Ghana Tax Guide - 2015

***PKF**–Ghana Tax Guide*

GHANA

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A. TAXES PAYABLE

National taxes and levies apply in all ten regions of the country.

In 2001, a new tax law, The Internal Revenue Act 2000 (Act 592), was passed to administer Direct Taxes. The Internal Revenue Regulations, 2001 (L. I. 1675) was also introduced. There have been a number of amendments to the law and regulations.

The only notable national levies in the country are:

a. **The National Health Insurance Levy** of 2.5% imposed on certain goods and services. The National Health Insurance Levy is administered on the lines of Value Added Tax

b. NATIONAL FISCAL STABILISATION LEVY (NFSL)

The NFSL was introduced in 2009 but was abolished in January 2012. It has been reintroduced by ACT 862, effective 30TH September 2013. The rate of levy is 5% on the profits before tax, payable on quarterly basis and covers the following entities:

i. Banks (excluding Rural and Community banks)
ii. Non-Bank Financial Institutions
iii. Insurance Companies
iv. Telecommunication companies liable to collect and pay Communication Service Tax under Act 754 of 2008
v. Breweries
vi. Inspection and Valuation Companies
vii. Shipping lines, Maritime and Airport Terminals
viii. The levy is collected upfront by the Ghana Revenue Authority.

It is not an allowable deduction for the purpose of ascertaining the chargeable income of an entity under the Internal Revenue Act, 2000, ACT 592 as amended

c. **A Special Import Levy** of 1.2% was extended in 2015 to end in 2017

Taxes consist of income taxes, sales and service taxes administered by the Domestic Tax Revenue Division (DTRD) of the Ghana Revenue Authority (GRA) and customs and excise duties administered by the Customs Division (CD) of the GRA.

COMPANY TAX

Unless specifically exempted in the law, resident companies resident are required to pay tax on income relating to business and investment derived from, accrued in, brought into or received in Ghana after the necessary adjustment aremade. The rate of tax generally is 25%.

For non-resident companies they are liable to tax on income relating to business and investments derived from or accruing in Ghana during any basis period ending within the year of assessment.

There are different rates applicable to certain companies (see ‘Incentives’ below)

From 2012, mining companies are to pay corporate tax at a rate of 35%.

The corporate entity is taxed separately from its shareholders.

All companies have to file returns four months after their accounting year. It is also required that they make quarterly tax payments on the current year’s income based on the provisional assessment made by the DTRD or the company itself (where the DTRD has granted that permission).

CAPITAL GAINS TAX

Businesses are required to pay tax on gains made on realization of chargeable assets.Chargeable assets include land (which is not for agriculture in Ghana), buildings, shares, goodwill and business assets, among others.

Chargeable assets do not include trading stock, securities of a company listed on the Ghana Stock Exchange during the first 15 years of the establishment of the Stock Exchange or Classes 1, 2, 3 and 4 assets (e.g. vehicles, plant and machinery, air andsea transport, computers, etc).

EXEMPTIONS

The following exemptions apply:

(1) Gains derived from mergers, amalgamations or re-organization of the companywhere there is continuity of underlying ownership in the asset of at least 25%

(2) Capital gains of up to Gh¢ 50.00

(3) Where the person uses up the amount received to acquire a replacement asset within one year

(4) Transfer of ownership of an asset to a former spouse in divorce settlement or genuine separation

(5) Transfer of asset to spouse or certain relatives.

The capital gain is calculated as the excess of consideration received from the realization over the cost base of the asset at the time of realization. The tax is imposed at the rate of 15%.

Attention is now devoted to appreciation in owner capital arising from changes in ownership structure through takeover and acquisition.

BRANCH PROFIT TAX

A branch of any foreign company doing business in Ghana is taxed at 10% on repatriated funds.

SALES TAX / VALUE ADDED TAX (VAT)

These are indirect taxes paid by consumers on some goods and services to the state through registered individuals or businesses. The rate is 15% for businesses and individuals whose turnover for a 12month period is GH¢120,000 or above on the value of goods and services. This excludes the National Health Insurance Levy of 2.5%.

A new law Act 870 has replaced the Value Added Tax Act, 546 bringing into effect the following:

VAT Rate

All persons registered for the Value Added Tax (VAT) and are currently operating the standard rate scheme are required to charge and account for VAT and the National Health Insurance Levy (NHIL) simultaneously at the rates of 15% and 2½% respectively of the taxable value of their supplies. This in effect amounts to a total charge of 17½% of the taxable value of the supply.

Credit for Deductible Input Tax

By the provisions of the VAT Act 2013, (Act 870), allowable period for deducting input tax has been reduced from three (3) years to six (6) months.

Accordingly all registered persons who are in possession of valid VAT/NHIL invoices for input tax claims which are more than six (6) months (i.e. before 31st July 2013) are to claim them on the December 2013 returns. This must be submitted not later than the last working day of January 2014 (i.e. 31st January 2014).

Scope and Coverage of the Value Added Tax

The Value Added Tax 2013, (Act 870) extends the coverage of the tax to some business activities which were hitherto outside the tax net. These include the following business activities;

i) The sale of immovable property by an estate developer. The rate is 5% flat

("Estate developer" means a commercial establishment engaged in the business of the construction and sale of immovable property)

ii) The supply of financial services that are rendered for a fee, commission or a similar charge.

"Financial services" means provision of insurance; issue, transfer, receipt of, or dealing with money whether in domestic or foreign currency or any note or order of payment of money; provision of credit; or operation of a bank account or an account of a similar institution.

Life insurance and reinsurance services are however exempt from the tax whether or not such services are rendered for a fee, commission or a similar charge

iii) A supply of domestic transportation of passengers by air; and the supply of haulage as well as the rental or hiring of passenger and other vehicles.

iv) The business activities of auctioneers and promoters of public entertainment

v) The business of gymnasium and spa

vi) The manufacture or supply of pharmaceuticals listed under Chapter 30 of the Harmonized Systems Commodities Classification Code, 1999 other than supplies at the retail stage.

Threshold

The current threshold for registration of VAT is GH¢120,000 for a 12 month period or GH¢30,000 for a period of 3 months.

However the following entities are not bound by the threshold and are required to apply for registration upon operation:

- promoters of public entertainment
- an auctioneer
- a national, regional, local or other authority or body

Taxpayers Registered under the VAT Flat Rate Scheme

All persons registered for VAT/NHIL and are authorized to operate under the VAT Flat Rate Scheme (VFRS) are required to continue to charge and account for the tax at the rate of 3% of the taxable value of their supplies until otherwise advised by the Commissioner-General in writing. Such registered persons are to issue the VFRS VAT/NHIL invoices.

Exempt supplies include postal services, transportation, machinery, electricity, water and transfer of going concern.

The following changes were made in 2015

- a Special Petroleum Tax (VAT) of 17.5%
- a reversal of excise tax on petroleum from Ad Valorem to Specific

Businesses and individuals whose turnover for a 12month period falls below GH¢120,000 are to pay a presumptive tax of 6% of their turnover. (No input or output VAT is computed.) There are exemptions specified in the VAT law. Exempt supplies include agricultural products and inputs, printed matter, approved medical and pharmaceutical supplies,transport, financial services, land, building and construction.

Imports are taxable. Exports are zero rated.

Under Excise Duty, the rate for Environmental Tax has been reduced from 20% to 15%.

Also excise duty rates are to be reduced on a sliding scale to companies using local raw materials as substitutes in the production of excisable goods.

FRINGE BENEFIT TAX

With the exception of dental, medical, and health insurance expenses, all fringe benefits derived from employment are taxable.Benefits relating to accommodation and cars have their own treatment specified in the Tax Law. For all other benefits, the open market value or a reasonable value is added to taxable income and subject to tax.For some services provided to its employees (e.g. food offered in a canteen, office outings, transportation of employees, accident insurances and payments toretirement funds), the employer has the option to pay the income tax on account forthe employee.

LOCAL TAXES

Taxes are collected by the District, Municipal and Metropolitan Assemblies (authorities) from persons doing business within their localities. They also are responsible for the collection of property taxes.

OTHER TAXES

1. GIFT TAX

Subject to certain exemptions, gift tax is payable by every person on the total value of taxable gifts received by the person by way of gifts within a year of assessment. The rate ranges from 5% to 15%.

2. STAMP DUTY

Stamp duty is paid at various rates by a person who undertakes certain transactions including the following:

(a) Conveyance or transfer on the sale of any property
(b) Appointment of a new trustee
(c) Natural resource lease or license (e.g. mining and timber)
(d) Agreement or memorandum of agreement
(e) Award of cost in a matter of dispute
(f) Bill of exchange (e.g. issue of cheques)
(g) Bill of lading
(h) Insurance policy.

3. MINERAL ROYALTIES

Holders of mining leases are required to pay royalties at specified rates to the Government on a monthly basis.

4. COMMUNICATION SERVICE TAX

This is a tax on communication service providers based on turnover.The coverage of this tax has been extended to include the following:

- Public/corporate data operators
- Providers of radio(FM) broadcasting services
- Providers of free-to-air television services.

5. TAX STAMP

This a tax imposed on operators in the informal sector. The amount paid is based on turnover and nature of product but not on profit.

6. VEHICLE INCOME TAX

This is a tax imposed on commercial vehicles. It is paid quarterly.

7. AIRPORT TAX

This is imposed on both domestic and international travels. It varies depending on the passenger class and the place of destination.

The current rates are:

Domestic travel $5

Regional travel within West Africa $60

International travel a) Economy class travel outside West Africa $100

b) Business class travel outside West Africa $150

c) First class travel outside West Africa $200

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8. WINFALL TAX

Windfall Profit Tax Bill at 10% was to be re-introduced after a committee had reviewed all Stability Agreements, incentives and the Windfall Profit Tax that could not be passed by Parliament in 2012.

The Windfall Profit Tax intends to apply a tax at the rate of 10% on windfall gains of mining entities in Ghana.

Indications as at 25th January 2014 are that the Government intends to abandon the bill due to concerns from the mining companies to lay off workers if the bill is passed as law.

TAX AMNESTY

Effective 1 January 2012 a tax amnesty was granted to companies and individuals who had evaded taxes.This concession expired on 30 September 2012.

B. DETERMINATION OF TAXABLE INCOME

Chargeable income of a person is defined in the Internal Revenue Act 2000 (Act 592) as:

"the total of a person's assessable income, from each business, employment,and investment, less the total amount of deductions allowed to that person for the year under sections 13 to 22 (relating to general and specific deductions),s 39 (relating to reliefs), s 57 (relating to life insurance), and s 60 (relating to contributions to retirement funds).

CAPITAL ALLOWANCES

Capital allowances are granted in respect of fixed assets (depreciable assets), bothtangible and intangible, acquired by persons in businesses for each year of assessment.To qualify for these allowances, however, the following conditions must be met:

(a) the assets should be capital in nature

(b) the asset should be owned by the business

(c) the asset should be in the business up to the end of the year

(d) the asset should be used in carrying on business during the period

(e) the Commissioner General of GRA should be informed of any new asset acquired one month after its usage in the business.

Depreciable assets are categorized into six classes.

Classes (Pools) 1–4 assets are put in different pools and depreciated at various rates ranging from 20% to 40% on reducing- balance method.

Class 5 (buildings) attract a rate of 10% on cost and Class 6 (intellectual or industrial property) is depreciated over its estimated useful life.

Class	**Assets**	**Rate**
1	Computers and data handling equipment	40%
2	Automobiles, plant and machinery used in manufacturing	30%
	Assets in respect of long term crop planting costs	30%
3	(1) Assets relating to minerals and petroleum Industry	30%
4	Rail, water and air transport, plant and machinery, fixtures, furniture and equipment, and any other asset not included in any other class.	20%
5	Buildings, structures and works of permanent nature other than those in Class 3	10% (straight line)
6	Intangible assets other than those in Class 3 Estimated use life	10% (straight line)

From 2012, mining and oil companies have a uniform regime for capital allowance of 20% for five years.

DISPOSAL

When an asset belonging to Classes 1 to 4 is disposed, the realized value is taken out of the class it came from before the rate of capital allowance is applied on the residue. Where the sale of an asset leads to the wiping off of the written-down value of the pool but there is still an excess of the disposal proceeds, the excess is included in the income of the year and taxed.Where all assets in a pool are disposed of but there are not enough proceeds to take care of the written down value, capital allowance is granted on the outstanding written down value to reduce the pool to zero at the end of the year.

In case of Classes 5 and 6 assets, a different method is adopted. This method ensures that businesses recover cost in the case of a loss on disposal and are also not overly taxed in the case of gains.

CAPITAL ALLOWANCE ON LEASED ASSETS

The lessee of an asset, whether under finance or operating lease, is not entitled to capital allowance on the asset. The rental payments made to the lessor are treated as allowable expense for tax purposes.

In the case of the lessor, capital allowance is claimed under an operating lease. The full amount of rent received is included in the lessor's income for the year. Where the arrangement is a finance lease, the lessor does not qualify for capital allowance. The amount of rent payment included in taxable income for the year is reduced by capital amounts determined by the Commissioner.

DEPRECIATION

Depreciation of any fixed asset is not an allowable deduction in arriving at the assessable income. This is compensated for by the granting of capital allowance.

STOCK / INVENTORY

For the purpose of tax, stock and work in progress is valued at the lower of cost or market value. However, any method of stock valuation accepted by accounting principle that is consistently applied is accepted.

CAPITAL GAINS AND LOSSES

Gains or Losses on disposal of assets, as reported in financial statements, are not taxable or allowable respectively. Gains are deducted from profits and losses added to profits. This is in line with the IRS law that does not recognize depreciation policies set out by businesses.The pool system adopted by the IRS for capital allowance purposes makes it almost impossible to ascertain whether a loss or gain was made on the disposal of a particular asset.

However, there are adequate provisions for recovery of full cost of fixed assets disposed of (refer to disposal of fixed assets under 'Capital allowance').Classes 1 to 4 assets do not attract capital gains tax on disposal. .Assets disposed of are subject to VAT.

DIVIDENDS

A tax is paid by a resident or non-resident person or partnership who or which is paid a dividend by a resident company, other than exempt dividends, at 8%. A capitalization of profit is treated as dividend paid to each of the company's shareholders in proportion to their respective interest in the company and is taxedat 8%.

Where a company (controlled by not more than five persons) records profit over a reasonable period but does not declare dividends, the Commissioner has the authority to treat part of the company income as distributed and demand tax on dividends.

EXEMPTION

Dividends paid by a resident company to another resident company where the recipient company controls directly or indirectly 25% of the voting power of the company paying the dividend are exempt. This exemption does not apply if the dividend paid is intended as a profit or dividend stripping arrangement.

INTEREST DEDUCTIONS

Interest incurred in respect of a borrowing employed by a business entity in the production of income is a deduction allowed for the purpose of ascertaining the assessable income of the person.

LOSSES

Tax Losses

Tax losses are arrived at after adjusting losses reported in financial statements in line with tax principles. Manufacturing industries which export their products and farming and mining concerns are allowed to deduct the losses over a five-year period subsequent to the year in which the loss was incurred.

Foreign Currency Exchange Losses

Any foreign currency exchange loss, other than a loss of capital nature, in respect of any debt claim, debt obligation, or foreign currency holding, incurred for the purpose of producing an income is an allowable deduction but subject to the fulfillment of certain conditions.

FOREIGN SOURCED INCOME

Foreign sourced income brought into or received in Ghana by resident persons is included in that person's income for the year and taxed. However, the person is allowed the deduction of foreign tax credits or entitled to some reliefs where there is a double taxation agreement.

INCENTIVES

There are a number of incentives provided for in the IRS law and other laws and enactments geared towards the development of certain sectors of industry and of certain parts of the country. These incentives include reduced rate of taxes,exemption from the payment of duties and other taxes for specified periods, higher rate of capital allowance, among others. These cannot be exhaustibly dealt with but below are a few of such concessions granted.

1. CARRY OVER LOSSES

This applies to business engaged in farming, manufacturing or mining (refer to'Losses' above).This concession is also to be granted to venture capital investment on losses incurred on the disposal of shares, agro-processing, tourism and ICT industries from year 2006.

2. LOCATIONAL INCENTIVES FOR MANUFACTURINGBUSINESS

Location within Accra and Tema	25%
Location in regional capitals of Ghana	18.75%
Location in free zone enclave	0%
Location elsewhere in Ghana	12.5%

3. LOCATIONAL INCENTIVES FOR AGRO-PROCESSINGBUSINESS

Tax rates for manufacturing concerns vary depending upon the location of the business and are as follows:

Location within Accra and Tema	20%
Location in regional capitals of Ghana:	
- except the three northern regions	10%
- the three northern regions	0%
Outside Regional Capitals	0%

4. SECTORIAL INCENTIVES (REDUCED TAX RATES)

Tax rates vary depending upon the area (sector or industry) from which the income is derived from as shown below:

Hotel industry	20%
Export of non-traditional production	8%
Loans granted to a farming enterprise	20%
Loans granted to a leasing company	20%
Companies listed on the Ghana Stock Exchange	25%
Companies listed on the Ghana Stock Exchange after 1 January 2004 (for first three years)	22%

5. INDUSTRIAL CONCESSIONS (EXEMPTION PERIOD)

The income of a person from the following industry or sector of the economy is exempt from tax for the years stated against them:

Farming tree crops	10 years
Livestock	5 years
Farming cattle	10 years
Processing business	3 years
Rural banking 10 years	
Construction for sale or letting of residential premises (on condition that the company partners the Ministry for Works and Housing)	5 years
Cocoa farming indefinitely	
Processing of cocoa by-products	5 years
Processing of waste materials	7 years
Agro-processing	5 years
Venture capital investments (effective 2006).	5 years

C. FOREIGN TAX RELIEF

Foreign tax credits are available to relieve double taxation on overseas income. Credits are calculated separately for each source of business, employment andinvestment income and may not exceed the average rate of Ghanaian income taxof that person for the year of assessment applied to that person's taxable foreign income for the year.

D. CORPORATE GROUPS

Corporate groups, irrespective of their affiliations, prepare accounts separately andare taxed separately. Capital allowance is not transferable.

E. RELATED PARTY TRANSACTIONS

Although nothing in the law disallows related party transactions, the Commissioner has authority to disregard or reverse any transaction that is geared towards tax avoidance.

F. WITHHOLDING TAX

Tax is withheld at various rates for the following transactions:

Income (Residents)	Rate
Payment of employees	graduated
Directors’ fees	20%
Payment of interest (excluding individuals)	8%
Fees to part-time lecturers, teachers, examiners, etc	10%
Payment of dividend to shareholders	8%
Commission to insurance and sales agents	10%
Commission to lottery agents and receivers	5%
Payment for goods and services supplied	5%
Rent (Residential)	8%
Rent (commercial)	15%

Income (Non-Residents)	Rate
Management and technical service fees	20%
Royalties, natural resource payments and rents	10%
Endorsement fees	15%
Dividends	8%
Repatriated branch after tax profits	8%
Interest	8%
Short-term insurance premium	5%

G. EXCHANGE CONTROL

Ghana has an Exchange Control Act that regulates, among other things, the following:

- Use of foreign exchange among residents
- Trading in gold (coins and/or bullion)
- Exports and import on bank notes
- Exports and export proceeds
- Capital and money market instruments.

The DTRD Regulations set a formula for calculating the amount of profits that a foreigncompany may repatriate to its home country at every point in time.

There are restrictions to the amount allowed to be repatriated determined by the Bank of Ghana under Act 723.

The restrictions relate to Sections 15,16,18,19 and 20 of Act 723 which among others require that each payment in foreign currency to or from Ghana between a resident and a non resident, or between non residents, shall be made through a bank.

Where the Bank of Ghana has reason to believe that an offence in contravention of Act 723 is likely to be committed or has been committed, the Bank of Ghana may require a bank to obtain its permission prior to the execution of any payment in foreign currency.

Sections of the Act are as follows:

Subject to the Foreign Exchange Act, 2006(Act 723) and the Regulations and Notices issued under the Foreign Exchange Act, an entity shall, through an authorized dealer bank be guaranteed unconditional transfer in freely convertible currency of the following:

- dividends or net profits attributable to the investment made in the entity
- payments in respect of loan servicing where a foreign loan has been obtained
- fees and charges in respect of a technology transfer agreement registered under the Ghana Investment Promotion Centre Act,2013 (Act 865)
- the remittance of proceeds,net of all taxes and other obligations, in respect of sale or liquidation of the entity or any interest attributable to the investment in the entity.

H. PERSONAL TAX

Individuals are required to pay tax on gains or profit from employment, business or investment. For a resident person, he or she is to pay tax on income accruing in, derived from, brought into, or received in Ghana. A non-resident person pays tax on income accruing in, and derived from Ghana regardless of whether the income is received in Ghana. An individual is considered resident if he or she has stayed in Ghana for an aggregateperiod of 183 days or more in any 12 month period. All incomes are aggregated and taxed after the various adjustments relating to the type of income earned are made. The aggregated income excludes capital gains, gifts and rent income. The tax rates are graduated with rates ranging from 0% to 25%. Annual income up to Ghana Cedis1,584 is taxed at 0%. Any income in excess of Ghana Cedis 31,680 is taxed at 25%.

Details of the annual rates are

CHARGEABLE INCOME	RATE	TAX	CUMULATIVE INCOME	CUMULATIVE TAX
GH¢ 1,584	0%	0.00	1,584	0.00
Next 792	5%	39.60	2,376	39.60
Next 1,104	10%	110.40	3,480	150
Next 28,200	17.5%	4,935	31,680	5,085
Exceeding 31,680	25%			

The Monthly rates are

CHARGEABLE INCOME	RATE	TAX	CUMULATIVE INCOME	CUMULATIVE TAX
GH¢ 132	0%	0.00	132	0.00
Next 66	5%	3.30	198	3.30
Next 92	10%	9.2	290	12.50
Next 2,350	17.5%	411.25	2,640	423.75
Exceeding 2,640	25%			

I. TREATY AND NON-TREATY WITHHOLDING TAX RATES

In the absence of any treaty with the Government of Ghana, the provisions of the income tax law applies for the treatment of all tax matters. Thus, tax rates applicable on various incomes apply. Where there is a treaty with the Government of Ghana, the terms of the treaty prevail over all provisions of the income tax law. However, where the rates of taxes set out in a treaty are higher than those of the laws of Ghana, the lower rates are used. Currently, notable double taxation treaties Ghana has are with the United Kingdom, France, Italy, South Africa, Belgium and Germany.

Tax Rates in percentages are as follows:

Income	**Germany**	**South Africa**	**Belgium**	**Italy**	**Netherlands**	**United Kingdom**	**France**
Technical/							
Management fees	8	10	10	10	8	10	10
Interest	10	10	10	10	8	12.5	10
Royalties	8	10	10	10	8	12.5	10
Dividends:							
Recipient must hold at							
least 10% shares	**5**	**5**	**5**	**5**	**5**	**7.5**	**7.5**
All other cases	**15**	**15**	**15**	**15**	**10**	**15**	**15**

PENALTIES

FILING OF RETURN OF INCOME

Any company or a self-employed person who fails to provide a return of income to the DTRD within the time required is liable to pay a penalty as follows:

Company	Two (2) Currency Points for eachday of default.
Self-employed	One (1) Currency Point for each day of default.

The penalties for failure to pay tax on due date are as follows.

(a) up to three months – 10% of the unpaid tax
(b) exceeding three months – 20% of the unpaid tax.

A further penalty 5% of the tax and penalty shall be imposed if the total amount remains unpaid.

The penalties for failure to withhold tax and/or failure to pay withheld tax are as follows:

(a) Up to three months – 20% of the unpaid amount
(b) Exceeding three months – 30% of the unpaid amount.

A further penalty of 5% of the tax plus penalty shall be imposed if the total amount remains unpaid.

PAYMENT OF TAX

Income taxes are paid up front on quarterly basis based on self assessment and assessments from the Commissioner General of the Ghana Revenue Authority.