tax shall prevail over any other obligations or provisions of any law.

Withholding from investment returns

A resident person shall withhold the tax on payments of any dividends, interests, rent, royalties, natural resource; and payments with the source in the country.

This withholding tax does not apply to:

- employee's income;
- payments by an individual unless made in conducting a business;
- interest paid to a resident financial institution; or
- exempt amount.

Withholding from supply of goods, service fees and contract payments

A resident person shall withhold tax where that person pays:

- specified service fees with a source in the country to a resident individual; or
- service fees or an insurance premium with a source in the country to a non-resident person.

A resident person other than an individual shall withhold tax on the gross amount of payments to another resident person on the supply of goods, works or services in respect of a contract between the payee and the resident person.

A resident person shall withhold tax for payments made under a contract with a non-resident person for the supply of goods, works or services and shall within thirty (30) days of the date of the contract give notice of the contract to the Commissioner-General.

Statement and payment of tax withheld or treated as withheld

A withholding agent shall file and pay to the Commissioner-General within fifteen (15) days after the end of the month a statement in the prescribed form and tax withheld.

A withholding agent who fails to withhold the tax shall be liable to pay the tax.

A withholding agent is entitled to recover the tax paid from the withholder.

Withholding certificate

A withholding agent shall issue to the withholder a withholding certificate in the prescribed form.

Final withholding payment

The following are final withholding payments:

- dividends paid by a resident company;
- rent paid by a resident individual under a lease of land or a building;
- rent paid other than rent received in conducting a business of sale or letting;
- payments made to non-resident persons that are subject to withholding other than payments derived through a Ghanaian permanent establishment;
- payments made to a subcontractor under petroleum operations; and
- payments made to a person in respect of examination, part-time teaching, supervising examination, endorsement fee among others.

Credit for non-final withholding tax

A person on whose behalf a tax has been withheld is treated as having paid the tax and is entitled to a tax credit of the amount withheld.

Payment of tax by quarterly instalment

An instalment payer who derives an assessable income from a business, investment or from an employer who is not required to withhold tax shall pay tax by quarterly instalments.

An instalment payer is entitled to tax credit equal to the instalment paid.

Statement of estimated tax payable

An instalment taxpayer shall file estimated tax payable by the date of first instalment.

The estimate shall be in a prescribed form indicating the assessable income, chargeable income, taxable income and any other relevant information.

The estimate of the tax payable may include foreign tax credit and foreign income tax paid or payable during the year.

Statement of estimated tax payable not required

An instalment tax payer or class of instalment payers may be exempted by the Commissioner-General from submitting an estimate.

The Commissioner-General may however serve an estimated tax payable on the person not required to make an estimate.

Return of income

Taxpayers shall file a return on income not later than four (4) months after the end of the year.

The return must be in a prescribed form indicating the assessable income, chargeable income, the tax payable, tax paid and any remainder to be paid.

Any withholding certificates and other relevant information shall be attached to the return.

Return of income not required

A resident individual and a non-resident person with no tax payable are exempt from filing a return of income.

The Commissioner-General may require a person who is not required to file a return of income to file one or may elect to file.

Disclaimer

This document is designed to provide user friendly information and is by no means replacing the Income Tax Act, 2015, (Act 896).