

Revenue Administration Act, 2016

Section

ARRANGEMENT OF SECTIONS

STAKEHOLDERS

Revenue Authority

Act 915

1. Administration of tax laws
2. Authorisation and protection of tax officers
3. Identification of tax officers
4. Assistance of experts
5. Assistance of officers of public bodies
6. No remuneration for complying or assisting with tax laws
7. Official secrecy
8. Accepting security

Taxpayers

9. Tax and taxpayers
10. Identifying taxpayers and tax paid
11. Taxpayer Identification Number or Tax Clearance Certificate
12. Application for Taxpayer Identification Number
13. Issue of Taxpayer Identification Number
14. Application for and issue of Tax Clearance Certificate

15.Cancellation, replacement and amendment of Taxpayer Identification Number or Tax Clearance Certificate

16.Right to information

17.Right to representation

Tax Consultants

18.Prohibition on representation and tax advice

19.Regulation of approved tax consultants

OFFICIAL COMMUNICATION AND DOCUMENTATION

20 .. Official language

21.Official currency

22.Forms and notices

23.Authorised or defective documents

24.Paper documents filed with the Commissioner-General

25.Service of paper documents

26.Electronic document system

RETENTION AND PROVISION OF INFORMATION

Maintaining Documents

27. Maintaining documents

Provision of Information

28.Tax returns

29.Assistance in preparing tax return

30.Extension of time to file tax return

31.Failure to File Tax Return on time

32.Correction of tax returns and other information

33.Access to information and assets

34.Rights and obligations of possessor

35.Notice to obtain information

36.Audit

PRIMARY TAX LIABILITY

37.Assessment

38.Pre-emptive assessment and security

39.Adjusted assessment

40.Notice of assessment

DISPUTE RESOLUTION

41.Tax decisions

42.Objection to a tax decision

43.Objection decision

44.Appeal against objection decision

45.Effect of appeal

PAYMENT AND RECOVERY OF TAX

Regular Payment of Tax

46.Time for paying tax

47.Extension of time for paying tax

48.Manner of paying tax

49. -Order of paying tax

50. Electronic tax accounts

Recovery of Tax from Taxpayer

51.Tax as debt due to Government

52.Creation and extent of charge over assets

53. Taking possession of charged assets

54. Sale of charged assets

55. Release of charge over assets

56. Restraint of person

57. Restraining orders

Recovery from Third Parties

58. Managers of entities

59. Receivers

60. Third party debtors

61. Compliance with notice

62. Recovery from agent of non-resident

Reduction and Refund of Tax

63. Limits on tax reductions

64. Reporting of tax reductions

65. Remission

66. Application for tax refund

67. Decision on application

68. Payment of tax refund

69 Ghana Revenue Authority General Refund Account

INTEREST, PENALTIES, OFFENCES AND PROCEEDINGS

Interest

70. Interest for under-estimating income tax payable

71. Interest for failing to pay tax

Penalties

- 72. Penalty for failing to maintain documents
- 73. Penalty for failing to file tax return
- 74. Penalty for making false or misleading statements
- 75. Penalty for unauthorised attempt to collect tax
- 76. Penalty for aiding and abetting

Assessment of Interest and Penalties

- 77. Assessment of interest and penalties

Offences

- 78. Offence of failing to comply with a tax law
- 79. Offence of failing to register
- 80. Offence of failing to pay tax
- 81. Offence of making false or misleading statements
- 82. Offence of impeding tax administration
- 83. Offences by authorised and unauthorised persons
- 84. Offences by entities
- 85. Causing harm to a tax officer
- 86. Compounding offences

Proceedings

- 87. Multiple proceedings
- 88. Power of search, seizure or arrest
- 89. Venue for conducting tax proceedings
- 90. Appearance in court

- 91. Admissibility of documents
- 92. Burden of proof
- 93. Tax decisions unaffected
- 94. Security not a defence
- 95. Publication of names of offenders
- 96. Exemption from transaction taxes

OTHER PROVISIONS

Tax Laws

- 97. Relationship between tax laws
- 98. International arrangements
- 99. Tax avoidance arrangements
- 100. Practice notes
- 101. Issue of practice notes
- 102. Amendment or revocation of practice notes
- 103. Private or class rulings
- 104. Refusing application for private or class ruling
- 105. Issue of private or class ruling
- 106. Amendment or revocation of private or class ruling

Miscellaneous Provisions

- 107. Regulations
- 108. Interpretation
- 109. Consequential amendments and repeals
- 110. Transitional provisions

111. Commencement

SCHEDULES

FIRST SCHEDULE

Transactions for which Taxpayer Identification Number or Tax Clearance Certificate is Required

SECOND SCHEDULE

Tax Returns and Assessments

THIRD SCHEDULE

Consequential Amendments and Repeals

Act 915

REPUBLIC OF GHANA
THE NINE HUNDRED AND FIFTEENTH
ACT
OF THE PARLIAMENT OF THE REPUBLIC OF GHANA

ENTITLED

REVENUE ADMINISTRATION ACT, 2016

An Act to provide for the administration and collection of revenue by the Ghana Revenue Authority and for related matters.

DATE OF ASSENT: *10th August, 2016.*

PASSED by Parliament and assented to by the President:

STAKEHOLDERS

Revenue Authority

Administration of tax laws

1. (1) The Ghana Revenue Authority is responsible, through the Commissioner-General, for administering and giving effect to tax laws in accordance with the provisions of the Ghana Revenue Authority Act, 2009 (Act 791).

(2) Without limiting the powers and responsibilities of the Commissioner-General under the Ghana Revenue Authority Act, 2009 (Act 791), the Commissioner-General may give written directives that are necessary for the administration and implementation of tax laws.

Authorisation and protection of tax officers

2. (1) The Commissioner-General may delegate functions specified under section 14 of the Ghana Revenue Authority Act, 2009 (Act 791) to a tax officer but shall not delegate functions to any other person, even if the person is an expert or public officer assisting in performing a function under section 4 or 5 of this Act.

(2) For purposes of subsection (1), only a tax officer of the rank of senior revenue officer or above or specifically authorised by the Commissioner-General may perform a delegated function under a tax law.

(3) In furtherance to subsection (2), only a Commissioner may exercise the following powers on behalf of the Commissioner-General:

(a) the power to grant an extension of time for holding documents or assets seized under section 33(5);

(b) the power to remit a penalty under section 65 or refund tax under section 66;

(c) the power to compound offences under section 86;

(d) the power to issue practice notes under section 100;

(e) the power to exempt a person from the provisions of section 116 (5) (c) of the Income Tax Act, 2015 (Act 896); and

(f) the power to abate a duty under section 105 of the Customs Act, 2015 (Act 891).

(4) The Commissioners may act jointly in exercising powers referred to in subsection (3), including where the exercise relates to more than one tax law.

(5) In this section, "Commissioner" means a Commissioner appointed under section 16 of the Ghana Revenue Authority Act, 2009 (Act 791).

Identification of tax officers

3. (1) The Commissioner-General shall issue each tax officer of the Authority with an identity card.

(2) The identity card shall

(a) incorporate the logo of the Authority;

(b) have a picture of the tax officer;

(c) state the name, rank and staff number of the tax officer;
and

(d) bear the signature of the Commissioner-General.

(3) A person dealing with a tax officer may require the tax officer to show an identity card for purposes of identifying the name and position of that tax officer.

Assistance of experts

4. (1) The Commissioner-General may engage experts, on the terms and conditions that the Commissioner-General considers necessary, to assist the Authority in the proper performance of the functions of the Authority.

(2) The appointment of an expert is ineffective unless the appointment is in writing and is expressly made under this section.

(3) An expert assisting the Authority to perform a function shall be supervised by the Commissioner-General or an Officer authorised by the Commissioner-General.

(4) A person may refuse to deal directly with an expert but that person shall not obstruct an expert assisting a tax officer to perform a function.

(5) A person may report to the Commissioner-General where that person is of the opinion that the engagement of a particular expert involves a conflict of interest.

(6) Where the Commissioner-General receives a report under subsection (5), the Commissioner-General shall take a decision and the decision of the Commissioner-General on the matter is final.

(7) In this section, "expert" includes an authorised agent taking possession of charged assets under section 53 or selling charged assets under section 54.

Assistance of officers of public bodies

5. (1) The Commissioner-General may request an officer of a public body, including the police, to assist tax officers of the Authority in the performance of functions.

(2) A public body that receives a request under subsection (1) shall take the necessary steps to provide the assistance.

(3) A public officer assisting a tax officer to perform a function shall be supervised by the tax officer.

No remuneration for complying or assisting with tax laws

6. (1) Unless expressly provided for in a tax law, a person is not entitled to remuneration or reimbursement of expenses from the Authority for complying with the provisions of a tax law.

(2) Subsection (1) does not apply to the remuneration of

(a) a tax officer, or

(b) an expert or other public officer that is assisting the Authority in the performance of its functions

as determined in accordance with this Act or otherwise by the Commissioner -General.

(3) Regulations may provide for rewards payable to persons

(a) assisting in the recovery of tax; or

(b) assisting with respect to discovery of an offence committed under a tax law, the conviction of an offender or the compounding of an offence.

(4) A person shall not recover a reward both under Regulations made under this Act and under the Whistleblower Act, 2006 (Act 720).

Official secrecy

7. (1) This section applies to

(a) a person who is employed or engaged by the Authority or, at the request of the Authority, provides assistance to the Authority; and

a person who was previously employed or engaged by, or requested to provide assistance to the Authority.

(2) A person shall regard as confidential, information or documents that by reason of the employment, engagement or assistance of that person, come into the possession of that person in connection with a tax law.

(3) A person may disclose information or documents referred to in subsection (2) to another person where

(a) the other person is currently employed or engaged by the Authority or assisting the Authority in the performance of a function;

(b) the disclosure is for the purposes of this Act or any other tax law; and

(c) the Commissioner-General has authorised the disclosure.

(4) The Commissioner-General may disclose information or documents to a court or tribunal only where necessary for the purpose of a tax law, or a law that expressly requires the Commissioner-General to disclose the information or documents.

(5) The Commissioner-General may disclose information or documents to

(a) the Minister;

(b) a person in the service of the Government in a revenue or statistical department where the disclosure is necessary for the performance of the official duties of the person;

(c) the Auditor-General or a person authorised by the Auditor-General where the disclosure is necessary for the performance of official duties; or

(d) the competent authority of the government of another country with which Ghana has entered into an international arrangement, to the extent permitted under that arrangement.

(6) A person, court, tribunal or authority receiving information or documents under this section is required to keep the information or document secret, except to the minimum extent necessary to achieve the purposes for which the disclosure is permitted.

(7) This section does not

(a) apply to information that may be published in relation to offenders under section 95; or

(b) prevent disclosure of information relating to a specific taxpayer to the taxpayer concerned or, with the taxpayer's written consent, to another person; or

(c) prevent disclosure of information not relating to a specific taxpayer, if the Commissioner-General has authorised the disclosure.

(8) A person who contravenes this section commits an offence and is liable on summary conviction to a fine of not less than one hundred penalty units and not more than one hundred and fifty penalty units or to a term of imprisonment of not less than six months and not more than one year or to both.

Accepting security

8. (1) The Commissioner-General may accept security for an obligation under a tax law on the terms and conditions specified by the Commissioner-General.

(2) The security referred to in subsection (1) may take the following forms:

(a) bank deposit or banker's draft;

(b) cash deposit or the equivalent of a cash deposit;

(c) bond or guarantee;

(d) undertaking by an authorised economic operator;

(e) charge, lien, mortgage or other fixed interest over property;
or

(f) a combination of paragraph (a) to (e).

(3) Security may be accepted for a specific obligation under a tax law or for multiple or continuing obligations under a tax law. .

(4) This section does not

(a) restrict the Commissioner-General from accepting a particular security for an obligation under a tax law; or

(b) prevent the Commissioner-General from seeking or requiring additional security.

(5) A security remains enforceable according to the terms of the security against a property or person despite any delay, extension, inactivity or other temporary failure on the part of the Commissioner- General to enforce the obligation.

Taxpayers

Tax and taxpayers

9. (1) For the purpose of this Act "tax" means a duty, levy, charge, rate, fee, interest, penalty or any other amount imposed by a tax law or to be collected by, or paid to, the Commissioner-General under a tax law.

(2) Without limiting subsection (1), tax includes

(a) withholding tax or an amount that should have been collected or withheld by a withholding agent;

(b) interest and penalties imposed by assessment under section 77;

(c) an amount required to be paid to the Commissioner- General from a tax debtor or taxpayer under section 98(4) or a taxpayer under section 52(5);

(d) an amount .required to be paid to the Commissioner- General by a third party in respect of a tax liability of another person under section 58(1) 59(4) or (7), 60(3) or 62(1) or (4); and

(e) an amount refunded in error that is recoverable under section 68(6).

(3) A taxpayer is a person liable to pay tax

(4) For the purpose of subsection (2)(d),

(a) the tax is a personal liability of the third party though contingent on the continuing tax liability of the other person;
and

(b) in the case of non-payment of the tax, section 46 to 62 and section 70 to 86 apply in the same manner as where the third party fails to pay any other tax due.

Identifying taxpayers and tax paid

10. (1) For the purpose of identification of tax payers and promoting tax compliance, the Commissioner-General shall maintain a system of

(a) taxpayer identification numbers; and

(b) tax clearance certificates. '

(2) The Minister may, by legislative instrument, make Regulations to provide for

(a) the integration of the taxpayer identification number system with a common numbering system for identification of persons by other public bodies;

(b) the coordinated joint administration of the taxpayer identification number or common numbering system by the Authority and other public bodies; and

(c) the delegation to a public body of the power conferred on the Commissioner-General with respect to the taxpayer identification number system.

Taxpayer Identification Number or Tax Clearance Certificate

11. (1) A person shall show the Taxpayer Identification Number of that person in any claim, declaration, notice, return, statement or other document used for the purpose of a tax law.

(2) Except where otherwise directed by the Commissioner- General in writing, an institution specified in the First Schedule shall request for

(a) a Taxpayer Identification Number from a person who conducts official business with that institution; or

(b) a Tax Clearance Certificate from a person applying for the matters or engaged in the transactions listed in column two of Part II of the First Schedule.

(3) A person shall, for the purpose of subsection (2), submit to the relevant institution the Taxpayer Identification Number or Tax Clearance Certificate of that person as applicable.

(4) An institution referred to in the First Schedule shall, upon a written notice from the Commissioner-General, furnish the Commissioner-General with a written statement specifying

(a) the value of transactions conducted by the institution during the period specified in the notice; and

(b) the names, addresses and taxpayer identification numbers of the persons with whom those transactions were conducted.

(5) A person who

(a) is not the holder of a Taxpayer Identification Number or a Tax Clearance Certificate, or

(b) has not been issued with a particular Taxpayer Identification Number

shall not represent to another person, including a tax officer, that that person has a Taxpayer Identification Number or a Tax Clearance Certificate.

Application for a Taxpayer Identification Number

12. (1) A person who is liable to pay tax or who conducts official business with an institution specified in paragraph (a) of the First Schedule shall apply to the Commissioner-General for a Taxpayer Identification Number.

(2) The Commissioner-General may require a person to apply for a Taxpayer Identification Number within a period determined by the Commissioner-General.

(3) Despite subsection (1), a person who is a holder of a Taxpayer Identification Number shall not apply for another Taxpayer Identification Number.

(4) An application for a Taxpayer Identification Number shall be

(a) in the prescribed form;

(b) accompanied by the prescribed documentary evidence of the identity of the applicant; and

(c) filed in the prescribed manner.

(5) A person who has applied for a Taxpayer Identification Number but has not been issued with a Taxpayer Identification Number shall notify the Commissioner-General in writing immediately of any changes in the details referred to in the application.

(6) Where the Commissioner-General refuses an application for a Taxpayer Identification Number, the Commissioner-General shall serve the applicant with written notice of refusal and reasons for the refusal within twenty-one days of receipt of the application.

Issue of Taxpayer Identification Number

13. (1) The Commissioner-General may issue a Taxpayer Identification Number to an applicant within twenty-one days of receiving an application.

(2) A Taxpayer Identification Number is issued when the Commissioner-General serves the person with a taxpayer identification number certificate.

(3) A Taxpayer Identification Number issued under this Act is not transferrable.

(4) A person may have only one Taxpayer Identification Number at a time and it shall be used for purposes of all the tax laws.

(5) The Commissioner-General shall not issue a Taxpayer Identification Number to a person unless the Commissioner-General is satisfied

(a) about the true identity of the applicant; and

(b) that the applicant does not have an existing Taxpayer Identification Number: .

Application for and issue of Tax Clearance Certificate

14. (1) A person may apply in writing to the Commissioner-General for a Tax Clearance Certificate.

(2) The applicant shall state the purpose for which the Tax Clearance Certificate is required.

(3) The Commissioner-General shall issue a Tax Clearance Certificate where the Commissioner-General is satisfied that the applicant

(a) has been issued with a Taxpayer Identification Number and the number is specified in the application;

(b) has no outstanding tax, returns or other obligations under any tax law; and

(c) has satisfied any other condition that the Commissioner- General may determine.

(4) A tax clearance certificate issued to an applicant shall indicate

(a) the name of the taxpayer;

(b) the Taxpayer Identification Number;

(c) the period for which the Tax Clearance Certificate applies, which may be a continuous period and with respect to that period, whether

(i) tax is due by the person;

(ii) arrangements have been made by the person for the payment of tax that are satisfactory to the Commissioner-General; or

(iii) the Commissioner-General is currently satisfied that the taxpayer is in good standing; and

(d) any limit on the purpose for which the Tax Clearance Certificate may be used.

(5) A Tax Clearance Certificate is valid only for the period and purposes specified in the Tax Clearance Certificate.

Cancellation, replacement or amendment of Taxpayer Identification Number or Tax Clearance Certificate

15. (1) The Commissioner-General may, where the Commissioner- General considers appropriate, by notice in writing, cancel a Taxpayer Identification Number or Tax Clearance Certificate issued to a person if

(a) the person identified in the Taxpayer Identification Number Certificate or Tax Clearance Certificate is fictitious;

(b) the person identified in the Tax Clearance Certificate does not accurately reflect the true identity of the person to whom the certificate was issued; or

(c) the person to whom the Taxpayer Identification Number or Tax Clearance Certificate was issued has another Taxpayer Identification Number or Tax Clearance Certificate.

(2) The Commissioner-General may replace a Taxpayer Identification Number or Tax Clearance Certificate that has been cancelled by issuing a new Taxpayer Identification Number in accordance with section 13 or a new Tax Clearance Certificate in accordance with section 14.

(3) The holder of a Taxpayer Identification Number shall notify the Commissioner-General in writing within fifteen days of a change in the details submitted in the application for the Taxpayer Identification Number.

(4) Pursuant to subsection (3), the Commissioner-General may, where the Commissioner-General considers appropriate and without cancelling a Taxpayer Identification Number, issue a person with an amended Taxpayer Identification Number Certificate.

Right to information

16. (1) A taxpayer is entitled, upon request, to receive information from the Authority in relation to the outstanding obligations of the taxpayer under a tax law.

(2) Where the Authority fails to comply with subsection (1) the failure shall not affect any obligation of the taxpayer.

Right to representation

17. (1) A taxpayer or an entity has the right to be represented in dealings with the Authority.

(2) The Commissioner-General may prescribe

(a) conditions to be met by representatives; and

(b) the form to be used by a taxpayer when appointing a representative.

(3) The Authority is not obliged to communicate with a taxpayer through the representative of the taxpayer unless the Authority has received a duly executed form appointing a representative who meets the prescribed conditions. .

(b) the person identified in the Tax Clearance Certificate does not accurately reflect the true identity of the person to whom the certificate was issued; or

(c) the person to whom the Taxpayer Identification Number or Tax Clearance Certificate was issued has another Taxpayer Identification Number or Tax Clearance Certificate.

(2) The Commissioner-General may replace a Taxpayer Identification Number or Tax Clearance Certificate that has been cancelled by issuing a new Taxpayer Identification Number in accordance with section 13 or a new Tax Clearance Certificate in accordance with section 14.

(3) The holder of a Taxpayer Identification Number shall notify the Commissioner-General in writing within fifteen days of a change in the details submitted in the application for the Taxpayer Identification Number.

(4) Pursuant to subsection (3), the Commissioner-General may, where the Commissioner-General considers appropriate and without cancelling a Taxpayer Identification Number, issue a person with an amended Taxpayer Identification Number Certificate.

Right to information

16. (1) A taxpayer is entitled, upon request, to receive information from the Authority in relation to the outstanding obligations of the taxpayer under a tax law.

(2) Where the Authority fails to comply with subsection (1) the failure shall not affect any obligation of the taxpayer.

Right to representation

17. (1) A taxpayer or an entity has the right to be represented in dealings with the Authority.

(2) The Commissioner-General may prescribe

(a) conditions to be met by representatives; and

(b) the form to be used by a taxpayer when appointing a representative.

(3) The Authority is not obliged to communicate with a taxpayer through the representative of the taxpayer unless the Authority has received a duly executed form appointing a representative who meets the prescribed conditions. .

Tax consultants

Prohibition on representation and tax advice

18. (1) For purposes of this Act, only a person who is an approved tax consultant may

(a) represent a taxpayer;

(b) provide advice primarily regarding the interpretation or effect of a tax law; or

(c) prepare a tax return, appeal or other document under a tax law.

(2) A person who is not an approved tax consultant shall not

(a) represent that that person is a tax consultant; or

(b) charge fees to offer assistance with respect to the matters referred to in subsection (1).

(3) Subsections (1) and (2) do not apply to a lawyer performing legal work in relation to a tax law.

Regulation of approved tax consultants

19. The Minister may, by legislative instrument, make Regulations to

(a) provide for the registration and deregistration of approved tax consultants and the conduct of the activities of approved tax consultants; or

(b) require an approved tax consultant or a lawyer to report an arrangement to the Commissioner-General where the tax consultant or lawyer promotes or participates, whether directly or through another person, in an arrangement that may result in a benefit in relation to tax to that person.

OFFICIAL COMMUNICATION AND DOCUMENTATION

Official language

20. (1) English is the official language of this country and the Authority may refuse to recognise a communication or document that is not in the official language.

(2) Where a communication or document that is not in the official language is relevant in applying a tax law to a taxpayer, the Commissioner-General may, require the taxpayer to provide a translation of the communication or document into the official language.

(3) A request under subsection (2) shall be in writing and served on the taxpayer.

(4) For the purpose of subsection (2), a taxpayer shall use a translator approved by the Commissioner-General and shall bear the cost of the translation.

(5) Where a taxpayer fails to comply with subsection (2), the Commissioner-General may have the communication or document translated at the cost of the taxpayer.

Official currency

21. (1) The Cedi is the official currency for purposes of the tax laws and, subject to any provision in a tax law to the contrary, every amount taken into account under a tax law is to be denominated in or converted into Cedis.

(2) The conversion of a foreign currency amount into Cedis shall be at the Bank of Ghana inter-bank exchange rate applying on the date the amount is to be taken into account under the tax law in question.

(3) Despite subsection (1), the Commissioner-General may, on a written application, require a person to take a foreign currency amount into account for the purpose of keeping of records and submission of accounts or any other tax transaction under a tax law.

(4) A requirement of the Commissioner-General under subsection (3) may

(a) be by way of practice note;

(b) apply to one or more tax laws and for one or more periods; and

(c) be subject to conditions that the Commissioner-General determines.

(5) **In** exercising the discretion under subsection (3), the Commissioner-General shall take into consideration the volume of foreign currency activities conducted by the person.

(6) The Commissioner-General may, by notice in writing and for reasonable cause, revoke a requirement under subsection (3).

(7) **In** this section, an amount is to be taken into account under a tax law on the date the amount accrues, or is received, derived, incurred, paid or otherwise to be taken into account for purposes of the tax law in question.

Forms and notices

22. (1) The Commissioner-General may, prescribe the forms, notices and other documents required under a tax law.

(2) A person shall use a prescribed form when filing a document with the Commissioner-General or when a form is otherwise required for the purpose of a tax law.

(3) The Commissioner-General shall make the forms available to the public

(a) at the offices of the Authority;

(b) on the website of the Authority; and

(c) at any other location or by any other medium that the Commissioner-General may determine.

Authorised or defective documents

23. (1) A document issued by the Commissioner-General under a tax law is sufficiently authenticated if the name or title of the Commissioner-General, or authorised tax officer, is

(a) in the case of a paper document, signed, printed, stamped or written on the document; or

(b) in the case of an electronic document, imbedded in the document by way of electronic signature.

(2) A document issued under a tax law is not invalid or defective if (a) the document is in substance and effect, in conformity with the tax law; and

(b) the person to whom the document is addressed or to whom the document applies is designated in the document according to common understanding.

(3) The Commissioner-General may amend a document issued to a person under a tax law if the document contains a defect.

(4) Despite subsection (3), where the defect involves a dispute in relation to the interpretation of a tax law or facts involving a particular person, the Commissioner-General shall not amend the part of the document that contains the defect.

(5) The Commissioner-General may amend a practice note, private ruling or class ruling, but only in accordance with section 102 or 106, as the case requires.

Paper documents filed with the Commissioner-General

24. (1) A paper document is filed with the Commissioner-General under a tax law if the document is

(a) delivered to an office of the Authority; or

(b) sent by post to an office of the Authority.

(2) A paper document is received by the Commissioner-General

(a) when the document is posted, as long as it is received in an office of the Authority within a reasonable time; or

(b) in any other case, when the Authority acknowledges receipt by stamping.

Service of paper documents

25. (1) The Commissioner-General sufficiently serves a paper document on a person under a tax law if the document is

(a) handed to the person or, in the case of an entity, to a manager of the entity;

(b) left at or sent by post to the usual or last known place of abode, business, office, post office box or other address of the person; or

(c) sent by registered post addressed to the usual or last known place of abode, business, office, post office box or other address of the person.

(2) For the purpose of subsection (1), the address of a person includes

(a) the address specified in the Taxpayer Identification Number Certificate of that person; or

(b) any conveyance to which the person belongs or has lately belonged.

(3) A document is considered served at the following time:

(a) in the case of service by handing the document to the person or leaving at a place, at the time of handing or leaving;

(b) in the case of service by registered post, at the time the document is delivered or the person is informed that the document awaits collection by the person;

(c) in the case of other service by post to an address within the country, ten days after posting; and

(d) in the case of other service by post to an address outside of the country, the time at which the document would normally be delivered in the ordinary course of post.

Electronic document system

26. (1) The Commissioner-General may establish and operate a system for

(a) electronic filing of documents;

(b) electronic service of documents;

(c) electronic payments by persons; and

(d) the issuance of tax clearance certificates by electronic means.

(2) For purposes of subsection (1), the Commissioner-General may prescribe rules concerning

(a) registration of persons who are required to participate in the electronic document system, including issue and cancellation of authentication codes;

(b) types of documents that may be transmitted through the electronic document system, including format and manner of transmission and the issue and cancellation of document registration numbers;

(c) resolution of difficulties, including correction of errors, amendment of documents and procedure on breakdown or interruption of the electronic document system;

(d) secrecy to be maintained, whether by persons using the electronic document system on their own behalf or using the system on behalf of other persons;

(e) accessibility of the electronic tax clearance certificates to the public bodies specified in the First Schedule; and

(j) any other matter necessary for the effective administration of the electronic document system, including those referred to in section 26(2) of the Electronic Transactions Act, 2008 (Act 772).

(3) An electronic document is considered filed by a person and received by the Commissioner-General under a tax law when a document registration number is created using the authentication code of that person.

(4) An electronic document is considered served on a person by the Commissioner-General under a tax law when a document registrations number is created and the document can be accessed using the authentication code of that person.

(5) The Commissioner-General may authorise a printed document as a copy of an electronic document filed under subsection (3) or served under subsection (4).

(6) In a proceeding before a court or tribunal, a copy of an electronic document authorised under subsection (5) is conclusive evidence of the nature and contents of that electronic document, unless the contrary is proved.

RETENTION AND PROVISION OF INFORMATION

Maintaining Documents

Maintaining documents

27. (1) A person shall maintain, within the country, necessary records

(a) to provide information in respect of documents to be filed with the Commissioner-General under a tax law;

(b) to enable an accurate determination of tax payable under a tax law; and

(c) that may be prescribed by Regulations or by the Commissioner -General.

(2) For the purpose of subsection (1), necessary records include underlying documents, however described in the nature of receipts, invoices, vouchers, contracts or in the case of electronic records, any medium by which the information can be extracted.

(3) A document referred to in subsection (1) shall be retained for a period of at least six years from the relevant date or for the following period whichever is longer:

(a) where a person objects to a tax decision or appeals against a tax decision, a document relevant to the matter in dispute shall be retained until the matter is decided and the decision executed;

(b) where a person makes an application to the Commissioner- General, a document relevant to the application shall be retained until the application is determined;

(c) where a person seeks a refund of tax, a document relevant to calculation of the refund shall be retained until the refund is made; and

(d) where a person has received notice of an investigation by the Commissioner-General, a document relevant to the investigation shall be retained until the Commissioner-General notifies the person in writing that the investigation is completed.

(3) Despite subsections (1) and (2), the Commissioner-General may, by service of a notice in writing

(a) relieve a person of the obligation to maintain documents or the time for which they are to be retained but only to the extent specified in the notice; or

(b) require a person to retain documents described with reasonable certainty in the notice for a period specified in the notice.

(4) Subsection (3) (b) applies whether or not the documents pertain to the tax affairs of that person.

(5) In this section, "relevant date" in relation to a document means

(a) in the case of income tax, the end of the year of assessment or years of assessment for which the document is relevant;

(b) in the case of value added tax, the end of the accounting \period or periods for which the document is relevant; and

(c) in the case of other taxes, the last date on which the taxpayer is obliged to file a tax return or other document with the Commissioner-General for which the document is relevant.

Provision of Information

Tax returns

28. (1) A tax return to be filed by an individual shall be signed by the individual and shall have a declaration to the effect that the return is complete and accurate.

(2) A tax return to be filed by an entity shall be signed by a duly authorised manager of the entity and shall have a declaration to the effect that the return is complete and accurate.

(3) The Commissioner-General may, by notice, require a person to file a tax return if before the date for filing of tax returns

(a) the person becomes bankrupt, is wound-up or goes into liquidation; or

(b) the Commissioner-General believes on reasonable grounds that the person

- (i) is about to leave the country indefinitely;
 - (ii) is otherwise about to cease activity or business in the country; or
 - (iii) has committed an offence under a tax law; or
- (c) the Commissioner-General considers it appropriate, including where the person fails to maintain adequate documentation as required under section 27.
- (4) The notice shall be in writing and served on the person specifying
- (a) the period, part of a period or other event to be covered by the tax return; and
 - (b) the date by which the return is required to be filed.

Assistance in preparing tax return

29. (1) A person who, for remuneration, prepares or assists in the preparation of a tax return or an attachment to a tax return, for another person shall sign the return and

- (a) specify the extent to which the person has examined the relevant documents of the other person maintained under section 27 and the nature of the documents examined, and
- (b) certify that to the best of the knowledge of that person, the return or attachment presents a true and fair view of the circumstances to which the return or attachment relates.

(2) Subsection (1) does not apply to an employee of the person obliged to file the tax return.

(3) Where a person objects to signing a tax return as required under subsection (1), that person shall

- (a) submit to the other person a written statement of the reasons for the objection; and
- (b) sign the return noting that the signature is subject to the statement submitted under paragraph (a).

(4) The statement submitted under subsection (3) (a) shall be attached to and filed with the return.

Extension of time to file tax return

30. (1) A person who is required to file a tax return under a tax law may apply to the Commissioner-General for an extension of time to file the return.

(2) An application under subsection (1) shall

(a) be in writing;

(b) state the reasons for the request for extension; and

(c) be made before the due date for filing the return.

(3) The Commissioner-General may, by written notice, extend the date by which the return is to be filed if the Commissioner-General is of the opinion that the applicant has shown reasonable cause for the extension.

(4) An extension granted under this section may be subject to the terms and conditions that the Commissioner-General considers appropriate, including the payment of security.

(5) The Commissioner-General may grant multiple extensions but the extensions shall not in total exceed sixty days from the date the return was originally to be filed.

(6) The grant of an extension of time under this section does not alter the date for payment of tax as specified in the tax law under which the return is to be filed.

Failure to file tax return on time

31. (1) Where a person fails to file a tax return by the due date required by a tax law the Commissioner-General may, for the purpose of section 35, appoint another person to prepare and file any information that the Commissioner-General may require, including information required by the return.

(2) The Commissioner-General shall make an assessment of the tax liability of the person as required by the tax law, including by way of adjusted assessment, and for this purpose may use any information in the possession of the Commissioner-General including information obtained under subsection (1).

(3) A tax return filed after the due date or in a manner other than that specified in the relevant tax law has no effect on a tax decision of the Commissioner-General, including an assessment made under subsection (2).

(4) Despite subsection (3) the Commissioner-General shall take a tax return into account in deciding whether or not to issue an adjusted assessment.

Correction of tax returns and other information

32. (1) If the Commissioner-General is not satisfied with a tax return filed under a tax law, the Commissioner-General shall use appropriate powers, including those specified under section 33 to 36 to obtain further information as is necessary to make an assessment.

(2) A person shall not amend or correct a tax return filed with the Commissioner-General after the due date for filing the return without the permission of the Commissioner-General.

(3) Where a person discovers that information submitted to the Commissioner-General in a tax return is incorrect or misleading in any material particular, the person shall submit further information to the Commissioner-General in respect of the matter.

(4) The Commissioner-General may take into account information received under subsection (3) in making an assessment or adjusted assessment.

Access to information and assets

33. (1) For the purpose of a tax law, the Commissioner-General shall for reasonable cause, have without prior notice, full and free access to premises, documents or assets

(a) in the case of a dwelling house, conveyance or public premises or where a document or asset is located in a dwelling house or public premises

(i) between 6:00 a.m. and 6:00 p.m.; and

(ii) at other times as permitted by an order of a magistrate under section 88; or

(b) in any other case, at all times.

(2) The power of the Commissioner-General under subsection (1) may be delegated to and exercised only by a tax officer who is specifically authorised in writing by the Commissioner-General for this purpose.

(3) The Commissioner-General or an authorised tax officer may, for the purpose of subsection (1)

(a) make an extract or copy of any document to which access is obtained including an electronic copy;

(b) seize any document that; in the opinion of the Commissioner-General or the authorised tax officer may be used as evidence

(i) in determining the tax liability of a person under a tax law; or

(ii) to show that an offence has been committed under a tax law;

(c) where a document is not available or a copy is not provided on request by a person having access to the document, seize an asset that the Commissioner-General or authorised tax officer reasonably suspects contains the document or stores the document in any form;

(d) in the case of premises used for business purposes, inspect stock including opening the packaging and taking of samples; and

(e) park, moor or store at any premises or place a vehicle or other equipment in use by the Commissioner-General or authorised tax officer.

(4) Any document, asset or sample seized under subsection (3) shall be signed for by the Commissioner-General or authorised tax officer and may be

(a) retained for six months in the case of a document seized under subsection (3)(b);

(b) retained for up to one month in the case of an asset seized under subsection (3)(c) but a document obtained from that asset may be retained for six months; and

(c) retained or disposed of in the manner directed by the Commissioner-General in the case of samples.

(5) The Commissioner-General may extend the periods referred to in subsection

(4) (a) and (b), but the extension shall not exceed twelve months from the date the document or asset is seized.

(6) An authorised tax officer exercising power under this section may be assisted and accompanied by an employee of the Authority, an expert appointed under section 4 or a public officer assisting under section 5.

(7) A person assisting or accompanying an authorised tax officer shall be authorised for the purpose and supervised by the authorised tax officer.

(8) This section has effect despite a provision in an enactment relating to confidentiality, privilege or the public interest with respect to the production of, or access to, the document.

Rights and obligations of possessor

34. (1) A possessor of any premises, place, document or asset to which an authorised tax officer seeks or obtains access under section 33 may request the tax officer to produce the authorisation for the access.

(2) Where a tax officer fails to comply with a request under subsection (1), the possessor may refuse the tax officer access or require the tax officer to leave the premises or place or return the documents or assets to which the tax officer has obtained access.

(3) A possessor of any premises, place, document or asset shall provide reasonable facilities and assistance to enable the Commissioner-General or an authorised tax officer to perform functions specified under section 33.

(4) The failure of a possessor to comply with subsection (3) shall be considered a risk to the collection of tax for the purpose of an application under section 88.

(5) The owner of a document retained under section 33(4)(a) or (b) may examine and make copies or extracts of the document at the expense of the owner during office hours under the supervision of a tax officer as determined by the Commissioner-General.

(6) Where a document, asset or sample is lost, damaged or otherwise disposed of as a result of the exercise of a power under section 33, the Commissioner-General shall pay the owner a reasonable compensation as determined by the Commissioner-General.

Notice to obtain information

35. (1) The Commissioner-General may, by notice in writing, require a person, including a public official, whether or not liable to tax

(a) to furnish, including by way of creation of a document, within the time specified in the notice, information that is described with reasonable certainty in the notice;

(b) to attend at the time and place designated in the notice for the purpose of being examined on oath by the Commissioner-General or by a tax officer authorised in writing by the Commissioner-General concerning the tax affairs of the person or any other person; or

(c) to produce, at an examination of the person under paragraph (b), documents in the control of the person that are described with reasonable certainty in the notice.

(2) A notice issued under this section shall be served by delivery of a copy of the notice to the person to whom it is directed or leaving the notice at the last and usual place of business or abode of that person.

(3) A person to be examined on oath under subsection (1)(b) is entitled to legal or other representation.

(4) The Commissioner-General may exercise the power in subsection (1) in conjunction with the power in section 33.

(5) This section has effect despite a provision in an enactment relating to confidentiality, privilege or the public interest with respect to the production of documents or access to documents.

Audit

36. (1) The Commissioner-General may, in the exercise of powers under this Act, including sections 33 and 35, audit the tax affairs of a person.

(2) The Commissioner-General may select a person for an audit having regard to

(a) the history of the person with respect to compliance or non-compliance with tax laws;

(b) the amount of tax payable by the person;

(c) the class of business or other activity conducted by the person;

(d) criteria developed under a compliance management plan, which may include random selection of returns for audit; or

(e) other matters that the Commissioner-General considers relevant for ensuring the collection of tax due.

(3) A person who has been audited may be re-audited if there are reasonable grounds, particularly having regard to the matters referred to in subsection (2).

(4) The Commissioner-General shall give an advance written notice to the person of an audit under this section.

(5) An audit may be conducted for the purpose of more than one tax law.

PRIMARY TAX LIABILITY

Assessment

37. (1) Assessment of tax is made by way of

(a) self-assessment, where a person is obliged to file a tax return; and

(b) the Commissioner-General making an assessment in other cases, including where a self-assessment is adjusted.

(2) Where a person fails to file a tax return on time, the Commissioner-General may, using best judgment and information reasonably available to the Commissioner-General, assess the person.

(3) The Commissioner-General may adjust an assessment.

(4) The Commissioner-General may make an assessment at any time, including an adjusted assessment where the Commissioner-General discovers a case of fraud, wilful default or serious omission by or on behalf of a taxpayer.

(5) Subject to subsection (4), the power of the Commissioner-General to make

(a) an original assessment expires six years from the date on which the Commissioner-General was first entitled to make the assessment;

(b) an adjusted assessment expires six years from

(i) the due date for filing the tax return that gives rise to the assessment or, if later, the date the tax return is filed where a self-assessment is adjusted;

(ii) the date on which the Commissioner-General serves the notice of assessment on the taxpayer where any other original assessment is adjusted; or

(iii) the date referred to in subparagraph (i) or (ii) in respect of the original assessment that is adjusted where an adjusted assessment is adjusted.

(6) An assessment made under this section is treated as an assessment made under the tax law that charges the person or subject matter assessed.

Pre-emptive assessment and security

38. (1) The Commissioner-General may, in the circumstances specified in section 28 (3), make a pre-emptive assessment of tax payable or to become payable by a person under a tax law whether or not the person is required to file a tax return.

(2) The Commissioner-General may, instead of making a preemptive assessment, accept from a person security for outstanding and future tax liabilities as the Commissioner-General considers appropriate.

(3) The Commissioner-General shall use best judgement and information reasonably available in making a pre-emptive assessment or fixing the amount of security.

(4) A pre-emptive assessment may be for a period or with respect to an event or subject matter that the Commissioner-General may specify in the notice of assessment.

(5) Unless the Commissioner-General specifies otherwise in the notice of assessment, a pre-emptive assessment does not relieve a person from the obligation to file a tax return or otherwise report a taxable event as required by a tax law.

(6) The filing of a tax return, including where the filing of the return results in a self-assessment, does not affect a pre-emptive assessment.

(7) A tax paid with respect to a pre-emptive assessment is credited against tax payable with respect to a self-assessment that covers the same period, event or tax.

Adjusted assessment

39. (1) The Commissioner-General may adjust an assessment in a manner that ensures that the taxpayer is liable for the correct amount of tax in the circumstances to which the assessment relates.

(2) The Commissioner-General shall use best judgement and information reasonably available in making an adjusted assessment.

(3) The Commissioner-General shall not adjust an assessment that has been adjusted pursuant to a decision of a court unless the decision is vacated.

(4) An assessment ceases to have effect to the extent to which it is adjusted.

Notice of assessment

40. (1) Where the Commissioner-General makes an assessment under a tax law, the Commissioner-General shall serve a written notice of the assessment on the taxpayer.

(2) In addition to any requirement of the tax law in question, the

Commissioner-General shall, in the notice of assessment, state

(a) the name of the taxpayer;

(b) the Taxpayer Identification Number of the taxpayer;

(c) the assessment by the Commissioner-General of the tax payable by the taxpayer for the period, event or matter to which the assessment relates;

(d) the amount of tax remaining to be paid after any relevant credits, reductions or pre-payments;

(e) the manner in which the assessment is calculated;

(f) the reason why the Commissioner-General has made the assessment;

(g) the date by which the tax is to be paid; and

(h) the time, place and manner of objecting to the assessment.

DISPUTE RESOLUTION

Tax decisions

41. (1) A "tax decision" is a decision made by the Commissioner- General under a tax law, including an assessment or omission, but does not include

(a) a practice note, class ruling, or private ruling;

(b) a decision or omission to issue, refuse or revoke a practice note, class ruling or private ruling;

(c) a decision or omission that affects a person only as a tax officer or employee or agent of the Authority;

(d) a decision or omission of the Commissioner-General, including an objection decision under section 43; or

(e) a decision to compound an offence under a tax law.

(2) A tax decision is made

(a) in the case of an assessment made by the Commissioner-General, when the notice of assessment is served on the taxpayer; and

(b) in the case of any other tax decision, when the Commissioner-General serves the affected person with written notice of the decision.

(3) In the absence of the notice referred to in subsection (2)(b), a person may elect to treat the Commissioner-General as having made an unfavourable tax decision, if .

(a) the tax law specifies a time by which the Commissioner-General is to make a decision and that time expires; or

(b) a time frame is not specified in the tax law and ninety days have elapsed after the affected person files a request for the Commissioner-General to make the decision.

(4) The following are conclusive evidence that a tax decision has been made and is correct:

(a) in the case of a self-assessment, the tax return that resulted in the assessment or a document under the hand of the Commissioner-General purporting to be a copy of the tax return;

(b) in the case of other assessments, the notice of assessment or a document under the hand of the Commissioner-General purporting to be a copy of the notice; and

(c) in the case of any other tax decision, written notice of the decision under the hand of the Commissioner-General or a document under the hand of the Commissioner-General purporting to be a copy of the decision.

(5) For the purpose of this section, a reference to the Commissioner-General making a decision includes the Commissioner-General exercising a discretion, making a judgement, giving a direction, expressing an opinion, granting an approval or consent, or being satisfied in respect of a matter.

Objection to a tax decision

42. (1) Subject to a tax law to the contrary, a person who is dissatisfied with a tax decision that directly affects that person may lodge an objection to the decision with the Commissioner-General within thirty days of being notified of the tax decision.

(2) An objection to a tax decision shall be in writing and state precisely the grounds upon which the objection is made.

(3) A person may, before the expiration of the period specified in subsection (1), apply in writing to the Commissioner-General for an extension of time to file an objection.

(4) Where the Commissioner-General is satisfied that there are reasonable grounds for the extension, the Commissioner-General may grant the application for extension and shall serve notice of the decision on the applicant.

(5) An objection against a tax decision shall not be entertained unless the person has

(a) in the case of import duties and taxes, paid all outstanding taxes including the full amount of the tax in dispute; and

(b) in the case of other taxes, paid all outstanding taxes including thirty percent of the tax in dispute.

(6) Despite subsection (5) the Commissioner-General may waive, vary or suspend the requirements of subsection (5) pending the determination of the objection or take any other action that the Commissioner-General considers appropriate including the deposit of security.

(7) The Commissioner-General shall consider the need to maintain the integrity of the dispute resolution procedure and the need to protect Government revenue and the integrity of the tax system as a whole in exercising a discretion under subsection (6).

(8) A tax decision to which an objection is not made within thirty days is final.

(9) In this section, "tax decision" means the tax decision objected to, as may have been amended by an objection decision.

Objection decision

43. (1) After consideration of an objection, the Commissioner-General may vary the tax decision in whole or in part or disallow the objection.

(2) The Commissioner-General shall, within sixty days of receipt of an objection, serve the objector with a notice of the decision including the reasons for the decision.

(3) Where the Commissioner-General does not serve the person with notice of the decision within sixty days, the person may, by notice in writing to the Commissioner-General, elect to treat the Commissioner-General as having made a decision to disallow the objection.

(4) A decision is made in respect of an objection

(a) on the date the person is served with notice of the decision; or

(b) if a person makes an election under subsection (3), thirty days from the date the person files the election with the Commissioner-General.

(5) A notice served on a person in respect of an objection is conclusive evidence that a decision has been made and is correct.

Appeal against objection decision

44. A person who is dissatisfied with a decision of the Commissioner- General may appeal against the decision to the Court within thirty days of the decision.

Effect of Appeal

45. An appeal against an objection decision does not operate as a suspension of the objection decision.

PAYMENT AND RECOVERY OF TAX

Regular Payment of Tax

Time for paying tax

46. (1) Tax is payable at the time specified in the tax law under which the tax is charged.

(2) Despite subsection (1) tax is payable

(a) in the case of tax payable on assessment under section 37 or 38, on the date specified in the notice of assessment served under section 40;

(b) in the case of tax payable on an adjusted assessment under section 39, thirty days from the date on which the person assessed is served with a notice of assessment under section 40;

(c) in the case of interest and penalties, on the date specified in the notice of assessment served under section 77;

(d) with respect to amounts required to be paid to the Commissioner-General under sections 52(5), 60(3) or 62(1) or (4), on the date set out in the relevant notice;

(e) with respect to a liability under section 58(1), at the same time as the tax is payable by the entity;

(f) with respect to amounts required to be paid to the Commissioner-General under section 59(4) or (7), seven days after the sale from which the amount is set aside or the failure to set aside, respectively; or

(g) with respect to recovery of an amount refunded in error under section 68(6), seven days after the Commissioner- General serves notice requiring payment of the amount.

(3) Subject to section 42(6) , tax remains payable despite any dispute or review proceedings, irrespective of whether the proceedings are administrative, judicial, quasi-judicial or appellate in nature.

Extension of time for paying tax

47. (1) A taxpayer may apply, in writing, to the Commissioner- General for an extension of time to pay tax under a tax law.

(2) On receipt of an application under subsection (1), the Commissioner-General may, where good cause is shown,

(a) extend the date on which the tax or part of the tax is payable on the terms and conditions that the Commissioner- General considers appropriate including the deposit of security; and

(b) notify the applicant in writing of the decision.

(3) A taxpayer may re-apply to the Commissioner-General before the end of the extension period but an extension of time to pay tax shall not exceed twelve months in aggregate.

(4) Where an extension is granted and the taxpayer is permitted to pay by instalments and the taxpayer defaults in paying any of the instalments, the whole balance of the tax outstanding becomes payable immediately.

Manner of paying tax

48. (1) The Minister may, by legislative instrument, make Regulations to prescribe

(a) the manner and form in which tax is to be paid;

(b) the procedure by which banks may be approved to accept payment of tax, including

(i) the form of payments that approved banks may accept; and

(ii) the manner in which approved banks shall account to the Commissioner-General for tax received;

(c) limits on the quantum of tax that may be paid and the form of payments that may be accepted at particular offices of the Authority; and

(d) the form of payment that may be accepted at particular offices of the Authority.

(2) Where a cheque tendered in payment of tax is dishonoured, the payment is ineffective and the Commissioner-General may use all available powers to recover the tax.

Order of paying tax

49. (1) This section applies where a taxpayer is liable to pay

(a) more than one type of tax under a tax law; or

(b) more than one type of tax under more than one tax law, and the taxpayer makes payment that is less than the total amount of tax outstanding in each circumstance.

(2) Despite any system established by the Commissioner-General under section 50, where this section applies, the Commissioner-General may determine which amount of tax is considered paid.

Electronic tax accounts

50. (1) The Commissioner-General may establish and operate an electronic system of taxpayer tax accounts.

(2) The system may be established and operated separately or as part of the electronic document system established under section 26.

(3) For this purpose, the Commissioner-General may prescribe

Rules for

(a) the debiting of tax when it becomes payable;

(b) the crediting of tax paid;

(c) the allocation of tax paid against tax payable; and

(d) other matters of the type described in section 26 (2).

Recovery of Tax from Taxpayer

Tax as debt due to Government

51. (1) Tax is a debt due to the Government on the date it becomes payable.

(2) The Commissioner-General may initiate proceedings in court for the recovery of unpaid tax as well as the cost of the suit.

Creation and extent of charge over assets

52. (1) Where a taxpayer fails to pay tax on the due date, the Commissioner-General may create a charge in favour of the Government over an asset owned by the taxpayer by serving the taxpayer with a notice in writing specifying

(a) the name of the taxpayer;

(b) the Taxpayer Identification Number of that taxpayer;

(c) the asset charged and the extent of the charge;

(d) the tax or taxes to which the charge relates; and

(e) the power of the Commissioner-General to take possession and sell the assets as specified under sections 53 and 54.

(2) A charge created over an asset under this section does not have effect until

(a) in the case of land or a building, the Commissioner- General files an application to register the charge with the Chief Registrar of Lands; or

(b) in any other case, the notice creating the charge is served on the taxpayer.

(3) Where the Commissioner-General creates a charge over an interest in land or a building, the Chief Registrar of Lands shall register the charge on the title of the interest in the land or building.

(4) The assets of a taxpayer are charged to the extent of the unpaid tax, interest accruing with respect to that tax under section 54 and cost of charge and sale of the charged assets.

(5) The Commissioner-General may, at any time, serve on a taxpayer a notice in writing

(a) specifying the cost of charge and sale of charged assets incurred by the Commissioner-General prior to the date of service; and

(b) requiring the taxpayer to pay the cost to the Commissioner- General by the date specified in the notice.

Taking possession of charged assets

53. (1) A taxpayer shall not deal or purport to deal with a charged asset once the Commissioner-General takes possession of the asset.

(2) The Commissioner-General takes possession of a charged asset by serving the taxpayer with a notice in accordance with subsection (3) and

(a) physically securing possession of the asset, in the case of tangible charged assets; and

(b) making the notice publicly available in the case of intangible charged assets.

(3) A notice served under subsection (2) shall specify (a) the name of the taxpayer;

(b) the Taxpayer Identification Number of the taxpayer;

(c) the charged asset and the intention of the Commissioner- General to sell the assets as well as the proposed method and time of sale;

(d) in the case of tangible charged assets, the manner in which the Commissioner-General will take physical possession of the asset and the place at which the asset will be taken; and

(e) that the taxpayer may no longer deal with the charged asset without the written consent of the Commissioner-General.

(4) The notice may be incorporated in or attached to the notice of creation of the charge under section 52 (1).

(5) Where the Commissioner-General decides to take physical possession of tangible assets under this section the following rules apply:

(a) the Commissioner-General may exercise the power either directly or indirectly through an authorised agent at any time after the notice is served;

(b) where the assets are currently in the possession of a person other than the taxpayer, the Commissioner-General shall serve that person with a copy of the notice prior to taking possession;

(c) the Commissioner-General may, using reasonable force, enter at any time premises or place described in the notice and may request the assistance of the police for the purpose of taking possession;

(d) the Commissioner-General shall provide the taxpayer with an inventory of assets seized at the time of taking possession; and

(e) in the case of movable assets, the Commissioner-General may store the assets, at the cost of the taxpayer, at a place that the Commissioner-General considers appropriate.

(6) The Commissioner-General shall return an asset secured under this section

(a) immediately, where the charge is released under section 55; and

(b) in any other case, within .sixty days of taking possession, unless within that period, the asset is sold under section 54.

(7) The return of an asset under subsection (6) (b) does not release the charge over that asset, but the Commissioner-General may not retake possession of the asset for sixty days.

Sale of charged assets

54. (1) The sale of a charged asset under this section shall be by public auction.

(2) Where the Commissioner-General takes possession of a charged asset under section 53 and decides to sell the asset, the following rules shall apply:

(a) the Commissioner-General shall issue a public notice of sale before selling the charged asset;

(b) the sale shall be carried out

(i) in the case of an interest in land or a building, thirty days after taking possession;

(ii) in the case of a perishable movable asset, within twenty-four hours after taking possession;
and

(iii) in the case of any other asset, ten days after taking possession.

(3) The Commissioner-General may exercise the power of sale

(a) either directly or indirectly through an authorised agent;
and

(b) without a court order.

(4) Subsection (2) is not applicable where the Commissioner-General sells charged assets with the consent of the taxpayer.

(5) Where the Commissioner-General sells a charged asset, the sale proceeds shall be utilised in the following order:

(a) first, for the cost of charge and sale of the asset;

(b) second, for the outstanding tax and interest accrued with respect to that tax under section 71;

(c) third, any other unpaid tax; and

(d) the remainder to the taxpayer.

(6) The Commissioner-General shall, after applying the sale proceeds in accordance with subsection (5), serve the taxpayer with a written notice within fourteen days of the sale specifying the manner in which the sale proceeds were applied.

(7) The taxpayer may, within ninety days of receipt of the notice under subsection (6), apply to the Commissioner-General for the return of the remainder 'of the sale proceeds, if any.

(8) Where the sale proceeds are insufficient to pay the full amount secured by the charge, the Commissioner-General may proceed to collect the amount outstanding in accordance with the procedure for the recovery of tax from a taxpayer or from third parties.

(9) This section does not restrict the exercise of rights that the Commissioner-General has under another security, whether over the same or a different asset.

Release of charge over assets

55. (1) A charge created under section 52 is released when

(a) the Commissioner-General sells the asset in accordance with section 54; or

(b) the taxpayer pays to the Commissioner-General the full amount secured by the charge.

(2) Where a charge over an interest in land or a building is released

(a) the Commissioner-General shall, within seven days of the release, lodge the release with the Lands Commission; and

(b) the Executive Secretary of the Lands Commission shall remove the entry of the charge from the title of the interest in the land or the building within seven days from the date the Commissioner -General lodged the release.

Restraint of person

56. (1) Where a person fails to pay tax on the due date and the Commissioner-General has reason to believe that the person may leave the country, the Commissioner-General may, by notice in writing, request the Comptroller-General of Immigration to prevent the person from leaving the country.

(2) The Comptroller-General of Immigration shall, on receiving the notice under subsection (1), prevent the person from leaving the country for a period of seven days from the time the notice is served on the Comptroller-General of Immigration.

(3) The Commissioner-General shall withdraw the notice if the person pays the tax or arranges to pay the tax in a manner satisfactory to the Commissioner-General.

(4) The High Court-may, on an application by the Commissioner- General, extend the period referred to in subsection (2).

Restraining orders

57. (1) This section applies where

(a) the Commissioner-General believes on reasonable grounds that tax has not been paid or will not be paid; or

(b) for thirty days after a written warning has been issued by the Commissioner-General, a person fails to register under a tax law.

(2) For the purpose of subsection (1) (a), the Commissioner- General may use reasonable force to

(a) distrain the goods; or

(b) distrain and search premises, a place, conveyance or other asset on or in which the Commissioner-General believes on reasonable grounds that the goods are located.

(3) For the purpose of subsection (1)(b), the Commissioner- General may use reasonable force to restrain a person from using the premises or place to conduct business.

(4) The Commissioner-General may exercise the powers referred to in subsections (2) and (3) in conjunction with other powers of the Commissioner-General under this Act.

(5) The Commissioner-General shall, on issuing a restraining order,

(a) serve a written notice on the possessor *bf* the asset, premises or place and, where there is more than one possessor, service of the notice on a single possessor is sufficient; or

(b) where no possessor is available, leave the notice at the premises or place where the distraining takes place.

(6) The written notice shall

(a) list the assets, premises or place to be distrained;

(b) state that the assets, premises or place have been distrained and the reason for the distraint; and

(c) set out the terms and conditions for release, including any security required, and conditions for the disposal of the assets seized.

(7) The Commissioner-General may restrain a person from carrying on business in any premises or place or distrain an asset

(a) in a case under subsection(1)(a), for a period as may be necessary to raise a pre-emptive or adjusted assessment and exercise the powers in sections 52, 53 and 54, or for a period of ten days, whichever is less; and

(b) in a case under subsection (1)(b), until the person registers under a tax law.

(8) If within the period referred to in subsection (7), any other person does not prove to the satisfaction of the Commissioner-General that that person is the owner of the goods referred to in subsection (2)(a), the Commissioner-General may treat the goods as charged assets and sell the goods in accordance with section 54.

Recovery from Third Parties

Managers of entities

58. (1) Where an entity fails to pay tax on time, a person who is or has been a manager of the entity during the relevant time is jointly and severally liable with the entity for payment of the tax.

(2) Subsection (1) applies irrespective of whether the entity ceases to exist.

(3) Subsection (1) does not apply to a manager who has exercised the degree of care, diligence, and skill that a reasonably prudent person in the position of the manager would have exercised in preventing the initial and continuing failure to pay tax.

(4) Subsection (3) does not apply to a manager who is a current partner of a partnership.

(5) An amount payable to the Commissioner-General by a manager under this section is a personal tax liability of the manager.

(6) Where a manager pays tax by reason of a liability under subsection (1) the manager may recover the payment from the entity as a debt due.

(7) In this section

"manager" of an entity includes a person purporting to act as a manager of that entity; and

"relevant time" means six months before the event that gave rise to the tax liability of the entity.

Receivers

59. (1) A person appointed as a receiver of an asset situated in the country shall notify the Commissioner-General in writing of the appointment

(a) within fourteen days of the appointment; or

(b) on the date the receiver takes possession of the asset, whichever occurs first.

(2) A receiver shall not distribute assets unless the receiver has accounted for the assets to the Commissioner-General.

(3) The executor of the estate of a deceased individual or the legal representative of a person who is incapacitated shall complete and submit returns under this Act on behalf of the deceased or incapacitated person with respect to matters occurring prior to the appointment of the executor or legal representative.

(4) The Commissioner-General shall within fourteen days of receiving a notice under subsection (1) serve the receiver with a written notice specifying an amount that appears to the Commissioner-General to be sufficient to provide for tax due or that will become due by the taxpayer.

(5) A receiver shall, after receiving a notice under subsection (4),

(a) sell sufficient relevant assets to raise the amount referred to in the notice after payment of any debt that has priority; and

(b) pay to the Commissioner-General on account of the taxpayer the amount set aside.

(6) In making payment out of the proceeds of the sale, a receiver shall give priority to unpaid taxes over all other debts of the taxpayer.

(7) To the extent that a receiver fails to set aside an amount as required by subsection (4), the receiver is personally liable to pay to the Commissioner-General, on account of the tax liability of the taxpayer, the amount that should have been set aside.

(8) An amount payable to the Commissioner-General by a receiver under this section is a personal tax liability of the receiver.

(9) In this section

"receiver" means a person who, with respect to an asset situated in the .country, is

(a) a liquidator of an entity;

(b) a receiver appointed out of court or by a court in respect of an asset or entity;

(c) a trustee for a bankrupt person;

(d) a mortgagee in possession;

(e) an executor, administrator or heir of a deceased individual's estate;

(f) conducting the affairs of an incapacitated individual; or

(g) a successor in a corporate reorganisation; "relevant assets" means assets held in the capacity of a person as receiver; and

"taxpayer" means the person whose assets come into the possession of the receiver and includes a deceased individual and an entity that is reorganised.

Third party debtors

60. (1) Where a taxpayer fails to pay tax on the due date, the Commissioner-General may serve a notice in writing on a third party debtor.

(2) As soon as practicable after service of the notice on the third party debtor, the Commissioner-General shall serve the taxpayer with a copy of the notice.

(3) The third party debtor shall, on receiving a notice under subsection (1), pay to the Commissioner-General by the date specified in the notice an amount not exceeding the lesser of

(a) the tax due by the taxpayer;

(b) the money owed by the third party debtor to the taxpayer; and

(c) the amount specified in the notice.

(4) The date for payment specified in the notice shall not be before either

(a) the date the money owed by the third party debtor becomes payable to the taxpayer or is held on behalf of the taxpayer; or

(b) the date the third party debtor is served with the notice.

(5) A third party debtor who is served with a notice under subsection (1) shall not pay any amount to the taxpayer until the Commissioner-General withdraws the notice.

(6) An amount payable to the Commissioner-General by a third party debtor under this section is a personal tax liability of the third party debtor.

(7) The following are treated as money owed to a taxpayer:

(a) money currently owing, or that may subsequently become owing, to a taxpayer;

(b) money held, or that may subsequently be held, for or on account of a taxpayer;

(c) money held, or that may subsequently be held, on account of another person for payment to a taxpayer; or

(d) money held by a person who has authority from a third person to pay the money to a taxpayer.

(8) In this section

"money" includes a debt obligation denominated or payable in money; and

"third party debtor" in relation to a taxpayer, means a person who owes money to the taxpayer.

Compliance with notice

61. (1) A third party debtor who pays money to the Commissioner- General in accordance with section 59 or 60 shall be

(a) treated as having acted with the authority of the taxpayer and of all other persons concerned; and

(b) indemnified in respect of the payment against all proceedings, civil or criminal, and all processes, judicial or extra judicial.

(2) Subsection (1) applies despite any provision to the contrary in an enactment, contract or agreement.

(3) A notice under section 59 or 60 ceases to have effect once the tax or obligation referred to in the notice is paid or otherwise satisfied.

(4) Where a third party served with a notice under section 59 or 60 is unable to comply with the notice by reason of lack of money owing to or held for the taxpayer, the third party shall give notice of that fact to the Commissioner-General.

(5) A notice under subsection (4) shall

(a) be in writing;

(b) set out the reasons for the inability to comply; and

(c) be filed with the Commissioner-General as soon as practicable after the third party becomes aware of the inability and, in any event, before the payment date specified in section 59 or 60.

(6) The Commissioner-General may, on receipt of a notice under subsection(4), by notice in writing served on the third party

(a) cancel or amend the notice given under section 59 or 60; or

(b) reject the notice filed under subsection (4).

(7) The filing of a third party notice has no effect on the third party's personal liability for amounts under section 59 or 60 unless the Commissioner-General cancels or amends the notice given under section 59 or 60.

(8) In this section, "third party" means a receiver served with a notice under section 59 or a third party debtor served with a notice under section 60.

Recovery from agent of non-resident

62. (1) Where a non-resident taxpayer fails to pay tax on the due date or the Commissioner-General believes on reasonable grounds that a non-resident taxpayer will not pay tax on the due date, the Commissioner-General may, by notice in writing, require a person who is in possession of an asset owned by the non-resident taxpayer to pay tax on behalf of the taxpayer.

(2) A person served with a notice under subsection (1) is required to pay tax up to the market value of the asset but not exceeding the amount of the unpaid tax.

(3) For purposes of this section

(a) a taxpayer who charters an aircraft or ship under a charter for a period of more than three years is treated as owning the aircraft or ship during that period;

(b) the captain of an aircraft or ship is treated as being in possession of the aircraft or ship;

(c) a trustee is treated as being in possession of trust assets; and

(d) trust assets are treated as jointly owned by the beneficiaries of the trust.

(4) The Commissioner-General may, by service of a notice in writing, require a resident partnership or a resident partner to pay tax due or that may become due by a non-resident partner.

(5) A resident partnership and a resident partner are jointly and severally liable to pay the tax up to the amount of the share of the non-resident partner in the net assets of the partnership.

(6) An amount payable to the Commissioner-General by an agent, resident partnership or resident partner under this section is a personal tax liability of the agent, resident partnership or resident partner.

(7) Where a person, including a resident partnership, makes a payment to the Commissioner-General in compliance with a notice under subsection (1) or (4)

(a) the person may recover the payment from the non-resident taxpayer or non-resident partner and may retain out of any assets of the non-resident taxpayer or non-resident partner in, or coming into, the possession of that person, an amount not exceeding the payment; and

(b) the non-resident taxpayer, non-resident partner or any other person shall not have a claim against the person with respect to the retention.

Reduction and Refund of Tax

Limits on tax reductions

63. (1) In assessing, collecting and recovering tax, the Commissioner- General shall ignore a tax reduction except where the tax reduction is sanctioned by law.

(2) Subject to article 174 of the Constitution, a Ministry, Department or Agency shall not negotiate or enter into an agreement for the waiver or variation of tax except with the approval of the Minister.

Reporting of tax reductions

64. (1) The Commissioner-General shall submit to the Minister a quarterly report on the total amount of reductions of tax granted to or claimed by taxpayers.

(2) Each report of the Commissioner-General shall categorise reductions of tax by reference to

(a) reductions granted that comply with section 63, subcategorised by reference to

(i) each statutory provision by which the reduction is granted; and

(ii) any criteria or factors set out in Regulations;

(b) reductions granted that do not comply with section 63, including reasons why the reductions were granted; and

(c) reductions claimed but not granted, including reasons why the claims were not granted.

Remission

65. (1) The Commissioner-General may remit tax that has been assessed, but only on grounds of impossibility of collection of the tax.

(2) Where a person who is liable to pay a penalty shows good cause in writing to the Commissioner-General, the Commissioner-General may

(a) refrain in whole or in part from assessing the penalty;

(b) extend the time for payment of the penalty on conditions that the Commissioner-General may determine; or

(c) remit or waive in whole or in part a penalty that has been assessed.

(3) The power in subsection (2)(c) may be exercised whether or not the penalty has been paid and whether or not proceedings for an offence have been commenced or concluded.

(4) In this section, a "penalty" includes an asset liable to forfeiture or seized by the Commissioner-General on grounds that the asset is liable to forfeiture.

Application for tax refund

66. (1) A person may, within three years of the relevant date, apply to the Commissioner-General for a refund of tax paid in excess of the tax liability of that person.

(2) The Commissioner-General shall prescribe the form of the application.

(3) An application for a tax refund shall be in writing and contain an explanation as to how the excess is calculated and attach evidence relevant to that calculation.

(4) In this section, "relevant date" means the later of

(a) the event that gave rise to payment of the excess tax;

(b) the date on which a tax return is filed by the person with respect to the payment; and

(c) the date of payment.

Decision on application

67. (1) The Commissioner-General shall, within sixty days of receipt of an application for a refund under section 66, consider and make a decision that the Commissioner-General considers appropriate.

(2) Without limiting subsection (1), the Commissioner-General may

(a) reject the application where the Commissioner-General is of the opinion that the applicant has not paid excess tax; or

(b) if satisfied that the applicant has paid excess tax, make a refund to the applicant.

(3) Despite subsection (2), where the Commissioner-General is not satisfied that the applicant has paid excess tax, the Commissioner-General may request further information as may be reasonable in order to make a final decision on the application.

(4) The Commissioner-General shall serve the applicant with a written notice of the decision made under subsection (2) or (3) within thirty days.

(5) Pursuant to subsection (3), the Commissioner-General shall reconsider the application and make a decision by serving notice on the applicant within sixty days of receiving the original application.

Payment of tax refund

68. (1) Where the Commissioner-General is satisfied that a person has paid excess tax, either on application for a refund by that person, or by reason of an order of a court or tribunal, the Commissioner-General shall

(a) apply the excess in reduction of any outstanding tax liability of the person; and

(b) refund the remainder to the person within ninety days of making the decision.

(2) Where the Commissioner-General accepts to refund part of the excess tax applied for by a person, the Commissioner-General shall refund the amount accepted, irrespective of whether the person files an objection against the decision of the Commissioner-General.

(3) Where, the Commissioner-General fails to refund the excess tax to the person within ninety days as specified in subsection (1)(b), the Commissioner-General is liable to pay interest on the amount.

(4) The interest is calculated as fifty per cent of the statutory rate and is for the period

(a) commencing on the earlier of

(i) the date the Commissioner-General makes a refund decision under section 67; and

(ii) the day the person files an objection against the tax decision that gave rise to payment of the excess tax; and

(b) ending on the day the refund is made.

(5) Interest paid by a person under a tax law with respect to tax not paid on time shall, to the extent that the tax is found not to have been payable, be refunded to the person, with any interest under subsection (4).

(6) Where the Commissioner-General refunds tax in error, the Commissioner -General may recover the refund as a tax liability.

Ghana Revenue Authority General Refund Account

69. (1) The Minister shall set aside an amount of not more than six percent of the total revenue collected under this Act and any other enactment administered by the Commissioner-General, in an account designated as the "Ghana Revenue Authority General Refund Account".

(2) The Ghana Revenue Authority General Refund Account shall be used by the Commissioner-General to make payments for

(a) refunds due under this Act; and

(b) refunds due under any other tax law.

(3) Where at the end of a calendar year there is an amount outstanding as credit in the Ghana Revenue Authority General Refund Account after refunds certified by the Commissioner-General have been paid, the outstanding amount shall be paid into the Consolidated Fund by the Commissioner-General in accordance with the Financial Administration Act, 2003 (Act 654) and the Financial Administration Regulations, 2004 (L.I. 1802).

INTEREST, PENALTIES, OFFENCES AND PROCEEDINGS

Interest

Interest for under-estimating income tax payable

70. (1) This section applies where an estimate or a revised estimate of tax payable by a taxpayer with respect to chargeable income tax for a year of assessment under section 122 of the Income Tax Act, 2015 (Act 896) is less than ninety percent of the correct amount.

(2) Where this section applies, the taxpayer is liable to pay interest for the period from

(a) the date the first instalment for the year of assessment is payable; until

(b) the due date by which the person files a return of income for the year of assessment under section 124 of the Income Tax Act, 2015 (Act 896) .

(3) The amount of interest that a taxpayer is required to pay for each period under subsection (2) is calculated as one hundred and twenty five per cent of the statutory rate, compounded monthly, applied to the difference between

(a) ninety percent of the total amount that would have been paid by way of instalments during the year of assessment to the start of the period had the estimate of the person equalled the correct amount; and

(b) the amount of income tax paid by instalments during the year of assessment to the start of the period.

(4) For the purpose of calculating interest payable under subsection (3), an extension granted under section 30 or 47 or suspension under section 42(6) or 45 (3) shall be ignored.

(5) In this section, "correct amount" means the actual income tax payable by the taxpayer for the year of assessment under the Income Tax Act, 2015 (Act 896).

Interest for failing to pay tax

71. (1) A person who fails to pay tax by the date on which the tax is payable is liable to pay interest for each month or part of a month for which any part of the tax is outstanding.

(2) The interest is calculated as one hundred and twenty-five percent of the statutory rate, compounded monthly, applied to the amount outstanding at the start of the period.

(3) For the purpose of calculating interest under subsection (1) (a) tax is payable

(i) in the case of an adjusted assessment, on the date on which tax is payable under the original assessment; and

(ii) in any other case, on the date specified in section 46; and

(b) an extension granted under section 30 or 47 or a suspension under section 42(6) shall be ignored.

(4) Where a withholding agent is liable for interest for failing to pay withholding tax in respect of a payment made by the agent, the agent may not recover the interest from the person subject to the withholding tax.

Penalties

Penalty for failing to maintain documents

72. (1) A person who fails to maintain proper documents as required by a tax law is liable to pay for each month or part of a month during which the failure continues

(a) seventy-five percent of the tax attributable to that period where the failure is deliberate; or

(b) in any other case, the lesser of the amount referred to in paragraph (a) and two hundred and fifty currency points.

(2) The Commissioner-General shall determine tax attributable to a period on a just and reasonable basis including apportioning tax assessed with respect to a larger period or by reference to taxable events happening within the period.

Penalty for failing to file tax return

73. (1) A person who fails to file a tax return as required by a tax law is liable to pay a penalty of five hundred currency points and a further penalty of ten currency points for each day that the failure continues.

(2) In the case of communications service tax, the penalty is two thousand currency points and a further penalty of five hundred currency points for each day that the failure continues.

(3) A penalty imposed under this section applies separately for a failure to file an estimate and a failure to file a tax return incorporating the final amount.

(4) Where a person fails to submit the tax return four months after the imposition of the penalty for non-submission, the Commissioner- General may, in addition to the penalty imposed, prosecute the person to compel the person to submit the return.

Penalty for making false or misleading statements

74. (1) A person who

(a) makes a statement to a tax officer that is false or misleading in a material particular; or

(b) omits from a statement made to a tax officer, any matter or thing without which the statement is misleading in a material particular is liable to a penalty of

(c) one hundred percent of the tax shortfall where the statement was made without reasonable excuse; or

(d) thirty percent of the tax shortfall in any other case.

(2) Despite subsection (1), the penalty imposed under this section shall be

(a) cumulatively increased by twenty percent for each subsequent application of this section to the person within the last five years; and

(b) reduced by twenty percent if the person voluntarily discloses the error before its discovery by a tax officer or before the next tax audit of the person, whichever is earlier.

(3) A statement is made to a tax officer when the statement is made orally, in writing or in any other form to a tax officer acting in the performance of duties under a tax law and includes a statement made

(a) in a document or information required to be filed under a tax law;

(b) in a document furnished to a tax officer otherwise than under a tax law;

(c) in answer to a question asked of a person by a tax officer; or

(d) to another person with the knowledge or reasonable expectation that the statement will be passed on to a tax officer.

(4) A person who contravenes section 11(5), 12(3) or 18(2) is treated as making a false or misleading statement to a tax officer.

(5) A person who, in relation to the importation or exportation of goods or in relation to the trade in services or intangible property or any tax law, mis-states or falseifies a price, quantity, volume, other substantive term of invoice or value for the purpose of tax evasion including manipulating value added taxes, customs duties, income taxes, excise duties, levies or any other form of taxes or revenue collected by the Government is treated as making a false or misleading statement to a tax officer.

(6) Without limiting this section, where a person files a tax return in which the tax stated as payable is less than the actual tax liability

(a) by a margin of between thirty and fifty percent, the person is treated as making a false or misleading statement to a tax officer; or

(b) by a margin of fifty one percent or more, the person is treated as making a false or misleading statement to a tax officer without reasonable excuse.

(7) For the purpose of subsection (2) (a), this section applies where a person is served with a notice of assessment under section 77.

(8) In this section, "tax shortfall" means the underpayment of tax that, in the opinion of the Commissioner-General, may have resulted if the inaccuracy of the statement had gone undetected.

Penalty for unauthorised attempt to collect tax

75. (1) A person who, without authorisation, collects or attempts to collect an amount of tax payable under a tax law or an amount that the person describes as tax, is liable to pay the following penalty:

(a) where the collection or attempt is made knowingly or recklessly, two hundred percent of the amount collected or attempted to be collected; or

(b) in any other case, the amount collected or attempted to be collected.

(2) Despite subsection (1), the penalty is cumulatively increased by twenty percent for each subsequent application of this section to the person within the last five years.

(3) For the purpose of subsection (2), this section applies where a person is served with a notice of assessment under section 77.

(4) For the purpose of this section, an attempt to collect tax includes an amount shown as tax on an invoice for a supply of goods or services whether or not

(a) the invoice is a tax invoice issued in accordance with the Value Added Tax Act, 2013 (Act 870);

- (b) an amount of tax is chargeable on the supply; or
- (c) the person to whom the invoice is issued is a taxable person.

Penalty for aiding and abetting

76. (1) A person who knowingly or without reasonable excuse aids, abets, counsels or induces another person to commit an offence under section 78 to 84 is liable to pay a penalty of one hundred percent of the tax shortfall.

(2) In this section, "tax shortfall" means the underpayment of tax that, in the opinion of the Commissioner-General, may have resulted if the offence had been committed and had gone undetected.

Assessment of Interest and Penalties

Assessment of interest and penalties

77. (1) The Commissioner-General shall assess the interest and penalties for which a person is liable under this Act.

(2) Liability for interest and penalties with respect to a particular failure or statement is calculated separately for each section of this Act.

(3) The imposition of interest and penalties under this Act is in addition to any other tax imposed by a tax law and does not relieve a person from liability to criminal proceedings.

(4) Despite subsection (2), where a person incurs an interest or a penalty both under this Act and another tax law, the Commissioner-General shall assess the person under one tax law only, that the Commissioner-General chooses.

(5) Where an assessment is made under this section, the Commissioner-General shall serve a written notice of assessment on the person stating

(a) the name of the person and the Taxpayer Identification Number of that person;

(b) the assessment of the interest or penalties by the Commissioner-General;

(c) the manner in which the interest or penalty is calculated;

(d) the reason why the Commissioner-General has made the assessment;

(e) the date by which the interest or penalty is required to be paid; and

(f) the time, place and manner of objecting to the assessment.

(6) An assessment made under this section is an original assessment.

(7) A notice of assessment under subsection (5) may be incorporated with another notice of assessment under a tax law.

Offences

Offence of failing to comply with a tax law

78. Except as otherwise provided in this Act, a person who fails to comply with a provision of a tax law commits an offence and where a specific penalty is not provided, is liable on summary conviction to a fine of not less than one thousand penalty units and not more than two thousand and five hundred penalty units or to a term of imprisonment of not less than two years and not more than five years or to both.

Offence of failing to register

79. (1) A person who is required to register under a tax law and who fails to register as required under that tax law commits an offence and is liable on summary conviction to

(a) pay the tax payable under that tax law; and

(b) pay a fine of not more than two times the amount of tax payable or an amount of one thousand penalty units, whichever is higher.

(2) In addition the penalty specified in subsection (1), the Commissioner-General may authorise the forfeiture of any goods or materials used by the person in carrying on the business of that person.

Offence of failing to pay tax

80. A person who fails to pay tax by the date on which the tax is payable commits an offence and is liable on summary conviction

(a) where the failure relates to an amount exceeding two thousand currency points, to a fine of not less than two hundred penalty units and not more than one thousand penalty units or to a term of imprisonment of not less than three months and not more than one year or to both; and

(b) in any other case, to a fine of not less than fifty penalty units and not more than two hundred penalty units or to a term of imprisonment of not less than one month and not more than three months or to both.

Offence of making false or misleading statements

81. (1) A person who

(a) makes a statement that is false or misleading in a material particular to a tax officer; or

(b) omits from a statement made to a tax officer, any matter or thing without which the statement is misleading in a material particular, commits an offence and is liable on summary conviction

(c) where, if the inaccuracy of the statement were undetected, it may have resulted in an underpayment of tax in an amount exceeding fifty currency points, to a fine of not less than twenty-five penalty units and not more than two hundred penalty units, or to a term of imprisonment of not less than three months and not more than two years or to both; or

(d) in any other case, to a fine of not less than five penalty units and not more than fifty penalty units or to a term of imprisonment of not less than one month and not more than three months or to both.

(2) Section 74(3), (4), (5) and (6) apply for the purpose of determining what constitutes a statement made to a tax officer and when the statement is false or misleading.

Offence of impeding tax administration

82. (1) A person who impedes or attempts to impede the administration of a tax law commits an offence and is liable on conviction

(a) where the offence involves fraud or undue force, to a fine of twice the amount sought to be evaded or recovered or two hundred penalty units, whichever is greater, or to a term of imprisonment of not less than two years and not more than four years or to both; and

(b) in any other case, to a fine of not less than ten penalty units and not more than two hundred penalty units or to a term of imprisonment of not less than three months and not more than two years or to both.

(2) In addition to the punishment specified in subsection (1), any goods used by the offender in the commission of the offence shall be forfeited.

(3) In this section, "impeding administration of a tax law" includes,

(a) with respect to a tax officer performing duties under a tax law or a person assisting a tax officer,

(i) interfering with or obstructing the tax officer or the assistant of the tax officer or attempting to do so;

(ii) interfering with an asset used by the tax officer or an assistant of the tax officer or attempting to do so; or

(iii) refusing to grant access to premises, a place, document or other asset as required by section 33;

(b) failing to comply with a notice under section 35 or answer truthfully when being interrogated under section 88;

(c) falsely making or altering a document or a mark on a document with the intention that a person will wrongly believe or act on the basis that the document is correctly required by or issued under a tax law or correctly stamped;

(d) with the intention of evading an obligation under a tax law, knowingly dealing with or using a document or asset

(i) that is false or misleading in a material particular;

(ii) in a way that makes the document or asset false or misleading in a material particular; or

(iii) so that the document or asset contains or produces information that is false or misleading in a material particular;

(e) contravening section 18;

(f) evading tax or knowingly being concerned in or taking steps with a view to evading tax, including

(i) accepting goods knowing or believing that tax due with respect to the goods has not and will not be paid or will be falsely reclaimed;

(ii) dealing with an asset charged under section 52 so as to prevent seizure;

(iii) dealing with an asset liable to seizure under a tax law so as to prevent seizure; or

(iv) dealing with an adhesive stamp that has been previously used;

(g) recovering tax, including recovering or rescuing an asset seized under section 33, 53, 57 or 88 of this Act or another tax law;

(h) interfering with any lock, seal, mark, fastening or other security used to detain an asset under section 57 or 88;

(t) disguising or hiding, or disguising, warning, hiding or rescuing another person with the intent that a liability or obligation under a tax law is evaded; and

(j) committing an offence under a tax law where the person has already been convicted of an offence under a tax law or had an offence compounded under section 86.

Offences by authorised and unauthorised persons

83. (1) A person authorised by the Commissioner-General and acting in the performance of duties under a tax law commits an offence if that person

(a) directly or indirectly asks for or receives

(i) a payment or reward whether pecuniary or other- wise that the person is not lawfully entitled to receive; or

(ii) a promise or security for a payment or reward; or

(b) agrees to, permits, conceals, connives at or acquiesces in an act or thing whereby the Government is or may be defrauded or which is contrary to this Act.

(2) A person, not being authorised under this Act or under a tax law, commits an offence if that person

(a) collects or attempts to collect an amount of tax payable under a tax law or an amount that the person describes as a tax; or

(b) otherwise makes representations with the intent that another person will believe that person to be a tax officer and act on that belief.

(3) A person who commits an offence under subsection (1) or (2) is liable on summary conviction to a fine of not less than fifty penalty units and not more than two hundred and fifty penalty units or to a term of imprisonment of not less than three months and not more than two years or to both.

Offences by entities

84. (1) Subject to subsection (2), where an entity commits an offence under a tax law, a person who is a manager of the entity at that time is treated as also having committed the same offence.

(2) Subsection (1) does not apply to a manager who has exercised the degree of care, diligence, and skill that a reasonably prudent person in the position of the manager would have exercised in preventing the commission of the offence.

(3) Where a person who is a manager of an entity commits an offence under a tax law while acting in the capacity as a manager, the entity is treated as also committing the same offence.

Causing harm to a tax officer

85. A person who shoots at, maims, wounds or causes harm to a tax officer acting in the execution of the duty of the tax officer commits an offence and is liable on conviction to a term of imprisonment of not more than twenty years.

Compounding offences

86. (1) Where a person commits an offence under a tax law, the Commissioner-General may compound the offence and order the person to pay a sum of money specified by the Commissioner-General and deliver up any asset liable for forfeiture in respect of the offence.

(2) The Commissioner-General shall not compound an offence

(a) in respect of

(i) the conduct of a tax officer or public official acting in an official capacity; or

(ii) a conduct of the kind referred to in section 83 or 85; or

(b) after the commencement of proceedings with respect to an offence unless the person admits the offence in writing and accepts the proposed terms of compound.

(3) The Commissioner-General shall make the order mentioned in subsection (1) in writing and specify in that order

(a) the offence committed;

(b) the fact that the person who committed the offence admits guilt;

(c) the sum of money to be paid which should not exceed the maximum fine for the offence;

(d) any asset forfeited; and

(e) the date for payment of the money and delivery of the asset.

(4) An order of the Commissioner-General under subsection (1) is final and not subject to an appeal.

(5) The Commissioner-General shall serve the order on the person who committed the offence.

(6) The order shall be enforced in the same manner as an order of the High Court for the payment of the amount and delivery of any asset stated in the order.

(7) Where the Commissioner-General compounds an offence under this section, the person concerned is not liable to any other penalty under this Act or prosecution with respect to that offence.

Proceedings

Multiple proceedings

87. (1) A proceeding to recover tax under one provision of a tax law does not restrict simultaneous or separate proceedings to recover the same tax under a different provision of that law or a provision of another tax law.

(2) A prosecution of a person for an offence under one provision of a tax law does not restrict the simultaneous or separate prosecution of the same person for another offence under a different provision of that law or a provision of another tax law.

(3) Subject to any provision in a tax law, a person may be convicted or fined under more than one offence provision with respect to the same course of conduct or omission but not the same part of the course of conduct or omission.

(4) Where two or more offence provisions apply to the same part of a course of conduct or omission of a person, the Court has the choice of which provision to apply.

Power of search, seizure or arrest

88. (1) Where a tax officer has reason to believe that a person

(a) has committed an offence under a tax law,

(b) will abscond before the person is prosecuted for an offence under a tax law, or

(c) will destroy, tamper with or otherwise dispose of evidence of an offence under a tax law,

the tax officer shall apply to a magistrate for an order authorising that tax officer to take any of the actions set out in subsection (2).

(2) Where the magistrate is satisfied that there is a serious risk to the collection of tax or the administration of justice, the magistrate may make an order authorising the tax officer, with the assistance of the police, to

(a) enter premises or a place and distrain assets that may reasonably provide evidence that an offence has been committed under a tax law;

(b) distrain and search a premises, place, vehicle or other asset on or in which the tax officer believes on reasonable grounds that there is evidence of an offence under a tax law;

(c) interrogate and search or cause to be interrogated and searched a person who the tax officer believes on reasonable grounds has committed an offence under a tax law or is in possession of assets mentioned in paragraph (a);

(d) arrest a person who the tax officer believes on reasonable grounds has committed an offence under a tax law; or

(e) use reasonable force for the purpose of the preceding paragraphs including by way of breaking into a premises, place or asset that may reasonably contain evidence referred to in paragraph (a).

(3) Where an asset is distrained under subsection (2), the tax officer shall

(a) serve a written notice on the possessor of the asset and, where there is more than one possessor, service on a single possessor is sufficient; or

(b) leave the notice at the premises or place where the restraining takes place, if the possessor of the asset is not available.

(4) The notice served under subsection (3) shall

(a) identify and list the assets distrained;

(b) state that the assets have been distrained under this section;

(c) state the reason for the distraint; and

(d) set out the terms for release, including terms relating to security required and disposal of the seized assets.

(5) A tax officer shall, immediately send a person arrested under this section to the nearest police office.

(6) A person may be searched under paragraph (2)(c) only by a person of the same sex.

(7) A tax officer may exercise any power granted by a magistrate under this section in conjunction with other powers of the tax officer, including those granted by sections 33 and 35.

Venue for conducting tax proceedings

89. (1) A proceeding for recovery of tax shall be commenced, heard and disposed of by the court nearest to or within the judicial district

(a) where the person from whom recovery is sought is usually resident; or

(b) where the office of the Authority that has primary responsibility for the tax affairs of that person is situated.

(2) The Commissioner-General has the choice between possible venues under subsection (1).

(3) A proceeding with respect to an offence under a tax law shall be commenced, heard and disposed of at the court with competent jurisdiction nearest to or within the judicial district where the

(a) person who is charged with the offence is usually resident;

(b) office of the Authority having primary responsibility for the tax affairs of that person is situated;

(c) person is held in custody pending prosecution; or

(d) offence took place.

(4) The prosecutor has the choice between possible venues under subsection (3).

Appearance in court

90. Despite any law to the contrary, a tax officer duly authorised in writing by the Commissioner-General may appear on behalf of the Commissioner-General in court proceedings to which the Commissioner-General is a party.

Admissibility of documents

91. (1) The following are admissible in proceedings on appeal under Part Five or in recovery of tax under a tax law without calling the person who prepared or signed it

(a) a document that has been seized or obtained by a tax officer acting in the performance of duties under a tax law, relating to the tax affairs of a person;

(b) a statement relating to the tax affairs of a person that is made to a tax officer acting in the performance of duties under a tax law; and

(c) a copy of, translation of or extract from a document or statement referred to in paragraph (a) or (b).

(2) The admissibility of a document under subsection (1) is not affected by the fact that the person was induced to provide the document, copy or extract or made the statement by reason that the person was led to believe that

(a) the Commissioner-General might, on any terms, settle the institution or prosecution of proceedings; or

(b) the decision of the Commissioner-General as to whether to settle the institution or prosecution of proceedings would be influenced by the person confessing to being guilty of an offence and providing full facilities for investigation.

(3) This section applies despite any law to the contrary but does not limit the admissibility of a document, copy, extract or statement under any other law.

Burden of proof

92. (1) Subject to subsection (2), in proceedings on appeal under section 41 to 45 or for the recovery of tax under a tax law, the burden of proof is on the taxpayer or person making an objection to show compliance with the provisions of the tax law.

(2) With respect to the imposition of a penalty, including in proceedings on appeal under or for the recovery of a penalty, the burden of proof is on the Commissioner-General to show non-compliance with the provisions of the tax law.

(3) Section 41(4) provides for conclusive evidence that a tax decision has been made and is correct.

(4) The following matters are evidence in proceedings referred to in subsection (1) or with respect to an offence under a tax law:

(a) matters certified in writing by the Commissioner-General acting in an official capacity, including

(i) the name and address of a person and the amount and type of tax payable by the person;

(ii) a statement that a person has failed to file a document, register or otherwise comply with an obligation under a tax law;

(iii) a statement that a person is a tax officer and is authorised for the performance of specified activities under a tax law and that specified activities of the tax officer were performed in the pursuit of that authority;

(iv) a statement that a printed document is an accurate copy or translation of another document, including an electronic document or a document in code or in a foreign language; and

(v) a statement as to the value of goods;

(b) matters certified in writing by other Ghanaian public officers acting in an official capacity;

(c) matters certified in writing by a public officer of a foreign government acting in an official capacity; and

(d) proof of the content of ten percent of goods with respect to evidence of the remaining contents of goods seized under a tax law.

(5) This section applies to proceedings to enforce an obligation with respect to a security in favour of the Commissioner-General.

Tax decisions unaffected

93. A tax decision is not stayed or otherwise affected

(a) by the institution of proceedings

(i) for the recovery of tax; or

(ii) with respect to an offence under a tax law; or

(b) by reason that the Commissioner-General compounds an offence.

Security not a defence

94. The provision of security by a person for compliance with a provision of a tax law is not a defence in proceedings for the recovery of tax or with respect to an offence under that tax law or another tax law.

Publication of names of offenders

95. (1) The Commissioner-General may publish in the *Gazette*, on the website of the Authority or by any other national media a list of persons who have

(a) failed to file tax returns;

(b) failed to pay tax on time;

(c) been convicted of an offence under a tax law, but only if the time for appeal has expired; or

(d) had an offence under a tax law compounded under section 86.

(2) The Commissioner-General may, for the purpose of subsection (1), specify

(a) the name and address of a person

(b) the offending conduct;

(c) the period during which the conduct occurred;

(d) the amount of tax involved; and

(e) particulars of any fine or sentence imposed.

Exemption from transaction taxes

96. (1) In proceedings under this Act, the Commissioner-General is exempt from transaction taxes, including stamp duty.

(2) Without limiting subsection (1), the following transactions are exempt from transaction taxes:

(a) accepting security for an obligation under a tax law;

(b) creating a charge under section 52;

(c) selling assets under section 54; and

(d) releasing a charge under section 55.

OTHER PROVISIONS

Tax Laws

Relationship between tax laws

97.(1) This Act shall be read as one with each of the other tax laws.

(2) To the extent necessary to give effect to the purpose of this Act, an undefined term in this Act has a meaning consistent with the usage of that term in other tax laws.

(3) Subject to this Act, the powers of the Commissioner-General specified in this Act may be exercised with respect to any tax law and are in addition to specific powers granted under other tax laws.

(4) While acting under a provision of this Act, a tax officer may

(a) act for the purpose of more than one tax law at the same time; and

(b) commence acting under a more specific provision of another tax law.

(5) Except as otherwise provided in a tax law, while acting under a provision of another tax law, a tax officer may act only for the purpose of that law.

(6) The Commissioner-General may, for the purpose of any tax law, use information obtained by a tax officer in the proper execution of duties under a particular tax law.

(7) Section 41 to 45 applies to tax decisions under other tax laws.

(8) For the purpose of applying the provisions of multiple tax laws,

(a) section 77 applies where interest and penalties are payable under multiple provisions of tax laws; and

(b) section 87 applies where multiple provisions of tax laws apply with respect to proceedings for recovery of tax or with respect to an offence.

International arrangements

98. (1) To the extent that the terms of an international arrangement to which the Republic is a party are inconsistent with the provisions of a tax law, the terms of the international arrangement shall prevail over the provisions of the tax law.

(2) Subsection (1) applies

(a) only to an international arrangement ratified by Parliament under Article 75 of the Constitution; and

(b) subject to subsection (5) and section 99.

(3) Subsection (4) applies where the Commissioner-General receives a request pursuant to an international arrangement from the competent authority of another country for the collection in the country of an amount payable by a tax debtor under the tax laws of that other country.

(4) For the purpose of subsection (3), the Commissioner-General may, by service of a notice in writing, require the tax debtor to pay the amount to the Commissioner-General by the date specified in the notice for transmission to the competent authority.

(5) Where an international arrangement requires Ghana to exempt an amount from tax or subject an amount to reduced taxation, the exemption from or reduction of tax is not available to an entity that

(a) for the purpose of the arrangement, is a resident of the other contracting State; and

(b) fifty percent or more of whose underlying ownership is held by persons who, for the purpose of the arrangement, are not residents of the other contracting State or Ghana.

(6) For the purpose of this section, "underlying ownership"

(a) in relation to an entity, means membership interest owned in the entity, directly or indirectly through one or more interposed entities, by individuals or by entities in which no person has a membership interest; or

(b) in relation to an asset owned by an entity, is determined as though the asset is owned by the persons having underlying ownership of the entity in proportion to that ownership of the entity.

(7) For the purpose of this section, "competent authority of another country" means the person designated by that country as the competent authority for tax purposes.

Tax avoidance arrangements

99. (1) Despite any provision in a tax law, where the Commissioner- General is of the opinion that a person might otherwise secure a tax benefit under a tax avoidance arrangement, the Commissioner-General may adjust the tax liability of that person in a way that the Commissioner-General considers appropriate to counteract the tax benefit.

(2) The Commissioner-General may, pursuant to subsection (1) serve the person with a notice specifying

(a) the tax benefit;

(b) the arrangement; and

(c) the adjustment made by the Commissioner-General.

(3) A notice under subsection (2) may be incorporated in a notice of assessment.

(4) For the purpose of this section "tax avoidance arrangement" means, subject to subsection (5)

(a) an arrangement that has as a main purpose the provision of a tax benefit for a person; or

(b) an arrangement where the main benefit that might be expected to accrue from the arrangement is a tax benefit for a person; and

"tax benefit", in relation to a person, means

(a) avoiding, reducing or postponing a tax liability of the person;

(b) increasing a claim of the person for a refund of tax; or

(c) preventing or obstructing collection of tax from the person.

(5) An arrangement is a "tax avoidance arrangement" only if it involves a misuse or abuse of a tax law provision having regard to the purpose of the provision and the wider purposes of the law in which the provision is situated.

Practice notes

100. (1) To achieve consistency in the administration of tax laws and to provide guidance to persons affected by the tax laws, including tax officers, the Commissioner-General may issue practice notes setting out the interpretation placed on provisions of a tax law by the Commissioner- General.

(2) A practice note may pertain to a single tax law or multiple tax laws and the Commissioner-General may issue multiple practice notes with respect to the same tax law.

- (3) A practice note is binding on the Commissioner-General until revoked.
- (4) A practice note is not binding on persons affected by a tax law.

Issue of practice notes

101. (1) The Commissioner-General may issue a practice note by publishing the notice of the practice note in the *Gazette*, on the website of the Authority and in at least two daily newspapers of national circulation.

(2) A practice note shall have a number and subject heading by which the practice note can be identified.

(3) A practice note applies from the date specified in the notice and if no date is specified, from the date of publication in the *Gazette*.

(4) The Commissioner-General shall make practice notes publicly available.

Amendment or revocation of practice notes

102. (1) The Commissioner-General may amend or revoke a practice note, in whole or in part, by publishing a notice of the amendment or revocation in the *Gazette*, on the website of the Authority and in at least two daily newspapers of-national circulation.

(2) The subsequent enactment of legislation or issue of a practice note that is inconsistent with an existing practice note revokes the existing practice note to the 'exrent of the inconsistency.

(3) The amendment or revocation of a practice note, in whole or in part, has effect

(a) where subsection (1) applies, from the date specified in the notice of amendment or revocation and if a date is not specified, from the date the notice of the amendment or revocation is published in the *Gazette*; or

(b) where subsection (2) applies, from the date the inconsistent legislation or practice note applies.

(4) The amended or revoked part of a practice note

(a) continues to apply to arrangements commenced before the amendment or revocation; and

(b) does not apply to arrangements commenced after the amendment or revocation.

Private or class rulings

103. (1) Subject to section 104, the Commissioner-General may, on an application in writing by a person, issue to that person a private ruling or a class ruling setting out the position of the

Commissioner -General regarding the application of a tax law with respect to an arrangement proposed or entered into

(a) in the case of a private ruling, by the person; or

(b) in the case of a class ruling, by persons in a specified class.

(2) A private or class ruling may apply to multiple arrangements and multiple tax laws.

(3) Subject to subsection (4), a private or class ruling is binding on the Commissioner-General with respect to the application of a tax law mentioned in the ruling to an arrangement of

(a) the applicant, in the case of a private ruling; and

(b) a person in the specified class, in the case of a class ruling.

(4) A private or class ruling under subsection (1) is binding only

(a) if prior to the issuance of the ruling

(i) the applicant makes a full and true disclosure of all aspects of the arrangement relevant to the ruling to the Commissioner-General; and

(ii) the arrangement proceeds in all material respects as described in the application for the ruling;

(b) if the ruling is headed "private ruling" or "class ruling" as the case requires; and

(c) for the period specified in the ruling.

(5) A private or class ruling does not bind

(a) the applicant or any other person; or

(b) the Commissioner-General with respect to any person other than,

(i) in the case of a private ruling, the applicant or,

(ii) in the case of a class ruling, persons in the specified class.

(6) A private or class ruling is not subject to challenge but a person may challenge a tax decision made with respect to an arrangement which is the subject of a private or class ruling.

(7) For the purpose of this section, a class of persons includes

(a) persons holding a particular class of membership interest in an entity; and

(b) persons that, in the opinion of the Commissioner-General, may be identified as commonly situated with respect to the application of particular provisions of a tax law.

(8) The Commissioner-General may charge a fee for a private or class ruling issued to an applicant.

(9) A fee for a private or class ruling shall be based on the cost structure of similar legal or tax advisors and shall be paid before the ruling is communicated to the applicant.

Refusing application for private or class ruling

104. (1) The Commissioner-General may refuse an application for a private or class ruling if

(a) in the case of a private ruling

(i) the arrangement has already been the subject of a tax decision; or

(ii) the Commissioner-General has commenced an investigation of the tax affairs of the applicant in respect of the arrangement or, before the application, has notified the applicant in writing of an intention to do so;

(b) the Commissioner-General is of the opinion that an existing practice note adequately covers the arrangement;

(c) the application is frivolous or vexatious;

(d) the arrangement has not been carried out and there are reasonable grounds to believe that the arrangement will not be carried out;

(e) the applicant has not provided the Commissioner-General with sufficient information to make a ruling;

(f) the applicant for the ruling has not paid the fee for the ruling; or

(g) in the opinion of the Commissioner-General, it would be unreasonable to comply with the application having regard to the resources needed to comply and any other matters the Commissioner-General considers relevant.

(2) Where the Commissioner-General refuses an application for a private or class ruling, the Commissioner-General shall, within thirty days of the decision, serve the applicant with a written notice of the refusal stating the reason for the refusal.

Issue of private or class ruling

105. (1) For the purpose of this Act, a private or class ruling is issued where

(a) in the case of a private ruling, the Commissioner-General serves a written notice of the ruling on the applicant; and

(b) in the case of a class ruling, the Commissioner-General serves a written notice of the ruling on the applicant and makes the ruling publicly available.

(2) The Commissioner-General may base a private or class ruling on assumptions about a future event or other matters considered appropriate.

(3) The Commissioner-General shall, in issuing a private or class ruling,

(a) set out the matters ruled on, identifying the tax laws, periods and arrangements to which the ruling applies as well as any assumptions that affect the ruling;

(b) in the case of a private ruling, identify the applicant and the tax identification number of the applicant; and

(c) in the case of a class ruling, refrain from revealing the tax identification number of a person or the identity of class members or any other person referred to in the ruling except with the consent of the applicant.

Amendment or revocation of private or class ruling

106. (1) The Commissioner-General may for reasonable cause, amend or revoke a ruling, in whole or in part, by written notice

(a) served on the applicant in the case of a private ruling; and

(b) served on the applicant and made publicly available in the case of a class ruling.

(2) An amendment under subsection (1) shall accord with the requirements of section 105 (3).

(3) The subsequent enactment of legislation that is inconsistent with a private or class ruling revokes the private or class ruling to the extent of the inconsistency.

(4) The amendment or revocation of a private or class ruling, in whole or in part, has effect

(a) from the date specified in the notice of amendment or revocation issued under subsection (1);
or

(b) from the date of the legislation in the case of legislation referred to in subsection (3).

(5) The amended or revoked part of a private or class ruling

- (a) does not apply to arrangements commenced before the amendment or revocation; and
- (b) applies to arrangements commenced after the amendment or revocation.

Miscellaneous Provisions

Regulations

107. (1) The Minister may, by legislative instrument, make Regulations

- (a) for the effective implementation of a tax law referred to under section 108;
- (b) for matters authorised to be made or prescribed by Regulations made under a tax law;
- (c) to amend a provision in a Schedule of a tax law or a monetary amount set out in a tax law;
- (d) for the better carrying into effect and interpreting the principles, purposes and provisions of a tax law;
- (e) requiring persons or a class of persons to provide information as may be prescribed, whether on an isolated or periodic basis; and
- (f) applying special schemes for payment and recovery of tax from particular persons or classes of persons.

(2) Regulations made under subsection (1) may pertain to a single tax law or multiple tax laws.

(3) A person who fails to comply with a Regulation made under subsection (1) contravenes this Act and section 70 to 95 shall apply to that person.

(4) Where

(a) a law is only partly administered by the Authority, and

(b) a minister, authority or body other than the Minister is

empowered to make Regulations under that law, Regulations with respect to the administration by the Authority, may only be made by the Minister and in consultation with the other minister, authority or body.

Interpretation

108. In this Act, unless the context otherwise requires

"adjusted assessment" means an assessment adjusted under section 39;

"assessment" means a determination of the amount of tax liability made under a tax law, whether by the Commissioner-General or by way of self-assessment, and includes the matters identified in the Second Schedule;

"arrangement" means

(a) an action, agreement, course of conduct, dealing, promise, transaction, understanding or undertaking, whether express or implied, whether or not enforceable by legal proceedings and whether unilateral or involving more than one person; or

(b) a part of an item described in paragraph (a);

"authorised economic operator" means an internationally certified person whose role in the international supply chain is secure and is in compliance with customs controls and other procedures;

"Authority" means the Ghana Revenue Authority established under the Ghana Revenue Authority Act, 2009 (Act 791);

"Board" means the governing body of the Ghana Revenue Authority;

"business" includes a trade, profession or vocation, but does not include employment;

"Commissioner-General" means the Commissioner-General appointed under section 13 of the Ghana Revenue Authority Act, 2009 (Act 791);

"cost of charge and sale" with respect to charged assets means expenditure incurred or to be incurred by the Commissioner-General or an authorised agent

(a) under section 52 or 55 with respect to creating or releasing the charge; or

(b) under section 53 or 54 with respect to taking possession of, holding or selling the charged assets;

"Court" means High Court;

"conveyance" includes a ship, aircraft or vehicle;

"currency point" is equivalent to one Cedi;

"document" means an account, assessment, book, certificate, claim, declaration, note, notice, order, record, return, ruling, or other statement in writing, whether in electronic or other form;

"entity" means a company or other corporation, partnership, trust, government agency or, to the extent recognised as a person or taxable person by another tax law, any other entity but excludes an individual;

"file", in relation to a document, includes lodging or furnishing the document including by electronic means;

"*Gazette*" means the *Government Gazette*;

"Government" means Government of Ghana;

"international arrangement" means a treaty or agreement between the Government of Ghana and a foreign government providing for

(a) relief of international double taxation and the prevention of fiscal evasion;

(b) reciprocal assistance for the administration or enforcement of tax laws; or

(c) reciprocal concessions in respect of goods grown, produced or manufactured in or imported from a contracting State;

"manager", in relation to an entity means a councillor, director, manager, member, officer or other person who participates or may participate, whether alone or jointly with other persons, in making senior management decisions on behalf of the entity and includes

(a) a partner of a partnership and a trustee of a trust;

(b) a person treated as a manager of an entity by another tax law; and

(c) a person in accordance with whose directions and instructions the entity or a person described in the rest of this definition is required or accustomed to act;

"membership interest in an entity" means a right, whether of a legal or equitable nature, including a contingent right, to participate in income or capital of the entity and includes the interest of a partner in a partnership, the interest of a beneficiary in a trust and shares in a corporation;

"Minister" means the Minister responsible for Finance;

"original assessment" means an assessment that is not an adjusted assessment;

"person" means an individual or an entity;

"possessor" of an asset includes

(a) in relation to premises or a place, the owner, manager or any other person on the premises or place; and

(b) in relation to any other asset, including a document, a person from whom the asset is seized or taken;

"pre-emptive assessment" means an assessment raised by the Commissioner General under circumstances specified under Section 28(3);

"professional body" means a professional body registered under the Professional Bodies Registration Act, 1973 (NRCD 143);

"publicly available", in relation to a note, ruling or other notice issued by the Commissioner-General, means making the note, ruling or notice available to the public at offices of the Ghana Revenue Authority and at such other locations or by such other medium as the Commissioner-General may determine;

"reduction", with respect to tax, means an exemption, mitigation, deferment or remission that is in the nature of a concession or tax expenditure;

"restrain" includes detaining, locking up, marking, sealing, seizing, stopping, taking away or otherwise securing;

"security" for an obligation under a tax law is interpreted in light of section 8 and includes a charge created under section 52;

"self-assessment" means an original assessment under a tax law that is occasioned by a person filing a tax return rather than by the Commissioner-General making an assessment and includes the matters identified in the Second Schedule;

"statutory rate" means the Bank of Ghana monetary policy rate;

"tax affairs", in relation to a person, includes all manners in which any provision of a tax law may apply to that person or the activities, assets or personal circumstances of that person;

"tax law" means

(a) to the extent that it is to be administered by the Authority, a law listed in the First Schedule to the Ghana Revenue Authority Act, 2009 (Act 791); and

(b) an international arrangement.

"tax officer" means an officer of the Authority;

"tax return" includes the matters identified in the Second Schedule;

"trust" means an arrangement under which a trustee holds assets but excludes a partnership and a company;

"trustee"

(a) means an individual or body corporate holding assets in a fiduciary capacity for the benefit of identifiable . persons or for some object permitted by law and whether or not

(i) the assets are held alone or jointly with other individuals or bodies corporate;
or

(ii) the individual or body corporate is appointed or constituted trustee by personal acts, by will, by order or declaration of a court or by other operation of law; and

(b) includes

(i) an executor, administrator, tutor or curator;

(ii) a liquidator, receiver, trustee in bankruptcy or judicial manager;

(iii) a person having the administration or control of assets subject to a usufruct, fideicommissum or other limited interest;

(iv) a person who manages the assets of an incapacitated individual; and

(v) a person who manages assets under a private foundation or other similar arrangement;

"withholding agent" means a person obliged to withhold tax from a payment; and

"withholding tax" means income tax that a withholding agent is required to withhold from a payment under the Income Tax Act, 2015 (Act 896).

Consequential amendments and repeals

109. (1) The Provisions of the laws set out in the Third Schedule referred to as the "prior law" are repealed, enacted, replaced or amended as provided in that Schedule to conform to the introduction of this Act.

(2) Regulations made under the prior law and in force at the commencement of this Act continue in force as if they were made under this Act

(a) until the Regulations are amended or revoked by Regulations made under this Act; and

(b) except to the extent that they are inconsistent with this Act.

(3) In this section, "Regulations" includes rules, rulings, orders and notices.

Transitional provisions

110. (1) Subject to this section, the prior law continues to apply for periods and events occurring before the date' on which this Act comes into operation.

(2) All appointments made under the prior law and subsisting at the date this Act comes into effect are deemed to be appointments made under this Act.

(3) An International arrangement made by the Government of Ghana that is effective under the prior law at the time this Act comes into effect continues to have effect under this Act.

(4) Forms and other documents used in relation to the prior law may continue to be used under this Act and references in those forms and documents to provisions of and expressions appropriate to the prior law are taken to refer to the corresponding provisions and expressions of this Act.

(5) An appeal, prosecution or other proceeding commenced before the commencement of this Act shall continue and be disposed of as if this Act had not come into force.

(6) A tax liability that arose before the commencement of this Act may be recovered by fresh proceedings under this Act, but without prejudice to any action already taken for the recovery of the tax.

(7) A reference in this Act to "this Act" or to "a provision of this Act" includes, where the context requires, a reference to the prior law or to a corresponding provision of the prior law, respectively.

Commencement

111. This Act shall come into force on the 1st day of January, 2017.

FIRST SCHEDULE *(Sections 11 and 108)*

Transactions for which Taxpayer Identification Number or Tax Clearance Certificate is required

PART I

The Taxpayer Identification Number System

1. The Taxpayer Identification Number System applies to the following:

(1) the Ghana Revenue Authority;

- (2) the Controller and Accountant General's Department;
- (3) the Registrar General's Department;
- (4) the Registrar of Co-operatives;
- (5) the Lands Commission;
- (6) the Immigration Service
- (7) the Passport Office
- (8) the Driver and Vehicle Licensing Authority
- (9) the Courts;
- (10) Ministries, Departments and Agencies;
- (11) Metropolitan, Municipal and District Assemblies;
- (12) Government, Sub-divisions of Government and Public Institutions not listed above;
- (13) Persons required to withhold tax under the Income Tax Act, 2015 (Act 896);
- (14) Banks, Insurance Companies and other Financial Institutions;
- (15) Manufacturing companies; and
- (16) Any other institution or person which the Minister may by Regulations prescribe.

Use of Taxpayer Identification Number for specified transactions

2. A person shall not be permitted

- (1) to clear any goods from any port or factory,
- (2) to register any title to land, interest in land or any document affecting land,
- (3) to obtain any Tax Clearance Certificate from the Ghana Revenue Authority,
- (4) to obtain a certificate to commence business or a business permit issued by the Registrar-General or a Local authority,
- (5) to register a co-operative,

(6) to receive payment from the Controller and Accountant- General or a Local Government Authority in respect of a contract for the supply of any goods, works or provision of any services,

(7) to receive a payment subject to withholding under the Income Tax Act, 2015, (Act 896)

(8) to file a case with the Courts, or

(9) conduct any official business with the institutions and persons specified in paragraph 1

unless that person quotes the Taxpayer Identification Number issued in respect of that person under the System.

Part II

Tax Clearance Certificate required

INSTITUTION

PURPOSE OF TRANSACTION

INSTITUTION	PURPOSE OF TRANSACTION
Ghana Revenue Authority	Importation of goods in commercial quantities; customs clearing and forwarding, application for licence under the Customs Act, 2015, (Act 891) application for Licence under the Excise Act 2014, (Act 878)
Lands Commission	Title registrations and transactions
Government Ministries, Government -	Contracts, including contracts of

Agencies, Local Government Authorities and other bodies in which public funds are vested	supply of goods, works and services Submission of tenders for supply of goods, works and services
Professional bodies	Renewal of practising licence

SECOND SCHEDULE
(section 108)

Tax Returns and Assessments

Tax Returns

1. The tax returns for the purpose of this Act are as follows:

(a) in relation to income tax

- (i) a return of income filed under section 124 of the Income Tax Act, 2015 (Act 896) and
- (ii) a statement of tax withheld filed under section 117 of Income Tax Act, 2015 (Act 896);

(b) in relation to petroleum income tax

- (i) a return filed under section 73(1) of the Income Tax Act, 2015 (Act 896);
- (ii) a fresh return filed under section 73 (4) of the Income Tax Act, 2015 (Act 896); and
- (iii) a quarterly return filed under section 72 of the Income Tax Act, 2015 (Act 896);

(c) in relation to value added tax, national health insurance levy and special petroleum tax, a return filed under section 52 of the Value Added Tax Act, 2013 (Act 870);

(d) in relation to excise duty, a return filed under section 9 of the Excise Duty Act, 2014 (Act 878);

(e) in relation to taxes on imports, an import declaration form filed under section 49 of the Customs Act, 2015 (Act 891);

(f) in relation to stamp duty, particulars submitted under section 13 of the Stamp Duty Act, 2005 (Act 689);

(g) in relation to airport tax, a return required under section 3 of the Airport Tax Act, 1963 (Act 209);

(h) in relation to communication service tax, a return required under section 6 of the Communication Service Tax Act, 2008 (Act 754);

(i) in relation to casino revenue tax, a return required under section 5 of the Casino Revenue Tax Act, 1973 (N.R. CD. 200);

(j) in relation to mineral royalties, a return required under the Minerals and Mining Act, 2006 (Act 703); and

(k) in the case of any other law administered by the Commissioner-General, as specified in the relevant legislation.

Assessments

2. (1) For the purpose of this Act, "assessment" includes

(a) in relation to income tax an assessment made or treated as made under section 122, 123 or 126 of the Income Tax Act, 2015 (Act 896);

(b) in relation to petroleum income tax, a return filed under paragraph 1 (b);

(c) in relation to taxes on imports, entry of goods under the Customs Act, 2015 (Act 891);

(d) in relation to stamp duty, an assessment made under section 3 of the Stamp Duty Act, 2005 (Act 689);

(e) in relation to the obligations referred to in paragraph 1(a)(ii), 1 (e), 1 (d), 1 (.g), 1 (h), 1 (i), 1(1) and 1(k), an assessment made under paragraph 3 in respect of the obligation to file a tax return; and

(f) in relation to this Act, an assessment made under section 37, 38, 39 or 77.

(2) The Commissioner-General may exercise all powers under this Act with respect to an assessment including powers under section 37 to 40.

Self-Assessment

3. (1) Where a person files a relevant tax return, the assessment is, unless otherwise indicated, treated as made on the due date for filing the tax return.

(2) The assessment is in an amount equal to the net amount of tax due as shown in the tax return.

(3) A "relevant tax return" means a tax return filed in accordance with paragraph 1.

Enactment

Date of *Gazette* notification:

87

10th August, 2016.