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HIGHLIGHTS OF RECENT AMENDMENTS TO THE TAX LAWS IN GHANA

INTRODUCTION

The Government of Ghana in its 2018 Budget Statement and Economic Policy expressed the intention to introduce certain tax initiatives for economic growth. By way of recap, the government indicated in the Budget Statement that the following policies would be introduced:

- Tax Breaks to help position Ghana as a Higher-Education Hub
- Tax Incentives for Young Entrepreneurs
- Income Tax Threshold
- Taxation of Lottery
- Voluntary Disclosure Procedures (VDP)
- Tax Amnesty
- Alternative Dispute Resolution (ADR) in resolving tax disputes
- Extension of National Fiscal Stabilisation Levy (NFSL) and Special Import Levy (SIL)

In furtherance of the Government's initiative to use tax policy as a tool to stimulate investment and to shape economic behaviour, Parliament of Ghana recently passed certain amendments to our existing tax laws and also enacted a new law, the Amnesty Act, 2017 (Act 955). These laws were assented to by the President and gazetted on 29th December 2017 and thus became effective, from January 2018.

The amendments passed by Parliament in respect of taxation are as follows:

- Income Tax (Amendment) (No.2) Act, 2017 (Act 946)
- Value Added Tax (Amendment) (No.2) Act, 2017 (Act 954)
- Customs (Amendment) (No.2) Act, 2017 (Act 957)
- National Fiscal Stabilisation Levy (Amendment) Act, 2017 (Act 958)
- Special Import Levy (Amendment) (No.2) Act, 2017 (Act 953)

TAX AMNESTY ACT 2017, (ACT 955)

The purpose of the Tax Amnesty Act, 2017 (Act 955) is to grant amnesty to persons who have failed to register with the Ghana Revenue Authority or failed to file their tax returns or pay taxes as required under the tax laws. This initiative is intended to encourage voluntary compliance and get more taxpayers registered in the database of the Ghana Revenue Authority.

Section 1 of the Act deals with amnesty for taxes, penalties and interests. It provides that the Commissioner-General shall not assess or recover taxes, penalties and interest in respect of previous years up to and including the 2017 year of assessment where that person on or before 30th September 2018 registers with the Ghana Revenue Authority and files income tax for the 2014, 2015 and 2016 years of assessment.

Section 2 of the Act deals with amnesty for penalties and interest up to 2017 where the person submits returns or amended returns, containing full disclosure of all previously undisclosed liabilities up to the 2017 year of assessment before the amnesty period elapses. Such a person should have as well paid all assessed and outstanding taxes.

The tax amnesty applies to persons who have not previously been registered with the GRA or who, having registered previously, have not submitted returns or are in arrears for the submission of returns. The tax amnesty does not apply where the person who should have paid the tax,

- has been assessed in respect of the tax or any matter relating to the tax;
- is under an audit or investigation in respect of the undisclosed income unless that person makes a full disclosure and declares and pays the accrued liabilities before the conclusion of the audit or investigation; or
- has been notified by the Commissioner-General of an enforcement action relating to the failure to comply with any tax law unless that person submits the returns or makes immediate payments of any tax assessed or due.

The tax amnesty does not apply to payments and returns due from 1st January 2018.

To apply for tax amnesty under the Act, a person who qualifies for tax amnesty must submit a written application and his returns addressed to the Commissioner-General in a prescribed form. The Commissioner-General is enjoined to serve on a person who has applied for tax amnesty within 30 days, a notice of his decision to grant or refuse the application; and where he refuses the application he shall indicate the reasons for his refusal.

Under section 6 of the Act, the Commissioner-General has been empowered to grant terms for the payment of the assessed amounts and outstanding arrears. Administrative guidelines may be issued by the Commissioner-General as may be required for the purpose of the Act. We are of the hope that the administrative guidelines will be issued in due course.

INCOME TAX (AMENDMENT) (NO.2) ACT, 2017 (ACT 956)

The following are the respective amendments contained in Act 956:

Tax on Lotto Winnings Abolished

The Income Tax (Amendment) (No.2) Act, 2017 (Act 956) has amended section 6 of the Income Tax Act, 2015 (Act 896) by abolishing the tax on lotto winnings.

Income of Approved Unit Trust Scheme, Mutual Fund and REIT exempt from Tax

Section 7 of Act 896 has also been amended to exempt from tax, the income of an approved unit trust scheme or mutual fund, and the income of an approved Real Estate Investment Trust (REIT).

Revised Individual Income Tax Rates

With effect from January 2018, the income tax rates under the First Schedule to Act 896 as amended by Act 956 are as follows:

Annual Rates

NO.	CHARGEABLE INCOME	RATE OF TAX
1	First GHS 3,132	NIL
2	Next GHS 840	5 %
3	Next GHS 1,200	10 %
4	Next 33,720	17.5%
5	Exceeding GHS 38,892	25 %

Monthly Rates

NO.	CHARGEABLE INCOME	RATE OF TAX
1	First GHS 261	NIL
2	Next GHS 70	5%
3	Next GHS 100	10%
4	Next GHS 2810	17.5%
5	Exceeding GHS 3,242	25%

Tax Reliefs for Young Entrepreneurs

The amendment also provides tax reliefs for the income of a young entrepreneur from the business of manufacturing, information and communications technology, agro processing, energy production, waste processing, tourism and creative arts, horticulture and medicinal plants for a period of five years. It is important to note that a young entrepreneur is entitled to carry forward an unrelieved loss for a period of five basis periods. Also worthy of note is the definition of 'young entrepreneur', which is provided in the Act as" an entrepreneur who is not more than thirty-five years old".

The table below shows the tax rates applicable for the five-year period after the initial concession period.

No.	LOCATION	TAX RATE
1	Accra and Tema	15%
2	Other regional capitals outside the three Northern regions	12.5%
3	Outside other regional capitals	10%
4	The three Northern Regions	5%

Accelerated Depreciation for Machinery and Equipment meant for affixing Tax Stamp

The amendment to Act 896 introduces a provision on importers and manufacturers of excisable products under paragraph 10 of the First Schedule to Act 896. Importers and manufacturers of excisable goods shall be granted accelerated depreciation over a two-year period on affixing machinery and equipment imported for the implementation of the Excise Tax Stamp Policy. In the first year and second year, 50% of the initial value is granted. This provision is intended to motivate importers and manufacturers to comply with the excise tax stamp policy.

Tax Exemption for Private Universities

Following the Government's statement in the Budget that privately owned universities will be exempt from tax, the Amendment Act introduces paragraph 11 of the First Schedule to Act 896 which exempts privately-owned universities from tax when they plough back a hundred percent of their profit-after-tax into the business.

VALUE ADDED TAX (AMENDMENT)(NO.2) ACT, 2017 (ACT 954)

The Value Added Tax (Amendment) (No. 2) Act, 2017 (Act 954) was passed to remove the tax on stakes in the National Lotto and to provide for the withholding from the payment of VAT to registered VAT traders. Section 5 of Act 870 is amended to exclude "lotteries" from the definition of a taxable activity, while the First Schedule to the Act lists under item 24 as exempt from VAT, a stake in the National Lotto organised by the National Lottery.

Introduction of Withholding Tax on Value Added Tax Supplies

The 2018 Budget Statement proposed withholding tax on VAT supplies in order to improve the compliance of VAT accounting and payment process. In furtherance of this proposal, Act 954 introduced provisions to that effect under sections 47A, 47B and 47C. Under section 47A, the Commissioner-General has been empowered to appoint a value added tax withholding agent for the Authority.

The duties of a VAT withholding agent as provided under section 47B are to;

a) withhold from the payment to a registered Value Added Tax trader, seven percent (7%) of the taxable output value of the standard rate supplies; and
b) at the time of making payment for the standard rated supplies, issue a withholding VAT credit certificate in the form prescribed by the Commissioner-General to the supplier.

Under section 47C, the scope of a VAT Withholding Agent shall include VAT registered entities whose supplies are zero rated and selected Government and other VAT registered entities. A withholding agent shall not less than the 15th day of the month immediately following the month to which the return relates, submit and pay the amount withheld to the Commissioner-General.

CUSTOMS (AMENDMENT) (NO.2) ACT, 2017 (ACT 957)

The Customs (Amendment) (No.2) Act, 2017 (Act 957) has amended forms of security in Section 108 of the principal enactment (Act 891) to include letters of credit, bank guarantee and insurance cover.

Act 957 introduces Section 73(3A) which bars the Commissioner-General from granting, any dispensation to an importer, owner or a person who has the intention of maintaining goods in a bonded warehouse if the person fails to submit letters of credit, bank guarantees and insurance cover from a reputable financial institution. The list of such reputable financial institutions may be published by notice in the Gazette and two newspapers of nationwide circulation. These are yet to be published.

NATIONAL FISCAL STABILIZATION LEVY (AMENDMENT) ACT, 2017 (ACT 958)

The National Fiscal Stabilisation Levy (Amendment) Act, 2017 (Act 958) has extended the expiration date for the levy to the 2019 year of assessment. This is to enable government fall on the industries to shore up revenue that has been lost through the reduction and abolishing of some taxes during the previous year.

SPECIAL IMPORT LEVY (AMENDMENT)(NO.2) ACT, 2017 (ACT 953)

The Special Import Levy (Amendment) (No.2) Act, 2017 (Act 953), has extended the period of application of the Special Import Levy on imported goods to the year 2019. The levy is to be imposed on imported goods and paid at the point of entry, and is calculated on the cost, insurance and freight (CIF) value of the goods.

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