

Newsletter

Editor's Note

Integrated Legal Consultants (ILC) was founded in April 2007, in Accra, Ghana, to offer dedicated and innovative corporate legal services while ensuring that the Ghanaian and West African business community and our network of international clients benefit from the highest quality of corporate and commercial legal services that the Practice provides.

As part of this vision, the firm has introduced the publication of newsletters on legal and economic issues that would be of interest to the client and equally affect

their transactions. This is therefore our maiden edition. In this issue, we have highlighted certain aspects of the new Income Tax Law that came into effect the 1st of January 2016. We have equally elaborated on the state of economy in 2015 and how it affected businesses and the firm's transactions as a whole.

We hope you find it informative and educative. Your feedback is welcomed.

Happy Reading!

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THE INCOME TAX ACT, 2015

The Ghana Revenue Authority (GRA) has implemented a new income tax law, which repeals the Internal Revenue Act (Act 592) with effect from January 2016.

While the new Income Tax Act 2015 (Act 896) retains some provisions in the old act, other sections have been modified and new provisions introduced to make its compliance easy for taxpayers.

The Act 896 will ensure that tax officials perform their functions with integrity and honesty and enforce the country's tax laws to avoid non-compliance.

This law seeks to revise and consolidate the law relating to income tax and further simplify the provisions for better understanding thus making the Act user friendly. It also seeks to enhance efficiency and facilitate compliance to avoid evading payment and broaden the tax base.

The basis of taxation has now moved to full a worldwide basis. Thus the government of Ghana will now tax on all global earnings whether or not they are repatriated to Ghana. A person's chargeable income for a year assessment is the total of the assessable income from employment, business or investment less the total amount of deductions allowed. The chargeable income is

hence determined from each source separately. Income from business now includes a gain from realization of capital assets and liabilities of the business and gifts received in respect of the business.

Income from investments also includes gains from the realization of investment assets, winnings from lottery and gifts received in respect of investments.

One major change is the exempt income, which is now not applicable to the interest paid to individuals. Thus, interest paid to an individual is no longer exempted from tax. It is taxed at a concessionary rate of 1% as a final tax. Interest or dividend paid to a member or a holder of an approved unit trust or mutual fund is taxed at 1% where the holder is an individual any other i.e companies etc attracts a taxable rate of 8%.

One also needs to note that Capital Gains Tax is no longer a separate tax on its own. Gains realised on disposal of assets or liabilities are to be included in business or investment income and taxed at the applicable income tax rate. Individuals may however, opt not to subsume the gain and pay at a rate of 15% on the disposal.

Mortgages have been equally affected by Act 896. Thus, there is a limit on the mortgage interest deduction for individuals to just one residential

building for a life time unlike the previous provision that was available for more than one (1) residential building.

Withholding tax rate on services for residents has been increased from 7.5% to 15%. There is an introduction of 5% withholding rate on the provision of any works.

The petroleum industry has also been captured by the Act. That is to say, dividend paid in petroleum operations is subject to final withholding tax of 8% and subcontractors that perform works or services for or in connection with a petroleum agreement shall be liable to withholding tax of 15%. The 15% is a final tax for a non-resident.

The threshold for withholding tax has been increased from GHc500.00 to GHc2,000.00 for supply of goods, works and services. Due date for self-assessment returns is by the date for the payment of the first tax installment. Thus, a basis period that starts from January to 31st December, will have up till the 31st March 2016 to file estimates for 2016 year of assessment.

The Act also makes provision for temporary concessions. Individuals and companies granted temporary concessions from tax in specified sectors are required to pay 1% tax on their chargeable income during the period of concession.

The Act has introduced the principle of modified taxation for certain eligible resident individuals by :

- a. imposing presumptive tax on individuals that only have income from certain types of business.
- b. by applying the modified cash basis in calculating income from certain businesses. Persons with turnover below GHc20,000.00 per annum will be based on rates determined by the Commissioner - General.

Act 896 exempts from tax, gains made from realization of assets from merger, amalgamation or re-organization where there is a continuity of at least 50% of the underlying ownership.

Finally the Act also provides that a private ruling by the Commissioner General is binding on the Commissioner General with respect to the application of the Act at the time of the ruling and it is also binding on the applicant as far as the transaction in respect of which the ruling is given is concerned. It however provides for amendment and revocation of practice notes and private rulings. Thus despite the binding nature of the ruling of the Commissioner General, a taxpayer can challenge same in court.

THE ECONOMY IN 2015

Ghana's economy has been slowing down for quite some time now and this affected the supply of goods and services in the jurisdiction. Some businesses had to wind up pre-maturely due to inability to meet the cost of production and sales. The worse hit was last year as the country faced a number of challenges and the government and parliament struggled in finding solutions and creating a more favourable environment for businesses to thrive. The major issues the country faced were:

1. The Energy Crisis:- Energy is the backbone of development of the economy of any country in this advanced world where technology is at its peak. This requires for the constant supply of abundance of energy to boost productivity and the economy as a whole. The source of energy in Ghana is mainly hydro-electric plants and thermal plants. This is generated by the Volta River Authority and transmitted by Ghana Grid Company both state owned institutions. The energy is then sold to consumers by the Electricity Company of Ghana. The supply of this energy has however been rationed for some years now with the worse schedule of supply having been last year. Communities suffered from lack of supply for two to four days continuous creating a lot of inconvenience for residents and businesses. An office had to run on generator for all these days leading to a high cost in production hence an increase in prices of goods and services while

salaries and standard of living remained the same. This affected investors and therefore a lot had to abandon their projects and set sail.

2. Sharp Currency Depreciation:-The Cedi has been named one of the worst performing currencies in the world in 2015. This was as a result of the looming depreciation in the currency in 2015. The reasons associated with this was the rate of inflation and rate of interest. The depreciation massively affected the prices of goods and services. It also led to losses in businesses since invoices could be issued at a rate on a particular day but there would have been a significant change in the rate as at the time of payment. Also, goods that were ordered at a particular rate would change at the time of delivery. Investors really suffered as a result of this and it took a lot of effort from the Bank of Ghana to stabilize the Cedi towards the end of the year but same could not be sustained by the end of the year.

3. Increase in Utility Tariffs:- There was a significant increase in the tariffs in Ghana in 2015. The prices of water and electricity went up without any significant rise in the quality or quantity of service. This resulted in high cost of living and also increased the cost of production and in running business in Ghana. This contributed to the winding up of businesses and also the sprinting of investors from Ghana to other economic friendly African countries.

4. Conditions of IMF Loan:- This also affected the economy of Ghana significantly. This is because the Conditions imposed by the IMF include Ghana allowing its currency to depreciate, making cuts in government spending, reducing or removing subsidies and increasing the price of utilities. The measures seek to boost government revenue and raise export earnings by making the country's products cheaper, while raising the prices of imports. Most of the products and machinery in Ghana are however imported and therefore this

equally increased cost of production and the cost of living. Government was also forced to cut back on subsidies and projects and infrastructures from which the citizens benefited. Ghana faces a trade deficit as a result of rising imports, including food items, unmatched by exports. Ghana faces a trade deficit as a result of rising imports, including food items, unmatched by exports. Its main exports—cocoa and gold have not fared well recently. This therefore contributed to the economic meltdown the country faced.

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