BASELINE STUDY OF GHANA’S TAX SYSTEM

By

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SECTION ONE
INTRODUCTION

1.2. Background and purpose

The whole gamut of Ghana’s taxes runs through income taxation, value added taxation, customs import and excise duties, stamp duty, and modalities for revenue collections from natural resources or the extractive industries such as mining, oil, and forestry all of which constitute the tax system in the country. As is the nature of taxes in all countries, Ghana’s tax system plays fundamental role of raising government’s revenue, redistribution of wealth and income, re-pricing of goods and services, as well as affording citizens the power of representation - a setting that has the potential of ensuring good state – society relations through good governance and accountability.

In this context, Ghana, like other developing countries, is having difficulty raising the much needed revenue through the tax system. In spite of all the efforts being made to break free from “deficit financing” of budgetary programmes year – on - year overwhelming, deep-seated challenges, including corruption, lack of transparency, accountability, transfer pricing, tax avoidance / evasion and lack of citizens participation keep stifling all endeavors not excluding the posture of a large informal sector and the limited capacity of the revenue collecting agency.

Against the background of the perennial nature of inhibiting factors to revenue maximization is upcoming literature pointing to limited discussion among the different stakeholders, i.e. Government, Civil Society, Media and the General Public, over tax matters and what taxes could be doing for poverty alleviation and sustainable development. There is a direct link between the lack of financial resources and the inadequate outreach of the essential services delivery mainly due to tax avoidance / evasion and capital flight. In addition, the taxes collected get misused through corruption, bringing about mistrust of government and the unwillingness of citizens to pay taxes and not be involved in the tax process as they perceive tax matters as complex.

To meet these challenges, this study finds that developing countries, with democratic credentials like Ghana, must continually repackage their tax and other policies to improve governance and drive growth guided by a threefold role of the tax system.

Firstly, the awareness to have a sound macroeconomic policy which is a crucial precondition for stability, equity and long-term growth, requires an adequate fiscal policy with an effective administrative machinery for implementation, i.e. efficient collection of the taxes and an accountable financial management.

The second is increasing revenue collection through conscious efforts to garner from all the tax types in order to close the deficit gap and reduce the state’s dependence on foreign transfers so that the government is able to finance and provide public goods independent of the conditionalities of external donors; herein lies the fact that there exists a close link between mobilizing internal resources and good governance.

Finally, the third role is that the tax system bears an inherent conflict between the state and the citizen which is due to different levels of rationality, the point being that while in theory a capable state should serve in principle all citizens who thereof individually should be willing to contribute financially in strengthening the state’s capacity, citizens in reality usually follow a free rider’s attitude and avoid taxation as much as possible and this calls for a
comprehensive concept very much needed to improve voluntary tax compliance, increase civic responsibility and enhance the equitable treatment of all.

In the foregoing, it stands to reason that a responsible, democratic and inclusive state, which Ghana is, must ensure that tax collection is based on transparent and contestable rules in a fair manner; for this is the way revenue is collected in any country that can measure its respect for citizen’s rights. Transparency and accountability in the tax system are all the more crucial as the tax administration deals with money and therefore is receptive to unofficial payments or even corruption.

The importance of fair taxation came into sharp focus in Ghana from the year 2000 when the need for strengthening the tax system and administration were recognized in the Ghana Poverty Reduction Strategy’s (GPRS) 2000 objective of achieving macroeconomic stability and good governance which were the expressed strategies for poverty reduction (GPRS 2003 Annual Progress Report of March 2004 (National Planning Commission page 50)) re-emphasized in the 2006 Growth and Poverty Reduction Strategy (GPRSII). The Coordinated Programme for the Economic and Social Development of Ghana later contained a statement to the effect that “achieving higher levels of growth and more effective poverty reduction requires increased revenue generating capacities to finance and sustain the growth and poverty reduction efforts”. It goes further to state that “an aggressive domestic revenue mobilization is attained through administrative measures and capacity enhancement of existing tax collection instruments and personnel”.

It is in tune with these principles that the Ghana Integrity Initiative (GII), in line with its policy advocacy objective, has sought the assistance of Oxfam Novib, their funders to undertake an in-depth empirical study into the present situation of taxation in Ghana and to provide suggestions eventually to form the basis of advocacy.

1.3. **Scope and Extent of study**

The study is open to the administration of all taxes in Ghana – direct and indirect - and is focused on tax policy, the extent to which it is pro-poor and impacts on effectiveness, efficiency and accountability of the tax administration. The “Baseline Study on Ghana’s Tax System” brings out the history of the tax system in Ghana, identifies the main bottlenecks and challenges, assesses the administrative capacity for tax collection and management, assesses the link between taxation and good governance, i.e. key concerns and advocacy issues and finally, makes recommendations for policy and advocacy work.

1.4.0. **Approach and Methodology**

1.4.1. **Target**

Regarding methodology and outcome, the study targeted the various players in the areas of Civil Society Organizations, the Media, Community based organizations, Local Government officials, Government Officials, Private Sector, and the General Public (taxpayers).

1.4.2. **Research Methodology**

This approach had used the following tools to carry out the study:

(a) Desk Review made use of documents available at the appropriate government offices, i.e. policy documents, investment agreements, legal instruments, etc., also, made use of materials from international agencies such as WB, IMF and Bilateral Agencies as well as financial and statistical data on tax, not excluding general academic literature on
taxation; additionally the tax study materials of Action Aid, Christian Aid and Tax Justice Network – Africa (JNA) were also reviewed.

(b) The study also held direct consultation and interviews with different government ministries including Finance and Trade, Government Authorities such as the Ghana Revenue Authority, the Ghana Investment Promotion Council as well as Private Sector Representatives, Women Groups, farmers, formal and informal sector businesses and some others where necessary.
SECTION TWO

HISTORICAL BACKGROUND TO TAXATION IN GHANA

Modern day taxation was introduced into Ghana during colonial rule. However, before taxation took this form, some kind of taxes were collected by overlord chiefs who were engaged in empire building. They campaigned for conquest and established themselves as overlords over tribes they conquered. Such empire builders included the Ashantis, Akyems, Akwamus and the Denkyira, among others. The pattern was that of lands changing hands, and depending on who took over, the new ruler came with his own methods of levy imposition; such impositions were mainly with respect to land taxes occurring at the early stages of the 18th century before colonial rule.

Ghana fell to the British in what was referred to as the partitioning of Africa in the 1880s. As the colonial masters, the British brought an end to tribal campaigns by chiefs establishing their authority first in what was called the Colony covering only the coastal belt and entering into treaties with those indigenous chiefs resisting colonial rule in order to keep them at bay. The British, however, eventually annexed all lands and established the Gold Coast except the Northern Territories and Trans-Volta Togoland which were formed into the “Protectorate” under German hands from 1884-1914. The “Protectorate” later joined Ghana through a plebiscite in 1956.

The British used chiefs as agents to collect the same land taxes, the most popular of which was the “land poll”. This and other basic rates were collected and administered by the Customs Department including quasi-duties at the ports from shipping companies. It was not until 1943 that actually modern – day taxation in the form of income tax was introduced in Ghana and was to support the colonial power’s war effort during the Second World War.

The evolvement of taxation in Ghana up to independence and thereafter may be categorized into three epochs: the pre-colonial period, Under Colonial rule and post Independence shown in “Appendix 1”. The analysis of taxation evolvement in Ghana, however, is made under the present-day tax types i.e. direct and indirect taxes and customs and Excise duties.

2.1. Current Tax Agency in Ghana

Presently the agency which administers taxes in Ghana is the Ghana Revenue Authority (GRA), integrating three previously separate tax agencies; i.e. the Internal Revenue Service (IRS), VAT Service (VATS) and the Customs, Excise and Preventive Service (CEPS) which were administering independently direct taxes, indirect taxes and import duties respectively.

By the Ghana Revenue Authority Act 2009 (Act 791), separate revenue agency operation however thus came to an end, a long overdue reform measure needed to upgrade and modernize tax and customs administration in Ghana. In the new structural arrangements, the Internal Revenue Service (IRS) has fused with the Value Added Tax Service (VATS) to form the Domestic Tax Revenue Division (DTRD) with a Commissioner as head while the Customs Excise and Preventive Service (CEPS) is now the Customs Division also with a Commissioner as a head. The creation of a third division is the result of the amalgamation of the services of finance, administration and research of the former separate agencies becoming the Support Services Division to offer the present required managerial services thereby releasing the other two divisions unencumbered with secondary duties to focus on their core functions of assessment and collection. This third division also has a Commissioner as a head (See Appendix 2.)
2.1.1. **Domestic Tax Revenue Division**

As mentioned above, in the current tax administration, the former IRS and VATS have merged to form this division within the GRA directly responsible for the collection of direct and consumer-based taxes internally.

2.1.1.1. **Domestic Direct Taxes**

Income tax administration as a direct tax was introduced into Ghana in 1943 when an Income Tax Department was established by the Colonial Government in the then Gold Coast Civil Service and placed under the Ministry of Finance with the responsibility to levy taxes on incomes. After some time the department was redesignated the Central Revenue Department in 1963. It was still attached to the Ministry of Finance and additional responsibility was given to collect other taxes such as entertainment and betting taxes. The Central Revenue Department had its responsibilities further expanded with the passage of time to include Capital Gains Tax which had been repealed but reintroduced together with Gift Tax in 1975, followed by Hotels and Restaurant Tax in 1976.

In 1986, as part of the Economic Reform and Structural Adjustment Programme of the government, the Department was transformed into a semi-autonomous Service – the Internal Revenue Service (IRS) with the promulgation of PNDC – Law 143 – and placed under a nine – member Board of Directors. At the inception of a VAT service (VATS) in 1998, the authority for collection of Hotels and Restaurants Tax together with taxes on other services was transferred from IRS to VATS. Other direct taxes apart from the above mentioned include stamp duty, petroleum tax, Casino Revenue Tax, Internal Revenue (Registration of Business fees) Airport Tax, Gambling Machines Tax, the National Reconstruction Levy and National Fiscal Stabilization Levy.

2.1.1.2. **Domestic Indirect Taxes**

The value–added aspect to taxation was also introduced into Ghana as an integral part of the reform programme initiated by government in 1983, designed primarily to address the defects of the sales and service taxes that it replaced. A VAT Service was brought into being with the introduction of the short-lived VATS Act 1994 (Act 486), promulgated in December, 1994 to become into effect 1st March, 1995. However, following implementation problems, it was repealed and replaced by the same defective Sales and Service Taxes that it had earlier succeeded in three and half months of its inception. Consequently, the VATS was contracted into much smaller project for the purpose of planning and implementing the reintroduction of the repackaged tax. For the purpose of its administration, a new VATS Law 1998, (Act 546) was passed in March, 1998 on the basis of which vigorous public education campaign was mounted to herald the advent of the new tax; effective collection started 30th December, 1998.

2.1.2. **Customs Division**

Customs collection is the oldest tax instrument in Ghana dating back to the year 1839. As mentioned earlier, it was known as Department of Customs headed by a Principal Collector who by 1850 also acted as the Colony Treasurer and was stationed at the Cape Coast Castle, the seat of government and was also the department that enforced the payment of the local duty from shipping at sub-ports. Additionally, the Department handled other duties like money courts and Police Courts and determined cases of minor nature, exercising authority within respective localities as magistrates.

The modernized Customs Excise and Preventive Service came into being with the promulgation of the Customs, Excise and Preventive Service Law 1986 (PNDC. L144). This law strengthened and gave the preventive functions at the frontiers and exit points for which
the erstwhile Borders Guards were previously responsible to the then Customs and Excise Department which was a department under the Civil service governed by N.R.C.D. 144.

The above change in standing necessitated new structures to be put in place to accord with corporate and quasi self-accounting status, it was this vein that, in 1993 the Customs, Excise Preventive Service CEPS (Management) Law 1993(PNDCL 330) was promulgated to consolidate all major existing laws that guide the administration and operations of CEPS. It must be mentioned that the existence of CEPS is enshrined in Ghana’s Republican Constitution as a Public Service.
SECTION THREE

DISTRIBUTION OF THE TAX BURDEN IN GHANA

3.1. National Taxes

(a) All laws in Ghana are passed by Parliament. Article 174 of the 1992 Constitution provides that the people shall be liable to taxation as provided by law, declaring the duty of the people to pay tax and, also that no taxes shall be imposed or existing ones modified except by law, laying down the principle that no taxes can be imposed on the people except by law. The table below lists the principle enactments governing the various national taxes that the Ghana Revenue Authority is responsible for collection and remittance to the Consolidated Fund.

(b) Laws and Regulations of Ghana’s National Taxes.

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<td>Registration Fees for Traders, business, profession or vocation</td>
<td>Internal Revenue (Registration of business Act,2005) (Act. 684)</td>
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<td>Customs Excise and Preventive Service (Management) Law, 1993 (PNDC.L330)</td>
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3.2. Local Taxes

Like the case of National taxes, the Constitution of 1992 also provides the regulation for the centralized organization and operations of Local or District Assemblies and this is catered for in Article 240 of the 1992 constitution in accordance with the principle of local autonomy. The present District Assemblies have been established on the basis of this provision under the Local Government Act, 1993 (Act. 462). There are 216 in Ghana presently.

The Constitution also gives local authorities or District Assemblies the right to manage their own affairs - administration as well as collection of local taxes and enacting their own regulations within the law. However, unlike the national tax enactments, local regulations do
not directly obligate residents to pay tax but only confirm the right of local authorities to negotiate and collect the levies within a framework prescribed by law. The regulations therefore designed by each Metropolitan, Municipal or District Assembly obligate residents to pay accordingly.

The sources of revenue for the District Assemblies are therefore basically local levies in the form of basic rates, fees and charges deliberated upon and adopted through the process of Fee Fixing Resolutions; additional funds are special grants, central government transfers such as the District Assemblies Common Fund and earmarked taxes and Aid Funding.

3.3. National and Local Collection Accounts

In Ghana, taxes may be classified into four groups, contributing to both the National Accounts or the Consolidated Fund and the Local or District Assembly Accounts. They are: taxes on income, taxes on property, taxes on consumption and taxes on transfer of goods.

(a) Taxes on Income:
- To the Local Account: Fee Fixing Resolution Levies: Basic Rates, Market Stalls/Shops fees, garages fees, transport charges - passenger and commercial charges, etc.

(b) Taxes on Property:
- To the National Account: Gift Tax, Capital Gains Tax, Rent tax
- To the Local Account: Property Rate (Residential and Commercial Buildings)

(c) Taxes on Consumption:
- To the National Accounts: VAT, Customs Duty, Import VAT, Excise, Duties and Foreign and other Travel Tax.
- To the Local Account: Itinerant Traders Charges, Local Export/Import of foods stuffs, Entertainment groups levies, Cinema / Video, etc. levies and Building Permits and others.

(d) Taxes on transfer of goods:
- To the National Account: Registration and Licensing, Stamp Tax
- To the Local Account: Timber deliveries levies and the earmarked taxes, such as the District Assemblies' Common Fund.

With the above categorization, local taxes are not necessarily on income but fees and rates levied through the Fee Fixing Process of Local Government Administration. However, it can be said that it is the same taxpayers paying both National taxes and Local or District Assembly levies.

3.4. Practice Notes and Private Rulings

In addition to the constitutional provisions and other laws enacted by Parliament, the Commissioner – General of the Ghana Revenue Authority (GRA) can issue directives on tax practices and private rulings for the uniform interpretation and application of the tax laws. These directives are generally made public. However, the directives on interpretations are merely interpretations of the Tax Authority and do not bind courts of justice as a source of law. The interpretations of laws are finally determined by judgments of the courts of justice. It is rare, however, that a court of justice decides against the directives. The directives therefore play an important role in tax practices. Anyway, in Ghana, legal suits for tax
disputes are really very small unlike the advanced countries like the U.S., the United Kingdom and Germany where they are galore. Ghana is yet to develop this area to have increased numbers so that the importance of court decisions as a source of law can feature prominently in the Ghanaian tax system.

3.5 Treaties with foreign Countries

In dealing with other countries on taxation, Ghana works by the rules that determine when income and certain other amounts are considered to accrue in or be derived from Ghana for taxation purposes thereby distinguishing between trading in or with Ghana and distinguishing between business and investment incomes. In this regard, interest, rent etc, attributable to permanent establishments and their associates in Ghana is business income, otherwise it is investment income.

Treaties with foreign countries initiated at cabinet level are approved by Parliament. Thus, treaties are faithfully observed and are treated as having the full force and effect of law. Ghana has concluded only treaties for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income.

3.6. Characteristics of Ghana’s Income Tax
3.6.1 Income Taxation
3.6.1.1 Taxpayers and Taxable Income

The empowering law for income taxation in Ghana is the Internal Revenue Act, 2000 (Act 592) which combines Income Tax, Capital Gains Tax and Gift Tax into one legislation. Under the law, any person who earns income from employment, business and investment is liable to tax for each year of assessment. It is levied on individuals and companies though different rates of tax apply to each category of taxpayers. Oil mining companies are taxed under a separate statute, the Petroleum Income Tax Law, 1987 (PNDCL. 188). Income is subject to Ghanaian income tax in two scenarios: either, where resident persons have income derived from, accrued in, brought into or received in Ghana; or where non-resident persons have income derived from or accrued in Ghana.

Withholding taxes apply to certain payments made to residents and non-residents either as payment on account or as final taxes. Also special tax incentives apply to certain kinds of activities such as farming, real estate development or venture capital financing.

(a) Individual

For the two types of individuals – “resident” and “non-resident” the former is domiciled or has had a residence for 183 days or more in Ghana in the year of assessment – this person must pay the tax on all his income be it from within or from outside Ghana. The non-resident person is the person who is not domiciled and has had residence in Ghana for less than 183 days in the year of assessment – he must pay income tax on his income from sources within Ghana only.

(b) Companies:

This class of taxpayers applies to juridical persons established under the Companies Code, 1963 (Act 79) in the case of corporate bodies. Here, apart from corporate bodies which do not fall under the category of non-taxable persons specified by the law and bodies fully owned by the government or created for public interest, all others are subject to pay corporate income tax. The rules of tax residency also apply for corporate bodies; a company is resident for tax purposes if that company is incorporated under the laws of Ghana as mentioned above or has its management and control exercised in Ghana at any time during the year.
3.6.1.2. **Income Treatment**

The incomes of both individuals and companies are treated in very much the same way except on the question of basis period. The taxable income of the individual is computed on a calendar year basis, i.e. January 1 to December 31 while the company has a choice as to the length of accounting period. Again, the taxable income is classified in the case of the individual into Business income, Employment income in aggregate and any other income than incomes subject to special withholding rates. With the income of a company, it is the corporate income of the accounting period without preferential treatment as in the case of the individual income using progressive rates ranging from 5% to 25% - the corporate tax rate is 25%.

The corporate tax in principle has been based on the notion that a corporate body is an aggregate of shareholders and that there should be an integration of the tax burdens, though the method of mitigation of tax burdens keeps changing. Although there have been changes in tax rate over the years, the basic system of company taxation has remained unchanged.

3.6.1.3. **Rules of Income Attribution**

The principle of attribution of income to an actual beneficiary applies not only to the determination of taxpayers, i.e. to whom certain income is attributable, but also to the determination of tax base. For example, in a case where an act or transaction of a family company is considered to result in an unfair reduction of the income tax burden on the shareholders including their relatives or employees, all in special relationship, tax authority may disregard the act or transaction and compute tax due at its own discretion. For instance if such a company sells off a house which it owns to its managing director at a price substantially lower than the market price per valuation, the company cannot be allowed to compute its tax on this basis. In other words, the amount equal to the price difference is regarded as income to be taxed. Additionally, the said amount will also be treated to be taxed in the hands of the Managing Director as a bonus received. This way incomes received from illegal sources are also taxable as long as the economic gains wherefrom are attributable to the taxpayer.

Indeed, the principle of attribution of income to an actual beneficiary is applied to the extent that an actual beneficiary of economic gains bears the burden of tax and not the person acting merely as intermediary or agent or nominee.

3.6.1.4. **Computation of Tax Base General Principles**

(a) Taxable income is computed in principle by deducting necessary expenses from gross receipts. However, there are some exceptions or modifications to the principle. For example, necessary expenses are not considered to be incurred in obtaining interest and the gross receipts are, therefore, the amount of taxable income. Also, in the case of employment income reliefs are deducted from total receipts.

(b) The amount of receipts is determined in principle when the amount to be received is determined, i.e. accrual basis. However, as to interest on public bonds or corporate debentures of a bearer type, the amount of receipts is determined when such interest is actually received. Small and Medium Enterprises (SMEs) may also compute their income on a cash basis.

(c) The amount of receipts includes not only money received but also the value of other properties or economic benefits received. In such a case, value is determined at the time of the receipt of such properties or economic benefits. The economic benefit does not include imputed income.
(d) The appraisal gain of assets is not treated as taxable income.

(e) “Expenses” mean, as a rule, the necessary expenses needed directly for acquiring incomes and those incurred during the taxable year for the conduct of business to obtain the income, e.g. selling expenses and executive and general administrative expenses. In other words, and generally speaking, expenses not directly connected with the acquisition of the income such as personal expenses are not deductible as necessary expenses.

(f) The accounting period for individuals mentioned earlier begins on January 1 and ends on December 31. When the taxpayer ceases business in the course of the year the accounting period ends at that time; and when the taxpayer commences business in the course of the year, the accounting period begins at that time.

(g) Even though the basic principle of calculating the taxable income is to deduct necessary expenses from receipts, if the taxpayer does not keep accounting books properly, the tax authority is empowered to assess his income by estimation on the basis of increase of the assets and liabilities, estimates of the receipts and expenses and the size of the business.

3.6.1.5. **Nontaxable or Exempt Income**

The items of non-taxable income are provided for under Act 592 or other related laws for well intended reasons including industry concessions. The first exemption in defining the scope of income accrued in, derived from, brought into, received in Ghana, is the income of a non-resident person received in or brought into Ghana.

Secondly, it is the type or nature of the income that determines its exemption as given under the law, meaning, except that income is specifically exempted all incomes in the hands of employees, the self-employed individual or partners in a partnership and companies are taxable.

Thirdly, exemptions may be granted for political, administrative, social or economic reasons. In the fourth place, exemption may also depend on the type of income received or the person receiving it. The exemptions enumerated within the law for now refer largely to type and the status for the time being income may be covered by exemption in the hands of one person, but may be taxable when the same income passes into the hands of another person. That is to say that an individual who may be exempt from tax on certain income may be liable to tax on other incomes received.

The Government by provision of the constitution has right to exempt any person or group of persons from the payment of tax subject to prior approval by parliament by resolution. Capital sums received for sickness or old-age retirement pensions as well as severance are exempt.

Industry concessions, which serve as incentives including open-ended exemptions of income from cocoa farming and others such as tax holiday periods between 3 to 10 years in agriculture and agro-processing are specified items for income exemption. Some exemptions skewed towards environmental cleanliness, real estate development, micro financing, the Ghana Stock Exchange and Venture Capital financing are also given between 5 to 10 years tax holidays.

Other specific exemptions and allowable deductions on income include, exemption on the income of a non-resident in the business of operating ships or aircraft if the income is not accruing in or derived from Ghana which would have been chargeable by mere reason of
being brought into or received in Ghana provided that person’s country treats Ghanaians in much the same way. In relation to rentals of premises, residential or commercial, apart from normal deductible allowance, there is the standard allowance of 30% of aggregate rents received before tax; and the capital expenditure of Research and Development by a manufacturing company in Ghana is fully allowed against profit before tax. Finally, other exempt incomes not included within the meaning of section 10 of Act 592 include winnings from weekly lotto and funeral donations that come under unsolicited gratuitous offerings given in sympathy not distinguished with applicable provisions of the gift tax.

3.6.1.6. **Carry–Forward Losses**

This is an incentive for enhancing taxpayers’ incomes, where the law is permitting the carry-forward of losses incurred during the year and is applicable to all sectors of the economy. Originally this provision was meant for only companies in manufacturing **which export their products**, mining and farming. However, this is now extended to all businesses. With the widening in scope it means that manufacturing companies not exporting their products are now allowed to carry-forward their losses. Furthermore, the Act provides that in the ascertainment of the chargeable income of a business, any loss incurred in carrying out the business is deductible for the maximum period of 5 years (assessment or accounting years). In the situation of having been incurred more than once, such losses are deductible in the order of first come first served basis. This is to ensure that no loss deduction is more than the ascertained income in a particular year. It is the very reason why losses in excess of income are carried forward to the next assessment year. Losses are income based and can only be set-off against business income, and may not be utilized in any basis period before any capital allowances are granted.

3.6.1.7. **Capital Allowances**

(a) **General**

How capital expenditure is written – off conducive for business, is very important for investors. On this score the capital allowance provision of section 20 and the third Schedule of Chapter 1 of the Act deals with this aspect where a taxpayer is allowed to deduct in calculating income from a business, the capital allowance for the business, calculated under the third Schedule. This calculation of deductions from business income comes under section 16 of the Act (Act 592) and not in the manner of calculating a person’s chargeable income under section 10 (exemptions) covered earlier.

Capital expenditure is with respect to tangible fixed assets such as machinery, equipment or buildings (excluding land), intangible fixed assets such as copyrights, patents, the rights of business, deferred assets (such as experimental research expenses and organization expenses) and other properties such as cattle and economic trees. In all these, depreciation expenses or capital allowances are granted on the basis of acquisition cost or cost basis, salvage value (normally 5% of the acquisition cost for tangible assets and nil for intangible assets) and the statutory useful life or the number of years during which such assets are serviceable. The full amount of the acquisition cost of minor assets defined as assets whose life is less than one year, may be deducted as expenses in the accounting period concerned.

(b) **Method for Calculation**

Ordinarily, companies choose one of two methods to write off their assets. The straight line method and the declining balance method. Election may be made for each item or group of properties. However, in the case of intangible assets, deferred expenses, cattle or economic trees, only the straight line method can be used. Goodwill may be amortizable when a company so chooses.
(c) Special Measures for Depreciation  
There are three aspects to the use of special measures:

First, in addition to the ordinary depreciation described above, policy may institute special depreciation measures to attain certain policy aims, for example to encourage self-assessment filing or an industry in general. Secondly, special measures for depreciation are broadly grouped into two categories i.e. increased initial depreciation which Ghana has abandoned, and accelerated depreciation. The former allows, in addition to the ordinary depreciation, deduction of a portion of the acquisition cost or cost base of an asset for the first accounting period in which such an asset is used. On the other hand, the accelerated depreciation (in use in Ghana) permits the business to deduct a certain percentage of the ordinary depreciation allowance of an allowable or qualifying asset for certain consecutive accounting periods, in addition to the ordinary depreciation.

However, it should be noted that neither measure allows the cumulative amount of depreciation more than the acquisition cost or cost base of the asset concerned. In effect these measures provide the benefit of the deferred payment of tax but not tax exemption. In the third place, initial allowance measure or depreciation allows the additional depreciation in the accounting period only when the assets concerned are used. This way, it is expected that the purchase of such depreciable assets will be encouraged. In respect of the accelerated depreciation normally given for certain consecutive accounting periods after the first use of the assets, it is hoped that it has the effect of stimulating the activities which the government considers desirable.

(d) Capital allowances Computation in Ghana
Mentioned has been made of section 20 of the Act; Depreciable assets are categorized into six classes of asset pools in the Third Schedule, each with its own rate of depreciation. Classes 1 – 4 are business assets with relatively short lifespan using the Reducing Balance method of depreciation. Classes 5 – 6, on the other hand, are assets of real property, intellectual and industrial investments using the straight line method to write–off capital expenditure.

(i) Classification of Depreciable Assets:

<table>
<thead>
<tr>
<th>Class</th>
<th>Assets</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Computers and data handling equipment.</td>
</tr>
<tr>
<td>2.</td>
<td>Automobiles, buses, goods vehicles, earthmoving machines, heavy trucks, trailers, plants and machinery in manufacturing and tree crops etc.</td>
</tr>
<tr>
<td>3.</td>
<td>Mineral/Petroleum exploration rights, costs incurred for mineral and petroleum prospecting specialized buildings/structures of a permanent nature and plant and machinery in mining or petroleum.</td>
</tr>
<tr>
<td>4.</td>
<td>Railroad cars, locomotives, vessels, barges, aircraft, public utility plant and machinery, office furniture, fixtures, equipment, etc.</td>
</tr>
<tr>
<td>5.</td>
<td>Ordinary buildings/ structures of a permanent nature</td>
</tr>
<tr>
<td>6.</td>
<td>Ordinary intangible assets not of the mining / petroleum nature.</td>
</tr>
</tbody>
</table>

In practice, a taxpayer’s depreciable assets in classes 1, 2, 3, and 4 are placed into separate pools for each class of asset and capital allowance granted for each pool in the year of assessment with respect to each basis period of the taxpayer. This entails apportionment in respect of days, hence the formula A x B x C /365 where A is the written down value, B, the rate of depreciation; and C the number of days in the period of one year.

3.6.1.8. Anti – Avoidance Rules
Transfer Pricing Taxation
The internalization of business transactions is fast growing and the possibility to shift income abroad through transactions with foreign affiliated persons is also growing, bringing about the problem of transfer pricing. Thus, if adequate measures are not taken to check the trend, taxable income in Ghana will flow out without the required payments.

In order to deal with the problem of transfer pricing generally, Ghana has enacted anti avoidance rules to forestall income splitting, transfer pricing and thin capitalization. For example, if a company has conducted the sale or purchase of assets, provision of services or other transactions with foreign affiliated persons, and the amount of consideration in such transactions is not an arm’s length price, resulting in a reduction of the income of the company, the transactions shall be deemed by the tax authority to not have been carried out at an arm’s length. In this regard, the tax office may then adopt an arm’s length approach by taking as the basis the gross margin ratio of a similar company.

If the arm’s length approach is strongly enforced together with tax – treaties with trading partners mentioned earlier, providing a framework for the exchange of information to avoid double taxation and tax avoidance and evasion by multinationals, the tax base to improve tax revenue could improve tremendously. The caution is that tax treaties with tax havens also lead to unfathomed revenue losses which must be avoided. There is the need to strongly enforce legislation to ensure that the undistributed income of a foreign subsidiary with main office in a low tax rate country is attributed to a domestic company with a percentage share of stock in the subsidiary having in mind that stock ownership conditions are judged at the end of the accounting period of the foreign subsidiary.

3.6.2. Capital Gains Tax

3.6.2.1. Taxpayers and Tax Base

Chapter II of the Internal Revenue Act 2000 (Act 592) sets out the provisions for capital gains tax. It provides that the tax is payable by every person, including the corporate person, on capital gains from the realization of chargeable assets owned by that person. The tax is imposed at the rate of 15% (Section 95 of the Act) on such assets which may be buildings of a permanent or temporary nature, a business and business assets, including goodwill of a permanent establishment, land, all situated in Ghana and shares of a resident company. There is a remittance base for foreign source capital gains of residents too. However, capital gains tax on gains from the realization of non-Ghanaian chargeable assets of resident persons is not payable until the gain is brought into or received in Ghana. This is consistent with the remittance base in chapter one of the main Act.

3.6.2.2. Exemptions

The sale or disposal of the following would not attract capital gains tax: securities of a company listed on the Ghana Stock Exchange during the fifteen years after the establishment of the Ghana Stock Exchange, agricultural land in Ghana, and trading stock or certain classes of depreciable assets such as assets in the pool on capital allowance.

The threshold for minimum exemption is capital gain up to GH¢50. Capital gain accruing to or derived by a company upon a merger, amalgamation or reorganization (if there is continuity of underlying ownership of at least 20%) is also exempted.

Other exemptions include:
• Capital gains resulting from the transfer of ownership of an asset by a person to his or her spouse, child, parent, brother, aunt, uncle, nephew or niece;
• Capital gains resulting from the transfer of ownership of assets by a person to a spouse as part of a divorce settlement or a genuine separation agreement.
• Capital gains where the amount received on realization is within one year of realization used to acquire a chargeable asset of the same nature.

3.6.2.3. **Self-Assessment**
The procedure for declaring capital gains is by self-assessment demanding that any person who derives a capital gain from the realization of a chargeable asset is duty bound to furnish the Tax Authority with the information within 30 days providing the following:

- Description and location of the asset,
- Cost base before the realization and how that cost is calculated,
- Consideration received from the realization;
- Amount of any capital gain tax payable /cheque for payment, and
- The full name and address of the new owner of the asset.

3.6.3. **Gift Tax**
Chapter III of the Internal Revenue Act, 2000, (Act 592) sets out the provisions relating to the gift tax. The presentation, organization and drafting style of the Gift Tax is the same as that of the Capital Gains Tax examined above.
Gifts are taxed at a rate of 15% of a value in excess of GHS 50.00.

3.6.3.1. **Taxpayers and Tax Base**
The Gift Tax is payable by every person on the total value of taxable gifts received by way of gift within a year of assessment. The tax is imposed on properties acquired by gift in a calendar year or year of assessment including money. The properties are appraised on the basis of current price or value at the time of acquisition.

3.6.3.2. **Exemptions**
The following items are not included in the tax base:
- Any gift received under a will or upon intestacy;
- Properties acquired by a person for his living and educational expenses from relatives who have the responsibility to support him;
- Properties acquired by a person engaged in religious, charitable, scientific or other activities of public welfare used for public purposes.

3.6.3.3. **Self-Assessment and Rate**
According to Section 105 of the Act. the basic exemption is GH¢50.00 and the table for gift tax rates applicable to individuals, companies and bodies of persons is as follows.

<table>
<thead>
<tr>
<th>Total Value of Taxable Gifts</th>
<th>Rate of Tax</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not exceeding GH¢ 50</td>
<td>Nil</td>
</tr>
<tr>
<td>Exceeding GH¢50</td>
<td>15% of excess over GH¢ 50</td>
</tr>
</tbody>
</table>

On returns and payment of tax, a person who acquired properties by gift must file a return within 30 days of receipt of the gift furnishing the following information:
• The description and location of the taxable gift;
• The total value of the gift, how it is calculated and tax payable with respect to that gift and cheque covering payment;
• The full name and address of the donor of the gift;
• Any other information required by the tax authority.

3.6.4. **Registration and Licensing Fees**

For payments of this nature, three legal avenues for charging the amounts payable are noted:

a) Internal Revenue (Registration of Business) Act, 2005 (Act 684)
b) Mining Rights Licenses and Certificates (Imposition of Fees Law, 1983 (PNDCL 67)
c) Metropolitan, Municipal and District, Fee Fixing Resolutions.

Registration and Licensing fees and rates are levied on the registration in official books or documentation in connection with acquisition, creation, transfer, alteration, lapse etc of right or in connection with qualification for practice of certain professions and on obtaining a business license.

Legislations on registration mentioned above authorize the levy of fees and their collection.

3.6.4.1. **Registration of Business**

Under the Internal Revenue (Registration of Bus) Act, 2005 (Act 684), a person shall not carry on any business unless the business is registered with the Ghana Revenue Authority and paying in accordance with the following schedule:

(a) Companies GH¢10.00
(b) Professionals (lawyers, dentists, doctors, engineers, accountants, pharmacists, values, architects and analogous professionals GH¢10.00.
(c) Self-employed persons other than professionals GH¢ 7.50
(d) Small-scale, self-employed persons GH¢ 5.00

The basis for a registration lies in the category and status of the business with the Registrar – General and the amount of capital stated on the certificate of business registration or incorporation issued, hence, the variation of fees charged on the schedule above collection goes to the Consolidated Fund.

3.6.4.2. **Licenses**

With respect to mining rights, licenses and certificates, nobody is expected to do business without the following documents which will be issued only after paying the appropriate fees:

a. Concessions License
b. Mining License
c. Prospecting License
d. Dealer’s or Seller’s License
e. Buyer’s license
f. Winding Engine Driver’s Certificate
g. Blasting certificate
h. Shift Boss / Mine foreman Certificate
i. Mine manager’s / Underground Manager’s Certificate
j. Mine captain’s Certificate
k. Explosives storage or magazine License
l. Permit to purchase, possess, etc. Explosives
m. Authority to sell or otherwise
These levies collected go into the Consolidated Fund?

3.6.4.3. **Fee Fixing Resolution**

Fee Fixing Resolution as seen earlier is a local authority function vested by the Local Government Act, 1993 (Act 462) as amended and each District, Municipal or Metropolitan Assembly reserves the right to exercise its own Fee Fixing Resolution rates for collection and payment into its own local account. These rates are sundry levies such as for building permits, abattoirs, liquor, beer and beverages, Beer bars, drinking spots, pito houses, akpeteshie distillers, cigarette distributors / sellers, private educational institutions, and Day Care Centres; then hearse and burial fees, travel agents, artisans, petroleum / gas installations such as surface tank operators or established filling stations; as well as permits for sanitation service providers, hospitality service providers, District Weekly lotto operators; and also, Private Medical/ Dental practitioners, pharmaceuticals, nursing, midwifery, laboratory services; psychic traditional healers and herbalists; consultants, contractors, etc. are all inclusive.

Fees charged are on annual lapse basis. For example the Tamale Metropolitan 2013 Fee Fixing resolution has gazetted the following selected charges for its 2013 financial year:

<table>
<thead>
<tr>
<th>Service Type</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Professional Consultants</td>
<td>GH¢ 1,200.00</td>
</tr>
<tr>
<td>Professional Category “A”</td>
<td>GH¢ 600.00</td>
</tr>
<tr>
<td>Professional Category “B”</td>
<td>GH¢ 120.00</td>
</tr>
<tr>
<td>Contractors “A”</td>
<td>GH¢ 720.00</td>
</tr>
<tr>
<td>Contractors “B”</td>
<td>GH¢ 300.00</td>
</tr>
<tr>
<td>Private Maternity Home</td>
<td>GH¢ 24.00</td>
</tr>
<tr>
<td>Private Clinic (Maternity)</td>
<td>GH¢ 18.00</td>
</tr>
<tr>
<td>Herbal Drugs</td>
<td>GH¢ 60.00</td>
</tr>
<tr>
<td>Traditional Herbalist</td>
<td>GH¢ 36.00</td>
</tr>
<tr>
<td>Private Hospital</td>
<td>GH¢ 120.00</td>
</tr>
<tr>
<td>Private Clinic</td>
<td>GH¢ 60.00</td>
</tr>
</tbody>
</table>

3.6.5. **Petroleum Income Tax**

The tax is enforceable under the Petroleum Income Tax Law, 1987 (PNDCL. 188)

3.6.5.1. **Principle of Income Taxation**

As a matter of fact, “Income” from petroleum source is the same as income subject to tax under Internal Revenue Act, 2000 (Act 592). The Petroleum Income Tax Law, therefore, continues to be a separate legislation to the inconvenience of tax administration. In terms of administration and procedures, the provisions of Act 592 apply though with much modifications to give full effect to the Petroleum Income Tax Law.

Indeed, the original reform project for coming out with Act 592, had envisaged combining its predecessor Income Tax Decree, 1975 (SMCD.5), the Capital Gains Tax Decree, the Stamp Act, 1965 (Act 311), and the Petroleum Income Tax Law, 1987 (PNDCL 188) into one document as a source of direct tax documentation for both tax officials and practitioners. Unfortunately, by the time Act 592 was passed, the Stamp Act and the Petroleum Income Tax Law were not covered. Nevertheless, the Stamp Duty Act, 2005 (Act 689) was later passed. It is expected that whatever work is still going on, the Petroleum Income Tax Law would be completed anytime soon to deal with emerging issues.
3.6.5.2. **Taxpayers and Tax Base**

Five areas of tax collection are identified under the Petroleum Income Tax; they are:

- Profits and Gains
- Withholding on sub-contracts
- Rentals
- Royalties
- PAYE including Expatriate Employees

(a) **Profits and Gains**

These are with respect to the contractor carrying on petroleum operations which are exploration, development or production operations including operations for the sale, or export without sale of petroleum. The expenditure incurred in respect of searching for and discovering petroleum, ascertaining and testing the extent and characteristics thereof, and the installation of facilities for the production, gathering, transportation and sale or export or both of petroleum, constitute the Contractors Capital expenditure for capital allowance.

The chargeable income, however, is calculated for any year of assessment from and after the years of commencement, by deducting from gross income such expenses as rentals royalties, interest, repairs, bad debts, contribution to a pension or provident fund, training of Ghanaians and others as may be prescribed.

The Contractors is a party to a Petroleum Agreement with the Republic of Ghana and the Ghana National Petroleum Corporation (GNPC) established by the Ghana National Petroleum Corporation Law, 1985 (PNDCL. 64) (a Petroleum Agreement is in pursuance of the Petroleum (Exploration and Production) Law, 1984 (PNDCL 84)).

(b) **Withholding Tax on Sub-contracts**

This is with respect to withholding a percentage as tax on aggregate payments to sub-contractors who enter into a contract with the Contractor for the provision of work or services (including rental of plant and equipment) in Ghana for or in connection with the Petroleum Agreement of which the contractor is a party and the agreement includes any non-resident person or company, in accordance with the contract terms, to provide such work and services. After tax has been withheld and paid to the tax authority, the sub-contractor is no longer liable on the aggregate sum to further tax on any other law in force in Ghana.

(c) **Rentals**

Rentals are the sums charged and payable by the Contractor in respect of the surface area to which a Petroleum Agreement relates and which in accordance with the Petroleum (Exploration and Production) Law, 1984 (PNDCL. 84) have been prescribed or, as the case may be, are otherwise provided for under the terms of a Petroleum Agreement.

(d) **Royalties**

Royalties are payable by a contractor out of, or calculated by reference to petroleum to which such contractor is entitled under the terms and conditions of a Petroleum Agreement.

(e) **Expatriate**

For the fact that a Petroleum Agreement provides for expatriate employee engagement by a contractor or sub-contractor carrying on exclusively petroleum operations, the gains or profits of such expatriates are subject to Ghana’s PAYE withholding rules.
3.6.5.3. **Rate of Tax**

The rate of tax payable is 50% of the chargeable income arising from operations in respect of any year of assessment or quarterly period unless the petroleum Agreement to which the taxpayer is a party makes an alternative provision either:

(a) for the payment of income tax at a different rate; or

(b) for the payment of a tax in lieu of income tax at the rate of 50% otherwise payable.

3.2.6. **Stamp Duty**

The present Stamp Duty Act, 2005 was enacted and became operational from May 17\(^{th}\) 2005. This Act should have properly been incorporated into the Internal Revenue Act, 2000 (Act 592), perhaps, it was that the revision for consolidation was not ready when the Bill for Act 592 came up for enactment.

There are two aspects to the Stamp Duty Act: first, stamping to validate instruments for admissibility in evidence; second, raising revenue either on flat rates or on percentage charges ad valorem depending on liability to duty chargeable.

3.6.6.1. **Taxpayers and Tax Base**

The Act authorizes the Commissioner – General to authenticate instruments in the nature of agreements, land title registration, leasing, concessions, conveyance, securities transactions and any such documentation. In so doing the tax authority is required to raise an assessment of duty payable on these items needing to be stamped once an application is made. Upon payment, instruments are denoted by impressed stamps; not all applications are duty chargeable. However, others chargeable for payment depends on the face value or ad valorem worth of the document such as monies in foreign currency or a stock or marketable security. In this case, duty is calculated on the value of the Ghanaian cedi in accordance with prevailing rate of exchange on the date of the instrument or in the case of stock or security, according to the average price of the stock on the securities market.

In this regard, taxpayers may be individuals or corporate bodies who transfer securities in Ghana by sale, exchange, etc., but not a transfer by gift or bequest. The tax base is the actual price in case of transfer by sale or the market price at the time of transfer in case of a transfer by means other than sale.

Where an instrument is not chargeable with duty, it is stamped with a particular stamp denoting it is not chargeable with duty. Indeed, it is the language in writing which evidences what type of instrument is in question - a mortgage, bond, debenture, covenant, guarantee or lien to warrant it as such to be stamped in accordance with this Act.

3.6.6.2. **Exemptions**

The table below lists items which attract no duty before stamping.

(a)

<table>
<thead>
<tr>
<th>Items Without Duty (Exemptions)</th>
<th>Rate GHe</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agreements (falling into three categories – vide sch. 1 of the Act)</td>
<td>0.50</td>
</tr>
<tr>
<td>Appointment (of trustee)</td>
<td>2.50</td>
</tr>
<tr>
<td>Concession</td>
<td>10.00</td>
</tr>
<tr>
<td>Certificate of purchase of Land, Conveyance or transfer</td>
<td></td>
</tr>
<tr>
<td>Conveyance or Transfer operating as a voluntary disposition</td>
<td>10.00</td>
</tr>
<tr>
<td>Conveyance or transfer not clearly identified in the schedule</td>
<td></td>
</tr>
<tr>
<td>Copy or Extract (attested or in any manner authenticated)</td>
<td>1.00</td>
</tr>
<tr>
<td>Description</td>
<td>Rate</td>
</tr>
<tr>
<td>----------------------------------------------------------------------------</td>
<td>-------</td>
</tr>
<tr>
<td>Declaration (of a trust concerning a property by writing not being a will)</td>
<td>2.00</td>
</tr>
<tr>
<td>Deposit of Title Documents (mortgages)</td>
<td></td>
</tr>
<tr>
<td>Duplicate or Counterpart (of an instrument chargeable with duty)</td>
<td>0.50</td>
</tr>
<tr>
<td>Indemnity (letter or other instrument of indemnity)</td>
<td>1.00</td>
</tr>
<tr>
<td>Letter of Authority (Power of Attorney)</td>
<td></td>
</tr>
<tr>
<td>Memorandum of Hypothecation</td>
<td></td>
</tr>
<tr>
<td>Mining lease</td>
<td>0.50</td>
</tr>
</tbody>
</table>

(b) **Natural Resources (Leases or Licenses)**

The under mentioned are rates due in addition to duty otherwise payable on a concession or a mining lease granted under another enactment:

- Mining Lease                                                              25.00
- Offshore Lease                                                            25.00
- Timber Lease                                                              12.50
- Timber License                                                            5.00
- Prospecting License                                                       2.50
- Exclusive Prospecting License                                             5.00
- Quarrying License                                                        2.50
- Diamond Digging License                                                   2.50
- Lease under section 12 (2) (c) of the Administration of Lands Act, 1962 (Act 123) 0.50
- Power of Attorney or other instrument in that nature                     2.00

(c) But the following documentations attract no duty:

Appointment of a proxy to vote at a meeting
- Authority given to a person to receive from the Controller and
- Accountant General’s Department any money due to a person as public officer from the government.
- Authority for the withdrawal of money deposited in any savings account in a bank
- Authority which may be required by an agent transacting business with the Customs Excise and Preventive Service.

(d) In connection with transfers or conveyance the following are also generally exempted from all aspects of the Stamp Tax:

(i) Transfer of shares in government stocks or funds of a foreign country
(ii) Transfers made as part of divorce settlement or arrangement
(iii) Transfers made upon gifts on voluntary disposition from one spouse to another or from a parent to a child, or child to a parent.
(iv) Transfer of shares in unit trusts
(v) Transfers and covenants to charities
(vi) Transfers of loan capital
(vii) All bankruptcy or insolvency documents;
(viii) An agreement, conveyance or other instrument relating to property of a company during winding up;
(ix) Transfer of property under will or other instruments relating to testamentary dispositions;
(x) Probates, letters of administration and vesting assents;
(xi) Insurance policy and any declaration of any use or trust concerning a life policy, or property representing, or benefits arising under a life policy;
(xii) Instruments for the sale, transfer or other disposition, either absolutely or by way of mortgage or otherwise, of a ship or vessel or of a part interest, share or property in a ship or vessel.
(xiii) All instruments on which the duty would be payable by the Government of Ghana on behalf of the Government where, but for this exemption, that stamp duty would be payable by an officer of the Government in an official capacity;
(xiv) A transfer of shares in a company
(xv) Bills of exchange including cheques, bank drafts or orders and letters of credit issued or, written by a banker in Ghana.
(xvi) Bills of laden of or for goods, merchandise or effects.
(xvii) All instruments in respect of which exemption from stamp duty is conferred by Articles 23 and 34 of the Vienna Convention on Diplomatic Relations, as applied by section 1 of the Diplomatic Immunities Act 1962 (Act 148)
(xviii) All instruments in respect of which exemption from stamp duty is conferred by Articles 32 and 49 of the Vienna Convention on Consular Relations, as applied by section 1 of the Consular Relations Decree, 1967 (NLCD 150), etc.

The full list of general exemptions in this category is furnished in Schedule 1 of the Stamp Duty Act.

3.6.6.3. **Dutiable Items**

(a) **Award:**

| (i) | Where the value of the matter in dispute does not exceed GH¢ 500.00. | 0.5% |
| (ii) | Where the amount exceeds GH¢ 500.00 | 1% |

(b) **Conveyance or Transfer (on sales of property)**

| (i) | Where the amount of the value of consideration for the sale does not exceed GH¢ 10,000.00. | 0.25 |
| (ii) | Where the amount of the value of consideration exceeds GH¢ 10,000.00 but does not exceed GH¢ 50,000.00 | 0.5% |
| (iii) | Where the amount of the value of consideration exceeds GH¢ 50,000 (Section 15–18) | 1% |

(c) **Lease:**

(i) For a definite term up to three years.
   - Where the rent for such term does not exceed GH¢ 50,000.00 0.5%
   - Where the rent for such term exceeds GH¢ 50,000.00 1%

(ii) For any other definite term:
Where the consideration or a part of the consideration moving either to the lessor or to any other person consists of money or stock or security, in respect of such consideration: the same duty as a conveyance on sale for the same consideration (where the consideration or any part of it is rent), in respect of such rent:

   (a) If the term is definite and does not exceed 5 years. 0.5%
(b) If the term is definite and does not exceed 21 years 0.5%
(c) If the term exceeds 50 years 1%
(d) Lease of any other kind not described in this schedule (Sections 22 and 23) 1%

(iii) Mortgage, Bond, Debenture, Covenant, Guarantee, Lien or instrument of Security of any other kind not described in this schedule:

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<td>(a)</td>
<td>Being the only or principal security for payment or repayment of money in respect of the amount secured</td>
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<td>(b)</td>
<td>Being a collateral, or auxiliary or additional or substituted security, or by way of further assurance of the above mentioned purpose where the principal or primary security is stamped in respect of the amount secure</td>
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<td>(c)</td>
<td>Transfer or assignment of a mortgage, bond, debenture, covenant, guarantee, lien or of anything secured by any such instrument in respect of the amount transferred, assigned or disposed of (Sections 25 and 26)</td>
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3.6.7. **Value Added Tax**

The formalized Value Added tax became operative in Ghana under Value Added Tax Act, 1998 (Act 546) as an easy to collect and politically expedient fiscal tool and as part of the tax reform programme initiated in the 1980’s under the Economic Recovery Programme. However, some experts see the VAT as a more efficient fiscal tool in spite if its regressive nature. The new enactment was aimed at rectifying the weaknesses of the previous tax regime and providing an additional mechanism for equity in the payment of taxes apart from the traditional income tax and customs. Until then domestic indirect taxation for so long was dominated by a sales tax system operating on a scheme mainly reliant on physical surveillance. Furthermore, the sales tax was also limited in scope that the responsibility of all beneficiaries of amenities in Ghana to pay taxes was borne by relatively few people.

The Value Added Tax (VAT) is a consumption-based tax levied on the value added generated at each stage in the production and distribution of the taxable product. The value-added is the difference between the value of sales and the value of purchased inputs that went into the product sold. VAT in Ghana was introduced in replacement of the Sales and Service Taxes.

Introducing the VAT was a major initiative in Ghana to modernize the domestic indirect tax system. It was first introduced in 1995 and almost immediately withdrawn because of public resistance. Replacing the two former regimes mentioned above, which were confined to only imports, manufacturing and a narrow range of services leaving untaxed wholesale and retail goods and a vast range of services VAT is designed to spread the burden of tax to ensure equality. It is perceived to make tax revenues more stable and equitable because the supply of all goods and services get into the tax net unless exempted. Besides, the tax does not discriminate between imports and domestic supplies like the previous Sales Tax.

3.6.7.1. **Taxpayers and Tax Base**

The tax is charged and collected by registered traders on behalf of the Tax Authority on a set-off basis. Registered traders are entitled to deduct from the VAT they charge on their sales (i.e. output tax) the VAT they pay on their purchase (input tax) relating to their taxable supplies and accounting for the difference to the tax office on a monthly basis.
The system of tax credit on purchases against supplies must necessarily be backed with satisfactory evidence by the taxable person. This is the innovative self-policing feature introduced which is superior to the repealed Sales Tax which was prone to revenue leakage through diversion of tax deferred inputs. Indeed, the former Sales Tax Act had no mechanism for input tax relief so that taxes paid on inputs sneak into and bloat the output value on which tax was levied resulting in cascading of tax.

In the overall, VAT sought to increase the effectiveness of tax collection, reduce the loss of revenue through tax evasion and eliminate the non-transparency and economic distortions associated with cascading of consumption taxes. However, it is yet not clear if all these objectives will be achieved. The Act actually grants complete and automatic input tax relief for taxable and non-traditional exports.

(a) Rate

The rate of tax under VAT is the single rate of 15%. Under the old regime, multiple rates were perceived to offer flexibility for meeting social ends; but changing trends is towards unification of rates, hence, the VAT unified Sales Tax and Service Tax rates into one.

3.6.7.3. Features of VAT Relevance for Comparison with Sales and Service Taxes

As earlier mentioned VAT is a comprehensive consumption tax payable on goods as well as services supplied in or imported into Ghana. It is a multistage tax, extending from the manufacturer to the retailer and applicable at the same rate to both domestic supplies and imports. The VAT has an automatic inbuilt mechanism for automatic relief of taxes on production inputs as the VAT paid on purchases is offset against the VAT charged on supplies to arrive at the balance payable to the tax authority. Tables A, B, demonstrate the differences and the efficiency of VAT.

3.6.8. Customs and Excises

The role of Customs, apart from that tradition of raising revenue through indirect taxation and controlling the flow of goods, took on the added aspect of preventive services when the Customs, Excise and Preventive Law, 1986 (PNDCL 144) was promulgated. The current law, the Customs, Excise and Preventive Service (Management Law, 1993 (P.N.D.C L. 330) incorporates the above law that governs operations of customs and excise in Ghana. Included initially in this law was also the repealed Sales Tax Act 1965 (Act 257) withdrawn and constituted into the VATS law, 1994 (Act 546) that defines value added operations presently.

The Customs, Excise and Preventive Service (Management) Law, 1993 (PNDCL 330) imposes various taxes, duties or rates on goods through regulations prescribed by the Minister when necessary. These regulations operate in three areas for the purpose of enforcing the law:

(i) Customs Duties
(ii) Excise Duties
(iii) Vehicle importation tax

3.6.8.1 Customs Duties

Customs duties are paid by importers and exporters, thus the regulations put duties chargeable under import and export categories specifying exemptions, concessionary rates and goods prohibited for importation and exportation.

(a) Imports
Insofar as imports are concerned, Ghana subscribes to the Harmonized Commodity Description System and Coding usually referred to as the “Harmonized System” for classification of imports and maintains a single tariff. Preferential duties for other members of the Economic Community of West African States (ECOWAS) are determined on a case-by-case basis. Import duties are levied on the cost, insurance and freight (cif) value of the imported goods and range between 15% to 200%. Duty rates for consumer goods are 15% of cif value and 30% of cif value for luxury goods. Restrictive tariffs are levied on goods such as ale, stout, cigarettes, cement pipes, roofing sheets and asbestos/fibres.

(b) Exports
On the other hand, the export value for customs purposes is the cost to the purchaser abroad inclusive of freight, charges incurred for transportation up to the port or place of exportation, labour dues and loading charges plus all other costs, profits, charges and expenses and duties accruing up to the point where the goods are deposited on board the exporting vessel, aircraft or vehicle at the place of departure from Ghana.

(c) Procedures:
(i) Drawback / Refund
There is allowance for drawbacks or refunds whereby the whole or any part of any duty or tax paid may be granted on goods as may be prescribed, and the conditions under which drawback and refund may be allowed. Indeed, any amount of money due for drawback or refund, or due upon any debenture, certificate or other instrument for payment out of duties are payable on their face value once certified by the properly accredited customs officer.

(ii) Warehousing
All goods deposited in a warehouse or other place of security on first importation or which may be exported and have not been entered for use within Ghana or for exportation, are subject to duty rate at the time they are entered and in the case of goods by post, at the time of delivery to the addressee or postage while in the case of goods overland are subject to the duty rate at the time of actual payment of duty or when the goods cross the boundary of Ghana. But goods entered for transshipment or in transit through Ghana in accordance with regulations are exempt from import duty. Also, provided that an exporter has complied with all provisions of the law and conditions of any bond, no duty is chargeable on goods entered under bond for exportation or use as aircrafts’ or ships’ stores.

(iii) Cargo Handling
Cargo into Ghana is unloaded at an approved point of unloading or sufferance wharf” within the same port. Cargo thus unloaded or landed, is conveyed into the care of the proper or credited customs officer in the customs area, and deposited in a transit shed or in a State Warehouse. The goods cannot be removed to any part until it has first been duly reported and entered for the proper officer to authorize the next line of action. If entered to be warehoused, removal is by the importer in the manner which the proper officer directs after entering into a bond for the due warehousing of the bond, unauthorized removal makes the cargo liable to forfeiture. All goods delivered and deposited in a State Warehouse are subject to rent payments. Private Bonded Warehousing is permitted provided that the building or place has been duly licensed by Customs’ authority and the warehouse keeper signs a bond of such an amount as required with one or more sufficient sureties which is conditioned on the due payment of all duties. Licenses for operation are valid for a period of one year from date of issue which may be revocable anytime on notice.

It is also found that goods in a warehouse are deposited in their original packages except they are permitted to be repackaged for good reason.
Most goods being imported into Ghana do not require government licensing. However, the limited supply of foreign currency compels the Bank of Ghana to auction allocations to importers who must sign and submit an Import Declaration Form (IDF) to confirm that their import transactions have been concluded and ready for execution in line with existing Ghanaian law. The importation of pharmaceuticals, arms and armaments, telecommunications equipment, and explosives require special import licenses.

In the process of documentation, two copies of the Ghanaian Customs Invoice are presented to the Customs office for processing. The manufacturer or producer of the goods must sign the form mentioned above, but if the actual exporter is not the manufacturer, then the form must be signed by a notary or banker and contain a declaration that the goods are being sold at, or above, their home country market value. Additionally, the customs office would require a copy of the bill of lading or air waybill. Packing lists, though not generally required, may facilitate clearance of goods importation. Finally, sanitary and health certificates are required for the import of live animals or meat products, plant seeds, liquors and used clothing.

(d) **Emerging Issues**

(i) **New Trends and New Challenges:**

The fact that Customs is designed to raise revenue from import duties and other trade taxes shall remain an important task in the foreseeable future, especially for developing countries as Ghana because of the huge percentage of fiscal contribution to the national purse and the continuing growth in trade flows both in volume and value. With respect to the trade aspect, controlling the flow of goods is also very important for realizing specific objectives, i.e. managing quantitative restrictions, quotas and ensuring remedies as safeguards embedded into agreements for the prohibition and restriction of specific goods. Other measures in this direction are those for the exchange of information, anti-money laundering and phytosanitary for the protection of endangered species.

These trade related issues are the new challenging tasks outside the traditional role of revenue and the Customs Division must gear up to meet new trends taking the forms of E-commerce, Information Technology, integrity and good governance which facilitate trade and stand up to the new task of border security which it shares with the Immigration. Indeed, security has become the greatest concern in present day customs operations Customs must protect against terrorist activities, protect the economic interest of the state as well as the health and safety of the citizens. Safety of the country in collaboration with other organizations like the World Customs Organization (WCO) has become the central issue which is the concern of Free Trade Areas (FTA)(RoO).

(ii) **Shift of Emphasis**

The shift of emphasis is largely to security, for this is what guarantees the physical security of the state, and the first line of defense is the presence of Customs. It is in this light that the champions of security such as the EU and the US are leading a crusade. The position on security is reflected in the EU and US mission statements for customs. The EU joint Mission Statement on Customs (2005) states as follows:

“Customs is responsible both for protecting society and facilitating trade through the management of external borders and by ensuring overall supply chain security” and goes on”. We are committed to;
• ensuring the safety and security of citizens
• protecting the financial interest of the community and its member states.
• Protecting the community from unfair trade”.

With these emerging challenges and tasks as mentioned, the emphasis is less on the fiscal role of Customs but more on “border security”. It is to enhance this new phase that non-intrusive measures are being adopted such as the use of machine scanners and others. The lead campaigners mentioned above have taken the following initiatives to enhance border security:

i. The EU’s “Customs Security Programme (CSP)
ii. Increased Combat against counterfeit and Piracy initiative;
iii. The U.S Container Security initiative and
iv. The WCO initiative which is a framework for standards to secure and facilitate Global Trade with core element as the harmonization of advance electronic cargo information requirements on outbound, inbound and transit shipments

3.6.8.2. Excise Duty

(i) Procedures

Excise duty is payable on all locally manufactured or produced goods, unless the goods are exempt from duty. The duty is paid by the manufacturer before they are delivered from the factory or from a warehouse if warehoused.

The tax authority may require any warehouse keeper to enter into a bond to secure the duties on any goods in his warehouse; this may be revoked anytime on notice in writing. The law does not allow anyone to manufacture or begin to manufacture without first obtaining a license from the Tax Authority which is subject to renewal yearly. Also, nobody is allowed to distribute, sell or dispose of apparatus meant for distillation of alcohol without a license from the tax authority.

Both the manufacturer and warehouse keeper are required to maintain books of account in the approved form and manner as the Tax Authority may direct which must be readily available for inspection including invoices.

Above all, the Tax Authority may station an officer in any factory to watch the process of manufacturing to ensure compliance with provisions of the law.

In so far as excise tax is concerned the commodities to watch include tobacco products, beer, table waters, malt drinks and spirits. For beer, other than indigenous beer the rate of tax is 50% of the ex-factory price; for tobacco products 140% of ex-factory price; for soft drinks including mineral waters, 20%; for malt drinks 5% and for spirits 25% - all of ex-factory price.

(ii) Specific Versus Ad valorem Rate

In the spirit of current fiscal realities, it became necessary to replace ad valorem excise duty rates with specific rates. The change came in the Customs and Excise (Amendment) Act 2007 (2007 No.9); the amendment act abolished ad valorem duty rates eligible on excisable goods and substituted them with specific duty rates.

Subsequently, the basis for determination of the specific duty rate for alcoholic products is on the alcoholic content per volume and product type subject to banding. Consequently, the specific excise duty rates for the various banding now read as follows;
• Beer and Stout based on alcoholic content which is in proportion to the volume per bottle.

• Carbonated Soft Drinks and Others. These rates are also applicable to similar imported drinks proportionally.

• Cigarettes (duty rate determinable per stick subject to banding of cigarette type)

• These rates apply similarly to imported cigarettes.
• The specific duty rate is index linked to the Consumer Price Index (CPI) with a one year lag.

3.6.8.3. Importation of Vehicles

All vehicles imported into the country except otherwise exempted, are subject to three separate taxes – vehicle purchase tax, import duty and VAT - our concern is with the first.

(a) Vehicle Purchase Tax

The main law on Customs and Excise, PNDC.L 330 requires that any person who imports a vehicle, whether new or used, is subject to pay a vehicle purchase tax on the import value of the vehicle calculated at a rate determined by regulation and this tax is payable at the same time as import duty and VAT are paid.

For the reason of this tax, no licensing authority appointed under the Road Traffic Law, 1952 shall register a vehicle without seeing the receipts of payment on a purchased vehicle and in effecting registration the licensing officer is obliged to render account monthly how many vehicles were registered during the month with indication of registration number, engine and chassis numbers and the name and address of the owners.

Other points to note include the following;
• The vehicle purchase tax is additional to any other taxes imposed on that vehicle.
• A vehicle imported which is more than 5 years old is subject to a pecuniary penalty determined in the regulations – the age of the vehicle is calculated with effect from the year in which that vehicle was first manufactured; and nobody is allowed to import any right-hand steering motor vehicle.
• Any imported vehicle that remains un-entered and un-cleared within 120 days after discharge is subject to forfeiture to the state.
• Any vehicle so forfeited is subject to disposal in the manners the Presidency may direct.

Amendment

On the basis that application of Section 90 of PNDC L 330 over the period has resulted in anomalies and distortion with respect to determination of value of vehicles including used ones based on statutory rates of depreciation, the amendment Customs, Excise and Preventive Service (Management)(Amendment) Act 2007 (2007 No. 9) was passed to bring about some equity and fairness into the determination of base percentages for calculation of the depreciated values and general rates.

In the past, the importation of very old vehicles with their attendant social, economic and environmental consequences increased; application of high overage penalties rather encouraged non-compliance and presented disposal difficulties when forfeited to the state.

The amendment therefore removed the overage penalty in the reserve price of vehicles due for auction since it effectively transferred the punishment meant for the original importer to a successful bidder or allocattee who had not breached any regulation.
Thus, by the Amendment, the reserve price of forfeited vehicles due for disposal by auction or allocation is now computed exclusive of the overage component.
SECTION FOUR

TAXATION CHALLENGES AND INSTITUTIONAL CAPACITY FOR GOVERNANCE IN GHANA

Taxation in Ghana since independence evolved side by side with the administrative machinery for tax collection. This is borne out in the historical brief earlier in this study, and currently, the Ghana Revenue Authority (GRA) is the integrated institution established late 2001 for tax administration. As it became necessary over the years to reform the tax system and bring about better revenue generation, so it was to introduce reform measures to strengthen the instituted tax agency for improved performance and enhance the good governance agenda of the government.

That said, the indications are that tax collection under the GRA, having taken over from separate agency tax administrations, has improved significantly within the relatively short period although much more was expected. Areas of concern, reasons for which administrative reform became necessary, such as the informal sector, are still very much subject to the very large leakages attributable more to the administration than policy.

4.1. Organizational Structure

The GRA emerged from restructuring with the complement of the staffing strength of 6,601 made up of 485 in management, 2,904 senior officers and 3,212 junior officers (refer Appendix 1); distribution of personnel; (is within the organizational structure shown in Appendix 2); inherited offices from the erstwhile agencies (as indicated in Appendices 3, 4 and 5).

4.2. Performance Review

With the establishment of GRA, as mentioned, performance in 2010 and 2011 showed significant improvement particularly in the late 2011. The percentage growth of total tax revenue and contribution to GDP supports this finding. At the end of 2009 the GDP ratio stood at 12.6% but grew to 13.3% and 16.3% for 2010 and 2011, respectively shown in Appendices 6, 7, 8 and 9. The picture is better appreciated in a wider scale in the four year performance of 2008 to 2011 shown in Appendix 10.

In the Commissioner–General’s address of GRA’s 2011 Annual Report, he indicated that Ghana achieved three (3%) percentage points growth in the tax – GDP ratio in one year at the High Level Aid Effectiveness Conference held in Busan, South Korea. He attributed the 2011 “sterling performance” to synergies arising from the studies made in the reform for integration and modernization and other factors.

But there are many who are of the opinion that GRA for three years after integration was more or less in a confusion with virtually tax offices running to a halt and that performance could have been much better in spite of the challenges. They think that more time was spent on filling management positions, fixing salaries and Project Teams not reporting in time, than seeing to revenue inflows. They contend that whatever happened, the revenue trend continued as of old always with some sort of a growth over the previous year, and almost always exceeding that of the current year’s target. Indeed, the general impression was that the new administration has taken a very long time coming out with the Modernization and Strategic Plans and reorganization of the tax offices could have been expedited instead of now rolling out in the fourth year of operation and yet the whole country is not effectively covered.

4.3. Challenges and Bottlenecks

Presently, the challenges and bottlenecks facing the main administration are the same old ones it took on from the inception from the former revenue agencies. In the 2011 Annual
Report, the GRA admitted that among others, resources and cash flow were inadequate. This underscores the fact that the old challenges and bottlenecks of the former agencies still haunt the new administration. They are perennial and quite a debilitating combination to slow down the forward march of GRA. The under mentioned issues examined are confirmed to be existing in the years before integration and require addressing with dispatch to make the GRA the effective and efficient institution that it is expected to be.

4.4. **Situational Analysis**

The GRA is now in its fourth year since the integration of tax administration in Ghana. Up till now, it is too early to say whether the organization is living up to expectation or not; suffice it to say collection has improved from year to year since the amalgamation, yet general staff output is still poor. The use of absolute figures, without consideration of inflation, could even be misleading. This then means that GRA is still living with the same old problems of its predecessor separate revenue agencies which were affecting performance. They include the issues reviewed hereunder.

(a) **Low Level Staff Output**

Staff output is still very low considering that there are no dramatic changes since the change over and rolling out piloted changes is taking so much time. This transitional period is causing confusion in the minds of officers with respect to what roles they are expected to play leading to low performance. However, the issue of training is attributable to low output. As it was under separate agencies, most tax officers who did not benefit from a proper pre-service or adequate and regular in-service training lack the basic knowledge required to perform duties properly.

In three years after integration, there are no indicative signs that GRA is making the effort to have any specialized training institute or school apart from relying on the same old haphazard approaches to training. Not only that, the deficiency in training requirements and materials remain unanswered, but one may say the gestation period is too short to make an assessment.

The point is that, with the appointment of a Deputy Commissioner in-charge of training and an intention to use the former CEPS Kpetoe training camp as a training school, there is actually no activity going on to show commitment to this project. In the absence of a training institute of its own, GRA would continue with the undesirable old approach of organizing training sessions for staff members with external training facilities such as the Ghana Institute for Management and Public Administration (GIMPA). These external facilities are known to charge exorbitantly for training sessions yet they have no specialized teachers and instructors except simply hiring staff members of the same GRA to conduct training courses.

Furthermore, under separate agencies inadequate planning with regard to recruitment and training of staff members further limit the impact of training. Additionally, budget allocations for training purposes did not usually cover existing training needs. There was also inadequate management training for supervisors and higher management levels.

Again, the few training possibilities that were offered to tax officials were restricted and narrow in scope, and as a result, the co-ordination and collaboration needed between the former agencies was hindered by the fact that tax officers did not possess cross-agency tax knowledge.

(b) **Staff Performance**

Although salary levels improved tremendously after 2009, it is still the “Oliver Twist’s” story of always asking for more. Moreover, there are complaints of inequity among staff after the final merger. While former IRS staff are happy that they are now enjoying what was being
paid to the CEPS and VAT staff under the table by way of allowances, staff of the other two agencies (VAT and CEPS) consider the merger as a stagnation to their growing benefits. This has brought about mistrust between former agencies’ staff, which is unhealthy for proper integration.

On the whole moral is very low with the former IRS staff and a section of CEPS staff who are complaining of being sidelined in favour of former VAT officers over positions and do not see GRA having any good future for them. Salaries may now be said to be quite fair, yet, not attractive enough to retain some disgruntled qualified personnel. The work environment may have to take some time to be conducive for the maintenance of high level performance. Moreover, staff members still do not perceive any realistic prospects for future career development, which goes back to the lack of training opportunities as well as internal staff development and succession plans.

(c) Available Logistics
It is found that available logistics have improved since the integration. However, they are not still not enough for the required high performance levels as budgetary allocations do not still measure up. The irregularities in the flow of funds still persists and an uncertainty with regard to the timeliness of releases from the Ministry of Finance. This is a weakness to be linked to proper planning the acquisition and replacement of assets inherited from the old system. The already inadequate resources may not have to be the basis of trying to achieve an even coverage of the whole country but it relation to revenue potentials and priorities.

(d) Improper Planning of Investments
This was a feature of the separate revenue agencies, but the problem is very much alive and with the lack of the financial resources, proper accommodation for many offices and other facilities are not yet found and GRA is still not developing its own lands. Presently, some of the units and structures of GRA are found to be improperly accommodated in different buildings proliferated all over the country.

(e) Inadequate Information Management System
The former revenue agencies had the problem of inadequate information management systems. The new administration is not out of it and operations still are at the low level of efficiency and effectiveness. Apart from the pilot offices, you find mostly the same old cumbersome and laborious procedures being used to manage especially the direct taxes and much of the indirect taxes. Manual and very time-consuming practices are still very much in use and the excuse is that there is neither hardware nor software available for a comprehensive computerization of procedures. The fact that taxpayer’s numbers are ever increasing and the retrieval of information is getting more and more difficult and time consuming, the need for modern information processing cannot be overemphasized.

(f) Low level Efficiency and Effectiveness of Procedures
Revenue officials agree that the aforementioned situation leads logically to low level efficiency and effectiveness. For example, taxpayer migration remains an issue even for offices experiencing the new dispensation. Some Small Taxpayer Offices (STOs) still keep files of the Medium Tax Offices (MTOs) with justification of traffic problems for taxpayers. This is attributable to how information management is inadequate and cannot meet the heavy task of tax administration until such bottlenecks are addressed.

These are pointers to the fact that the information process is still not fully developed and GRA is still working with a rather weak database. As mentioned earlier, three years on after integration, the inherited IRS division is still not computerized and computers provided are simply to recognize status. Besides, computer usage is limited and totally inadequate as many
senior officials are not computer literate. Thus, it is either that there are computers to cope with input source documents at the Head office or that they are not adequate. It is further found that because of insufficient financial resources provided to implement an IT strategy, the IRS part or direct taxes cannot be computerized meaningfully.

In these circumstances, there cannot be an adequate monitoring system. Record keeping will, therefore, continue to be very poor contributing further to the old time rivalry and mistrust between operations of the former separate agencies. This will go a long way to affect information flow between STOs, MTOs, LTOs and Head Office and receipts from the Regions and Districts arriving at Head Office will surely be late.

The effect of the lack of an efficient data management system is evident particularly with auditing of private companies, bringing to light the absence of proper yearly planned audit activity too. The outcome of audits is further limited due to the lack of recognized selection criteria for tax audits.

(g) **Very Low Tax Base**

This weakness has been examined in the problem of the informal sector later in this chapter as a major challenge to tax administration, but the point to note for low tax base is the difficulty in finding the taxpayer.

The National identification Card which could be helpful is not widespread. Identification of streets and houses or business locations is haphazard. Besides, there is a high proportion of information sector businesses springing up. Although there is a system of business registration by the Registrar General’s Department, it is a cumbersome procedure in spite of the fact that registration is now decentralized to the Regional Co-coordinating Councils. This has not promoted its use by the private sector. This also explains why laws on registration and operation of private business are not enforced such as basic record keeping requirements which remain unenforced.

(h) **Inability for Rationalization and increased efficiency**

This hang-over of mistrust between staff of the old agencies as mentioned cannot be ruled out. The problem is with tax officials not being able to unearth taxable incomes in areas not within their traditional base before the integration. An underlying lack of information is a result of a deficiency in co-ordination between the agencies and other government organizations such as the Registrar General and the Accountant-General. Thus, data on taxpayers have not been adequately shared and each agency continues to collect its information separately. The integration is not moving fast enough to plug the loopholes so that information can flow freely between the former agencies before the integration. If this were done it would be a way out to improve and realize the large potential for rationalization and increased efficiency within the new administration.

(i) **Lack of Adjudication**

GRA may be proud that for the three years since its integration, it exceeded its target of collections every year but the context in which the targets are set is also important. It is well known that revenue performance in developing countries fall far below expectations even though set targets are achieved. This is because compliance levels are really very poor. This also takes root in the prominently weak enforcement of tax laws in that tax officials show lack of courage to enforce tax law, and consistency in its implementation. Consequently, the number of adjudicated cases is low with only a few local tax cases as precedents for building a case law system. Besides, there are no specialized tax courts and tax cases have to be adjudicated by judges who do not possess the required specialized knowledge on tax laws. It should be noted that, if there was commitment, these courts could have been established as
there are judges who are experts in tax laws, some of whom have attained high positions in the former IRS and its allied institutions.

(j) **Weak Management System**

One of the reasons for institutional reform bringing about centralized tax administration instead of separate agencies is to strengthen management systems which were weak. But it cannot be said that the restructuring into GRA has brought about this improvement. There are complaints that top positions were not filled with the required caliber of management personnel, a weakness all too soon rearing its ugly head. Such complaints and frustrations were rife that the integration was virtually hijacked in favour of a particular former agency in the scheme of things. Many high calibre management staff were either sidelined or low keyed, with some even alleging corruption in the appointment and posting of staff to the new Authority.

As a result, this is already contributing to the inability to initiate and sustain changes in performance operations, under separate agencies. This was characterized by nebulous organizational structures embracing all sorts of departments, units, etc. so that sometimes there was ambiguity in the line of authority. The slow pace the new administration is moving gives the impression ideas may already be running out.

Presently GRA’s slow pace rolling out its structures has created so much confusion within the rank and file as no office is prepared to speak out on what is going on. All they say is “we don’t know what is going on” and staff members do not perceive a clear delineation with regard to responsibilities and division of labour.

The interplay unfolding is not in consonance with the vision, mission and objectives of GRA reinforcing a sense of insecurity among staff and the fear that the ideals of integration may not be achieved.

(k) **Insubstantial Support by the Ministry of Finance**

Since the establishment of GRA, the financial situation seems to be better than the situation when the three agencies were run separately. But the source of funding is the old arrangement of a 3% retention of collection for operations, including the payment of salaries and financing of projects. This was said to be inadequate under the separate agencies but since GRA takes the aggregate, it looks better for planning than it was split among agencies. It is only after GRA has rolled out fully to cover the whole country that one can tell whether the institution is adequately funded.

However, the release of funds quarterly on agreed formula of 3% retention delays just as it was without integration. Indeed it is the Ministry of Finance that plays the crucial role in ultimately shaping conditions for the work of GRA but the delays also defeat the ideals of integration.

(l) **Adverse Attitudes and Practices of Taxpayers**

This aspect too has been examined more thoroughly under citizens' participation in tax affair in another part of this chapter. It is about compliance. Thus, additional to the multitude of constraints and weaknesses of tax administration is the fact that only a small percentage of potential taxpayers actually pay their taxes in Ghana as of all developing countries, according to the rules and regulations.

Noncompliance is a potential loss of revenue to government. Funds are badly needed to implement projects and programmes which are demanded by the same non-compliant
taxpayers. Evidently, this means that much more work has to be done by way of tax education.

Many citizens to a large extent do not really understand the necessity to pay taxes. Of course, since its inception, GRA has made some efforts to change the adverse attitudes and practices of taxpayers but these efforts are woefully inadequate. For all what can be said about what ever education strategies are undertaken, they are ineffective. It is not enough to do public relations and media campaigns alone; procedures must also be rendered more user–friendly.

4.3 The Informal Sector
Taxpayer classification into “formal and informal sectors in African countries, including Ghana, in itself, shows that there are peculiar problems to solve by tax administrators.

In principle, the burden of tax should spread equitably among taxpayers whether formal or informal. Incomes made come in different forms be it employment income, business income or investment income, each has a method for collection of the tax and assessment and pursuance must apply on equal terms to everyone who is liable to tax.

The inability to apply tax law equitably in respect of this classification is the problem. The burden of tax tends to be heavier in the direction of the formal sector in Ghana, as the informal sector is left more and more untaxed. The tax administration is unable to easily identify unorganized informal sector activities to tax while formal sector activities which are more organized and operating in accordance with state rules, are easy targets and cannot escape taxation.

The formal sector covers mainly income earners from formal employment and investment with taxes paid through withholding or deduction of tax at source, individuals and corporate bodies filing returns and paying tax through self-assessment or official assessment.

4.3.1. Characteristics of the informal sector
Because the informal sector is sprawling and the most formidable challenge to revenue mobilization in developing countries is important to get the picture of this classified sector in question. In spite of the fact that the sector does not easily lend itself to any clear, concise definition, its features can be put into four aspects: businesses employing very few people, mainly family members; small scale operations; non-sophisticated employed technology; and low productivity.

Thus, in Ghana the following characteristics, as many quote, are considered to bring out the picture: being highly unregulated and unorganized; predominantly cash transaction, non-existent or poor record keeping, little or no business, non-conformity to scale rules and regulations, illegal activities associated with black economy such as financial marketers and drug trafficking; itinerant in nature and relatively high rate of illiteracy.

From these characteristics, the informal sector operators include both small and big entities as long as they fit into the above delineation, put another way, they are economically productive but they are unregulated, unorganized and slow to adapt modern corporate practices and using unconventional business method. Thus, the proliferating Small, Medium Enterprises (SMES) all over the business terrain especially in the agriculture, self-employed including small scale mining (“galamsey”), garages and repair workshops and manufacturing, market traders and street vendors, etc, as well as occupational groups such as commuter services as (“trotro”), mobile phone repairers, small scale restaurants and “chop bars”, money lenders and “susu” collectors, all fit into the description of informal sector, not leaving out illegal and underground activities such as illicit drug dealing, prostitution, financial marketers, etc. To a
very large extent many of these activities are relatively sizeable and are fronted by seemingly genuine formal set-ups.

The informal sector is quite pervading, the largest in economic activity with a size of about 77% of the working population of 14.7 million in Ghana and in all the areas it operates, it is established to be 86.3% in terms of economic activity (GNCL 2008). The sector contributes rarely 5% to total direct tax collection. The percentage on collection in 2005 and 2006 was 5.4% and 5.3%, respectively.

4.3.2. Attempts at Taxing the Informal Sector in Ghana

Indeed, consideration its mere size and sprawling nature, the informal sector is not contributing a fair share to the tax burden in Ghana as all efforts by way of legislation and many reforms over the years have proved futile. The sector still makes the meager contribution of barely 5% to total direct tax collection as stated above. It is admitted that efforts of both policy and tax administration are not exhausted as legislation is constantly being reviewed and administrative reforms are taking place. However, the measures used are basically presumptive taxation for dealing with the situation and these are mostly standard assessment, identifiable or occupational grouping taxation, estimated assessments and presumptive minimum taxes.

(a) Presumptive Taxation

The common features of presumptive assessments indicate the following:

- Lump-sum tax levied on individuals or business on the basis of occupation or business activity they are engaged in.
- Estimated tax payable is fixed in accordance with industrial averages based on results of the tax administration’s thorough investigations. To enhance the substance of vertical equity, the investigation goes further to establish some calibration according to factors such as location or city, urban or rural; number of income generating assets if artisanal traders; capacity-holding in the transport or fishing sector so that payments are calibrated according to passenger holding capacity of the vehicles and same for fishermen according to the capacity of the canoe.

(b) Standard Assessment

With the above features the first attempt at presumptive assessment in Ghana was the Standard Assessment Act, 1963 (Act 205) which aimed at small businesses and the self-employed. This law provided for all persons in all endeavours to register with the Tax Authority and make specific lump sum tax payments in accordance with occupational groupings. As time went on payable amounts were adjusted periodically to reflect inflationary trends and presumed increases in incomes. An amendment to the Act in 1964 made it obligatory for taxpayers on Standard Assessment to obtain tax clearance certificates for display on their premises to ensure compliance and vehicles were to produce them upon request at any police checkpoint.

However, sooner than later, the standard assessment scheme was beset with a myriad of problems leading to persistent complaints and rampant evasion. First, the quarterly advance lump sum payment was deemed too high and burdensome because no income had been earned and the tax was considered to be paid out of capital. There was no equity as especially the transport sector did not operate throughout the basis period and the system did not take into account breakdown time of vehicles.

Also, the scheme increased the number of taxpayers thereby increasing the volume of work to be handled by the tax administration with limited capacity having to cope with the sudden
increase. In the face of these developments revenue generation did not benefit from reaping the full potential of a well-intended attempt.

(c) **Identifiable/Occupational Groups Taxation**

The second stage of an attempt to improve taxation of small businesses and the self-employed was when tax reform measures were introduced in 1987 to rectify the problems of the previous standard assessment system quoted above.

This new scheme commenced with the transport sector under the Income Tax (Amendment) law, 1987 (PNDCL 177) later extending the effect by administrative procedure which empowered the tax authority to appoint any person as agent to collect taxes on its behalf to forty other occupational groupings, including the following: the Ghana National Tailors and Dressmakers Association, the Ghana National Hairdressers and Beauticians Association, the Ghana National Chemical Sellers Association, the Traditional Caterers Association and others.

The new scheme also introduced payment of tax on daily, weekly and monthly basis. As such, new calibrations for categories of long distance and cargo trucks were introduced by levying the tax on a percentage of gross revenue as opposed to the lump-sum. Then, the associations were appointed agents to collect the tax from their members and receipt books were supplied by the tax office to the associations for distribution to their members for collection. These collections were to be account for not later than the end of the week following the week in which the taxes were collected. Later on, some understanding was reached for some of the associations to render accounts monthly for the sake of convenience. The principal officers of the associations were responsible for the collection and payment of the tax collected to the tax office and, for their efforts the Tax Administration would paid the Associations commissions ranging between 2% and 2.5% of their total collections.

Unfortunately, this attempt too, had its setbacks. First, Associations had printed their own receipt books for collection of the tax which, for good reason, had to be withdrawn and replaced with the official receipts. It took quite a lengthy time before these unauthorized receipts could be expunged for solely the official receipts to be used. Then, came the problem of accountability for revenue collected, and there were many cases of outright embezzlements by some association officers and others. Finally, when the situation was getting out of hand the system was reviewed to make Association Executives remain agents for their members but would pay upfront for receipt books taken, or else, the entre members would pay directly at the tax office for receipts to be issued. This was a skewed situation and it flopped and collection slowed down once more.

(d). **Payments on Account**

This concerns the treatment of presumptive assessments. At the beginning periodic payments by the transport sector were made final taxes without further assessment. However, the Amendment (Act-514) made payments on account subject to the filing of returns and subsequent re-assessment for additional payments if found. This was because the quarterly payments were considered too low and there were some equity problems with taxpayers in other circumstances but because they were on normal official assessment and were paying higher taxes. Hence, the string of complaints poured in again and “final tax” was reversed to payment on account. In practice, though the quarterly arrangement obliged transport owners to file returns on the year of assessment for proper assessment it is rarely done and many get away with it because the tax authority does not have the capacity to cope with the increased volume of work.
(e) **The Vehicle Income Tax Sticker System (VIT)**

The problem of filing a return at close of year for proper assessment is simply on statute but not implemented. All the same, the next stage was the Internal Revenue Amended Regulations 2003, L.I. 1727 introducing the Vehicle Income Tax (VIT) sticker system. Vehicle owners are now obliged to purchase stickers, issued by Tax Authority to affix on windscreens of their commercial vehicles, quarterly in the months of January, April, July and October, as evidence of payment on account. The VIT has proven to be a good measure. It is perhaps the only successful attempt at taxing the informal sector though rates are low and no returns are filed. The success may be partially attributed to the police involvement on the highways. In 2005, L.I 1803 also made quarterly payments on account applicable to other trade groups including Dressmakers/Tailors, Susu collectors, Chop Bar/Cooked Food Sellers, Butchers, Hairdressers, Garage Owners, and Diamond/Gold Winners and Buyers but these cannot be said to have caught on well as the VIT system.

(f) **Tax Stamps**

Provision was made by L.I. 1803 for the issuance of tax stamps by tax authority to some specified listed self-employed persons also for quarterly tax installment to coincide with the payment on account by groups at rates ranging from GH¢5.00 to GH¢25.00. The list of groups included the following:

- 40 footer container/large kiosk operators
- 20 footer container/medium kiosk operators
- Small kiosk/container operators/market stalls and itinerant traders
- Table top operators/hawkers

(g) **Field Collection**

Finally, to complement all these measures, a kind of monitoring measures needed over the other measures is field rounds for collection. This entails officials drawn into the field including the rural areas to make on the spot assessment based on the level of activities observed and collect if convenient from taxpayers. In the rural areas collection is almost always on the spot where an assessment is raised on the spot taking into consideration, for example, the number of baskets of smoked fish or number of barrels of palm oil, etc. for an itinerant trader brought to the market for sale.

These little collections do not make much of an impact but demonstrate the extent of efforts that tax administration is undertaking to reach out to the informal sector.

**4.4 Tax Avoidance and Evasion**

Tax avoidance and evasion are two pernicious practices posing a sophisticated challenge to tax administration in developing countries, like Ghana, trying to improve domestic collection and reduce the fiscal deficit. They are practiced in both the formal and informal sectors but championed by multinational companies. These two malpractices are bedmates except that one is illegal and the other within the law. The two are often taken together because of their significant degree of substitutability and possible complimentarity between them for taxpayers and the singularity of their implications on the revenue maximization goal for government.

### 4.4.1. Practices

Tax evasion is usually defined as an attempt, successful or not, to reduce or totally eliminate tax liability by illegal means, and it is also synonymous with tax fraud. Tax avoidance, on the hand, is achievement of a similar end but by means which are within the law. It involves an intelligent analysis and choice of schemes which will bring about less tax impact than the more commonly used methods. Its process, which is also referred to as “tax planning”, starts
even before the tax liability accrues. Tax avoiders use to their advantage the existing tax
laws, particularly their inherent faults and loopholes. Tax avoidance as is often cited, can be
“within the letter of the law and within the spirit, or it can be within the letter of the law but
against the spirit.”

The OECD Committee on Fiscal Affairs has cited some three characteristics typical of tax
avoidance schemes, namely:

a. The presence of artificiality where the various arrangements involved in a
scheme would not, in the absence of tax factors take the form they do;

b. Such schemes would often take advantage of loopholes in the law or apply
legal provisions for purposes for which they were not intended;

c. Secrecy may also be a feature of such schemes, where tax advisers sell
readymade avoidance devices with the condition that the taxpayer keeps the
facts secret as long as possible

Tax evasion and avoidance are global phenomena. As information technology is growing
with the consequent expansion of internal transactions for multinational corporations the
opportunities for tax evasion and avoidance have also increased through practices such as
income splitting and diversion schemes. In Ghana generally, the opportunities for evasion and
avoidance are through the following:

• Non-reposting of income through non-filing of tax returns on omission of certain
specific items of income in tax returns.

• Under reporting of income through falsification of records, understatement of
sales and or misinterpretation of legal positions.

• Under invoicing of sales by falsification of stocks and accounts, non-disclosure of
cash or credit sales, or through the use of improper inter-company pricing of
goods.

• Over-invoicing by overpricing cost of raw materials.

• Improper claims for deductions through the use of fictitious expenses and
purchases, and or deductions of imaginary losses.

• Under-reposting of the market value of property holdings.

The complex nature of multinational finances permit them to set transfer prices and use
appropriate alternative channels to transfer funds which enable them to reduce their overall
tax burdens. The transfer pricing scheme is the most abused as multinationals buy from and
sell to their subsidiaries with the terms and conditions not reflecting the “normal price of
goods. Export prices are usually depressed while import prices are inflated.

These is also no transparency in pricing policies respecting payments on account of transfers
of intangible goods or various specific services and intercompany loans, which are arbitrarily
set. Indeed, through intercompany payments and transfer pricing arrangements,
multinationals are able to shift profits from one country to another; such transactions are
attractive and feasible because of the presence of tax havens. Countries or jurisdictions of no
taxes or relatively low taxes on all or certain types of income, attract such potential taxpayers.

4.4.3. **Implications of Tax Avoidance and Evasion**
The impact or implications of tax avoidance and evasion are tied up with the major goals of
taxation, namely the attainment of economic growth and stability, and the promotion of
equity. The tax structure intentionally is designed to drive the economy towards the
achievement of these goals and tax avoidance and evasion circumvent these intents and
distort the designed consequences. Taken point by point the following implications are
examined.
(a). The promotion of economic growth and stability
Economic growth has been variously defined as the production of more and better goods and services and as the sustained increase in the real per capita income or the general standard of living. Economic stability on the other hand, refers to a situation with tolerably low levels of inflation and unemployment and a consistently favourable balance of trade. Thus tax avoidance and evasion hamper these ideals through the three stages of: planning and policy making, financing, and implementation of policies and plans.

(b). Planning and policy – making
The presence of an underground economy promotes tax avoidance and evasion, particularly when a sizeable one, presents difficulties in accurately quantifying and assessing the variables that are important in policy making. Planning and policy making in most countries are largely based on the behavior of officially determined macroeconomic variables and inaccurate measurements could lead to economic policies which, on the basis of official statistics, seem reasonable but are actually inappropriate for the official economic growth rate. The unemployment and inflation rates are also likely to be over or undervalued as the contributions from the underground economy are not accounted for. Balance of trade and balance of payment statistics would be different from actual as these are inflows and outflows that are not recorded or are undervalued. Furthermore, the tax burden and income distribution are also likely to be distorted and even monetary policy may become inappropriate as the monetary expansion is based only on the needs of the official economy.

One the side of stability, the economy could also be affected through the political system. Economic stability is said to be a function of the political stability in a country; so that extensive tax avoidance and evasion could cast doubt on the integrity and capability of tax authorities and government officials and breed discontent among the citizenry.

(c). Source – financing
As is already noted, taxes are the major source of financing for most governments. This means when tax avoidance and evasion abound, substantial governments funding would be lost due to the eradication or elimination of tax liabilities. Consequently, this would restrict the government’s capacity to finance sound economic programmes to attain growth and stability. The situation worsens when taxpayers are further discouraged from paying taxes because of the insufficiency of public services provided.

(d). Implementing Plans and Policies
Quite apart from generating revenue to finance government undertakings, taxes are also instrumental in realizing government plans and policies. That is to say, taxes serve to regulate certain activities. However, evasion and avoidance defeat such regulatory roles of taxes. Besides, these vices could hamper the implementation of plans and policies all together for income which escapes taxation boosts the demand for goods and services. This higher demand, if not matched by increases in supply, can result to escalation of prices and to outflows of foreign exchange if domestic supply is insufficient. Thus, in effect, tax evasion intensifies inflationary pressures and upsets the balance of payments of the country, a very vicious circle indeed.

Furthermore, the capacity to avoid or evade taxes can also serve as an incentive to pursue activities which are discouraged or prohibited because they are uneconomical, dangerous or injurious to society.
(e). The Promotion of Equity
As a matter of fact the tax burden distribution becomes irrational when some taxpayers do not pay the tax due from them. When this happens, the income distribution desired by government may not be achieved. This also means in effect that the non-compliers shift their share in public finance to honest taxpayers when they continue to use public services financed from taxes. The tax burden distribution would further be distorted when the revenue insufficiency and under taxation that is projected compel governments to levy new taxes, widen the tax base or increase the existing rates, thereby further burdening the honest taxpayers.

But one other point is that tax evasion distorts the rules of competition when some business entities are able to reduce their tax liabilities and others are not. By this, they are able to place themselves at a more advantageous position than their honest business competitors. The same way, it is also unfortunate that the opportunities in the use of tax avoidance and evasion schemes could be inequitable for those who are well off may have within their reach the services of experts on “tax planning” schemes who give them greater leeway in reducing their liabilities. This aggravates the inequity problem brought about already by tax evasion and avoidance.

4.5 Corruption
Corruption, though a problem of personnel, poses one of the greatest leakages to revenue mobilization just like tax evasion and avoidance. It is said that corruption is “as old as Adam” or creation to mean that it is of human nature of consciousness, very difficult to check. One cannot talk in terms of a complete eradication but it could be controlled or brought to minimum since it borders on ethics, self – discipline and allegiance to one’s nation. It therefore follows that in developing procedures and details by the tax administration for running an effective organization, these cannot be orderly and effective without much consideration given the human factor. This is why personnel issues such as remuneration, training or the lack of it, efficiency or inefficiency etc do occupy a key place in tax administration. These must be addressed by the dispatch that would indirectly check corruption if revenue collection is to be brought to maximum.

It is admitted that conscientious efforts are being made to check corruption in the tax system, but its spectra keeps hanging over the entire field of tax administration in Ghana. The point has to be made also that the canker is rife because taxes multiply and duplicate and taxpayers look for the opportunities to escape through underpayment by bribery. Coupled with this is that too much discretion and judgment are given to assessment officers on tax laws, especially on import duty and in certain area of domestic direct and indirect taxes, to determine what amount of tax should be paid. When this situation is prevalent, one cannot rule out tax collectors turning out results under outward influence or “purchased favouritism”. Indeed, too much opening for the use of discretion by tax officers is the fertile playground for corruption.

4.6. Taxation and Good Governance

4.6.1. Citizens Attitude and tax ethics
Citizens generally are taxpayers one way or the other, the acceptance of citizens to pay taxes willingly relate to good governance. Good governance in that relationship has to do with government having the ability to effectively mobilize revenue internally and nationally spending it on public goods and services to attain the macro-economic objectives, i.e. economic growth and development, employment and the control of inflation. The precondition is therefore the judicious management of taxation and public expenditure
including control of costs of tax administration in order to provide the adequate social welfare for the citizens.

With this view you find that the right ethics is the attitudinal and behavioral orientation of the taxpayer towards accurate tax compliance. One does not always get this disposition because that attitude is shaped by the interaction of factors such as aspirations or, perception of equity and the rationalization of government’s spending policies. Aspirations refer to the taxpayers or citizens’ attitude about the burden and distribution of taxes and the level of governments services provided. This is the kind of relationship between taxpayer and government likened to exchange relationship where the taxpayer forgoes some of his purchasing power in return for some materials and non-material benefits from the government.

This is the argument for citizens to hold their governments accountable. Most citizens/taxpayers are oblivious that government is obliged to account to them for its actions including taxation and public expenditure. To them, they see the provision of social services by government as a favour for their votes. But inevitably, enlightened taxpayers’ perceptions of inequity in terms of trade with government would induce them to call for accountability or they try to restore equity through evasion.

4.5.2. **Opportunities for civil participation**

Examining the Citizen – State relationship in Ghana establishes the opportunities that exist for civil participation in the formulation and implementation of tax policy, and the extent to which government is open to be accountable for the taxes citizens pay. Looking at who the actors are in the good governance relationship as far as tax collection and accountability are concerned in Ghana, you will find that the stakeholders having vested interest in the core business of tax collection are the following:

- Government;
- Ministries, Departments and Agencies;
- The Board of Directors of the Ghana Revenue Authority;
- Employees, Workers Unions and Recognized Associations;
- Taxpayers;
- Clearing Agents;
- Professional Bodies;
- Importers and Exporters;
- Public Sector Organizations e.g. the Registrar General’s Department, Ghana Ports and Habours Authority (GPHA), GCA, Ghana Investment Promotion Council (GIPC), Driving and Vehicle Licensing Authority (DVLA), Ghana National Chamber of Commerce and Industry (GNCCI) Land Valuation, Association of Ghana Industries (AGI) etc;
- Development Partners, Civil Society Organizations (CSOs), non-governmental organizations (NGOs), the media; and
- The General Public.

4.5.3 **Official openings for Citizen Participation**

In Ghana the only openings for civil participation in Tax affairs are the following:

(a) **Minister’s Roundtable Talks**

This is a forum created by the Minister of Finance for stakeholders’ discussion after taking initiatives to formulate policy for legislation. It is selective and only a brainstorming session for taxpayers’ representatives, affected individuals, consultants and the general public; but
these session are limited in coverage and most citizens hardly hear they even take place and not much has been heard of CSOs at these discussions.

(b) Parliamentary Debates

After policy initiatives have been formulated, the next point of call is Parliament where civil society and the media could make contributions. However, again the discussion is limited and it is usually after bills are presented and passed into law that the public discuss the effects. In fact, very often parliamentary assent is given to tax laws without necessarily debating them and/or when even debated, it is not widely carried out for public consumption. Parliamentary debates, if they do take place on tax bills, help make the statutory picture clear and give first hand information on taxes affecting taxpayers concerned, but the forum at this stage is not enough to encourage citizens’ demand for accountability from government.

(c) Tax Administration’s implementation

At this stage, taxpayers meet face to face with the implementers where the taxpayers really are at the mercy of the tax collector, for not getting informed and taking things for granted leaving interpretations to the wisdom of the tax officer. This attitude feeds corruption as the voice of CSOs is also not forth coming.

It is at the point of implementation that taxpayers begin to vent their frustrations and compare governments’ expenditure and their share of development. They point out how the burden of tax is high and the distribution is not fair while corruption is unabated, depriving government of its full tax potential. This has a repercussive effect on revenue mobilization and, if the resentment grows, could be harnessed by civil society to call for accountability from government.

(d) Accountability

On accountability tax collected is lodged in the Consolidated Fund. The Chief Administrator here is the Controller and Accountant General. All who draw on the Consolidated Fund including the Presidency, Central Government, Ministries, Departments, Parliament, the Judiciary down to contractors must be accountable for the funds released to them for operations and development. Parliament passes the Appropriate Bill at the beginning of the fiscal year and funds in accordance with budgetary requirements are released. From reports of the Auditor General, here too there is enough evidence that many Consolidated Fund draweeses are not giving a good account of themselves as funds are misapplied, diverted and embezzled.

This is where civil society should be interested to know where the funds have passed but citizens generally do not know this and taxpayers do not get commensurate development to their tax payment. The ritual of misuse of government funds continue year after year and CSOs are not speaking much to sensitize taxpayers to bring pressure to bear on government for accountability.

On the Annual Reports of the Auditor-General which clearly ring the bell for accountability, they seem to end up at the Public Accounts Committee of Parliament. Thereafter, there are no publications as to how many cases have been successfully dealt with are made. Sometimes, sanctions are not meted out and offenders are left at post. Malpractices recur and the ritual goes on with no realistic action taken. Usually there are initial publications and media talk on the air expressing concerns over malpractices, but no steps are really taken to put a stop to them. This reflects very much on governance and it is time for society to get strongly involved by demanding accountability.
SECTION FIVE

CONCLUSION AND TAX REFORM RECOMMENDATIONS

With the view of progressive taxation practices for accelerated economic growth, it is important to note that taxation is an important part of the “business climate” in all countries. Looked at from developing countries’ view, they are torn between needing to mobilize more resources in providing adequate infrastructure and sufficient level of social services on the one hand, and holding down taxes to encourage private investment on the other. This is a difficult choice, for the backlogs of public services are greatest and fiscal capacity is weakest. Besides tax policy options are severely constrained by limited capacity to mobilize revenues, macroeconomic instability and significant public expenditure needs.

How to maintain a balance in the “business climate”, i.e. taxation, private investment and economic growth is the dilemma, coupled with new trends on the need for citizen participation and good governance, is a matter of reform.

5.1. Recommendations for Reform

The major prescriptions for improved tax structures are replete in the Finance Minister’s catalogue of proposed reforms, i.e. broaden the tax base and lower the tax rates. But the major constraints to this, too, is a weak tax administration that is improving very slowly. The developing countries are caught in a vicious circle of taxing a narrow tax base very heavily because tax administration is too weak to expand the coverage of the tax system. When investment and the economy are not growing partly because of the tax system, statutory rates are increased further. But policy is not the only impediment to economic growth. If tax systems in developing countries were reformed in four areas, the relative attractiveness to foreign and domestic investors could significantly be improved.

5.1.1.1 Policy and Tax Administration

First, policy and tax administration requires three ingredients working together thus: a tax structure that is simple enough to be understood by taxpayers and collected by the tax administration, a technical ability of the revenue agency to assess and collect the tax, and a willingness of the Revenue Authority to enforce the tax laws. These issues must be addressed simultaneously and not one without the other two, otherwise, this leads to marginal improvements at best.

5.1.1.2 Simplicity of Tax Structure

Tax structures generally tend to be complex and even grow more complex with every reform and sometimes with more serious problems. Taxpayers do not have confidence in a system they do not understand, and compliance costs as well as administrative costs go up. Of course the justifications for complicated tax structures are usually noble, such as to improve the income distribution, support worthy courses by providing tax exemptions and promoting economic development, but it must be stressed that government decisions are usually a poor substitute for market decisions and the weak tax administration usually cannot carry out the intentions of government in any case. Admittedly, the Minister of Finance already has a catalogue of prescriptions for tax structure simplification but the few mentioned below are the most common ones:

i. Replacing multi–rate sales taxes with single rate taxes with few exemptions.
ii. Eliminating most income tax credits and deductions, and progressive rate structures, in favour of a flat (or flatter) rate.
iii. There are advantages to flat rate structures of individual income taxes. They eliminate much of brackets creep due to inflation, reduce disincentives to save and
invest at higher income levels, provide less incentive for tax evasion and eliminate the higher value of deductions that accrue to those in higher marginal rate brackets.

iv. Corporate tax incentives are normally targeted on specific activities in most countries. For consideration long into the future, a better way would be to provide the most favourable general tax climate including the lowest rates possible for all firms, and to let the market rather than the government pick the winners.

v. Improving taxpayer education programmes and simplifying tax forms and instructions.

5.1.1.3. Improved Administration

Tax administration involves identification of taxpayers (forming and updating a master roll), assessment of tax liabilities, recordkeeping, collection and audit. These components of the system are the same whether the country is industrialized or developing. Most developing countries, however, have long recognized their own weaknesses in these areas and though appear to be making progress but their efforts are slow. Others are successful in improving their administrative systems like Ghana is doing in recent years. The following are the most commonly recommended actions to improve the technical ability of the tax administration.

(a) Move towards systems of voluntary compliance and self-assessment which is partially practiced in Ghana now. This enables the tax administration to shift emphasis to collection and audit.

(b) Form a revenue authority outside the Civil Service, which in Ghana has been the case since 1986 but without that strict tax administration mandate, to allow the possibility of paying competitive salaries and raising the status of the tax administration function. It was not until 2009 with the creation of the GRA that brought about improved salaries, but not enough to keep special staff.

(c) Invest heavily in training for the tax administration, which would mean setting up and funding training academics, well-staffed with a regular complement of programs while rewarding those who complete necessary training. It is especially important that the staff dealing with large tax payers be trained at a level comparable to that of accountants working in the multinational corporations. General training is much less useful in this regard than targeting on special skills in short supply.

(d) Concentrate more administrative effort on large firms. Taxpayer departments that concentrate on larger enterprises like the LTO and MTOs, and an audit program more focused on larger taxpayers would yield more revenue return for a given amount of administrative effort

(e) Continue to replace manual systems with computerization, based on careful planning and design of the computerization systems. This can make the administration system more accurate, give a more timely response to non-compliance, improve productivity dramatically and allow tax officials to make better use of information in implementing the tax system. The absence of an effective IT system is a major constraint to improving income and informal sector taxation. On the whole, effective automation of GRA would dramatically improve overall fiscal transparency and check corruption. The E-Ghana project on the drawing board can still be explored but uncertainty surrounding it makes it necessary for government to simultaneously focus on consistently improving automation
With tax incentives in relation to other developing countries, Ghana’s tax incentive regime is lauded for its rules-based application – doing so through parliament. But Ghana’s approach is not enough to prevent the surge of revenue leakage and extensive abuses attributed to the system. It is widely held that the incentives regime including free zones is the cause of major revenue losses and abuses in Ghana. Indeed, the Ghana Free Zone Board (GFZB) and Ghana Investment Promotion Center (GIPC) are the champion lobbyists of tax incentives in Ghana. Neither of the two has undertaken a systematic, balance and credible study of the overall cost and benefits of existing incentives and do not seem to be in this mood to do so. These are public institutions with clear defined mandates, and in the public interest, they should be compelled to improve transparency by researching into the cost benefits they generate to share with the revenue agency for revenue protection just as they protect the interests of their client taxpayers; above all, there is the need to harmonize other laws with the tax laws so there is no conflict.

The other issue to examine is the operation of tax holidays and assignment to specific industries. Their operation might be appropriate in some cases but they are generally subject to abuse. They are likely to generate the type of short-term investments that provide limited long-term benefits or nothing at all in the abusive or aggressive planning situation. In the case of industries using location specific resources, whether of agriculture, fish, timber or coastline policy could consider that investment in companying infrastructure and skills since these investments lack the mobility that is generally cited as the reason for that tax competition, it could be a more effective strategy.

Even though generally multinational corporations do not engage in aggressive tax evasion, and pay a significant share of income taxes, they are not insulated from tax avoidance which they engage in significantly. This problem takes its root from a lack of capacity to monitor and audit in-depth firms and amend laws needing amendment to plug their loopholes. In respect to the multinationals, international cooperation is needed, both to share information and build capacity. But when it comes to training to build capacity, training courses often become politicized and fail to target the appropriate staff.

Tax enforcement is difficult everywhere especially in developing countries, so it is in Ghana. A number of reasons can be cited for this. Wealth is unevenly distributed and so a vigorous tax enforcement would mean alienation of those who are the most politically powerful in the country. Another is the shortage of entrepreneurship and the fact that a strict enforcement may go directly after those who are responsible for much of the investment and innovation (Bahl and Martinez). On the other hand, the costs of not enforcing the tax code properly are even more troublesome; this would lead revenue shortfalls having to be shored up by going after those who cannot easily avoid or evade the formal sector of foreign investors, large companies or enterprises PAYE from salary earners, tax rates could also be driven up and resources available for public expenditures would naturally reduce to set in motion the above.

The GRA, therefore, needs to get more vigorous in its enforcement efforts and follow the under-mentioned steps religiously:
(a) Assess and collect significant penalties for lack of payment. The interest penalties should be well above the market borrowing rate and the fine should be significant and government should be willing to jail evaders when appropriate;

(b) Frequent amnesties should be avoided as they only send a signal that tax evasion will be forgiven.

(c) Government should resist the pressures from special interest groups for “special treatment”. The tax system should be enforced in the same way for all sectors of the economy.

(d) The income tax of the self-employed in formal sector should be pursued so it does not give the impression they are two difficult to collect or left off they hook for higher income self-employed are quite visible with their lifestyles well known. Thus, there is the need to continue with efforts to improve taxation of the informal sector. This would mean reducing disincentive or regulatory burden for SMEs to expand and formalize, and more fully integrating the sector into natural political processes. But in all these effective enforcement is necessary.

(e) Work at changing the culture, especially in the informal sector where tax evasion is still regarded as a badge of honour for majority of people in Ghana. Information campaigns can be used to change this view and convert evasion to more of a stigma. Educate the general public on the relationship between tax payment and services provided and educate taxpayers to translate the costs of tax evasion into the higher rate that they have to pay. The media need to be involved prominently in this effort. Civil organization groups can also use this platform to harness citizens’ demand for accountability in government expenses.

5.1.2. General Sales Tax

Many have recommended that Africa countries move towards general sales taxes for revenue purposes, and serve the protection function with customs duties (Mitra, 1991). The most modern form of general sales tax is the value added tax. Many developing countries, including Ghana, have adopted modified value added taxes. Typically, value added taxes have the following features:

- A single rate or a small number of rates
- A relatively high threshold so that small firms are outside the system
- A credit – invoice method of assessment
- Exemption of basic necessities, agriculture and most services
- Retailers and smaller wholesalers are often excluded from the formal VAT
- Zero rating of exports.

VAT has painted as a feasible option for less developed countries in terms of administrative capacities, just as it is also perceived to produce a substantial revenue yield and as one that responds well to economic growth and inflation. Many CSOs, however, object the VAT because it is regressive especially where adequate exemptions are not put in place.

5.1.3. Excises

Excise taxes pose a special problem. One way to view excise tax in a developing economy is as revenue protection. When tax administration is not up to the job of levying a broad–based sales tax, special taxes are imposed on commodities that are easier to tax, i.e. liquor beer, cigarettes, gasoline, soft drinks, lorry tyres and batteries etc. The tax rates are often specific as
they are measured in physical terms (litres, cartons, bottles etc.). But as countries mature the question becomes what to do with these special excises. Of course, the place they occupy in the national revenue structure is significant and most countries cannot afford the revenue loss.

On the question why some goods are singled out for especially high taxation with special excises, there is no coherent answer beyond that of consumption that is “sinful” or one that imposes “social costs”. Almost all countries impose special taxes on alcoholic drinks, tobacco, motoring and betting.

The following might be guidelines for reform in this area:

- Tax rates ought to be “ad valorem” rather than specific – this protects revenue growth during periods of inflation and income growth, and it avoids the need for regular discretionary changes.
- Many developing countries impose heavier taxes under the excise system, in part because of the desire to restrict consumption, i.e. the so called “sin taxes”. This is of course a matter of national choice and seems perfectly appropriate, though it is not clear that the higher tax rates significantly discourage consumption.
- Some commodities are identified for special treatment because a case has been made that the use of these commodities generates some social costs that ought to be covered by taxation, e.g., gasoline taxes earmarked for road maintenance.
- Other items of consumption are identified for special tax treatment under the excise system because they are an easier administrative target. This does not seem an appropriate reason for discriminatory taxation, such commodities should be routed into the general sales tax.

5.1.4. Integrating National and Local Taxes

From the study of taxes collected at national and local levels in Ghana there is no correlation in nature or procedures whatever. Whereas National Taxes are guided by policy and have general procedures for tax withholding at source, assessment and collection enforced through sanctions, Local Taxes are haphazard without proper laid down procedures for collection. After the major function of Fee-Fixing Resolution District Assemblies depends on their untrained staff in taxation to garner what they can, unlike national taxation using career staff properly trained. Hence collection returns of local taxes are a peanut for development at the local level.

The above picture is the situation cutting across Sub-Saharan Africa and is a glaring failure for governments to look simultaneously at national and local systems of taxation. It is the national system which generates almost all the bulk of total revenue but it is the local system of taxation which is of greatest importance to the majority of citizens although characterized by arbitrariness, abuse and the total absence of any rationalization with national taxes (TJN Ghana Report, 2009)

This situation calls for effective advocacy beginning with research which analyses the actual application of local taxes and public perception of these taxes for any inroads to be made into the area altogether.

5.1.5. Institutional Strengthening

In order to achieve improved performance of GRA in a sustainable manner the significant changes in organization and ways of operating which is going on must be accelerated. Recognizing the fact that these change processes might not be successful in an acceptable short period of time if based solely on the existing financial and human resources, the
government should seek foreign aid through respective foreign agencies for technical and financial co-operation. The necessary accelerated change process calls for a complementary intervention approach aiming at improving the capacity of GRA and human resources on the one hand and the strengthening of its technical and physical infrastructure and facilities, particularly Information Technology, on the other hand.

5.1.6. \textit{Correlation between Taxation and Governance}

Even though taxation has played a very important role in the evolution of states, the citizens are taken for granted in their obligation to pay taxes, particularly so in developing countries. However, of late, states like Ghana have nurtured to such a level that people are getting curious and asking serious questions on taxation and its relationship to the performance of government; so that it is no longer the people taken for granted for the taxes they pay, but their payment of taxes being matched with development, i.e. government being accountable for the taxes collected from the people.

It is the adequate resourcing of the GRA and appropriately that would lead to the initiation and development of better management systems which, by their very nature would result in betters’ tax compliance by taxpayers and an associated mechanism for ensuring good professional conduct of tax officers. The consequent reduction in corruption and improvement in collection performance of GRA should yield the needed revenue required to fund necessary physical and social infrastructure upon which any system of good governance is based.

5.1.7. \textit{Conclusion}

The natural attributes ensuing from good governance such as reduced corruption, transparency of procedures, improved revenue mobilization adequate fiscal, physical and social infrastructure will pave the way for and equip government with the capacity to alleviate poverty in a more meaningful way.
<table>
<thead>
<tr>
<th>TAXTYPE</th>
<th>ACTUAL (GH¢’M)</th>
<th>TARGET (GH¢’M)</th>
<th>DEV. (GH¢’M)</th>
<th>DEV %</th>
</tr>
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<tbody>
<tr>
<td>DOMESTIC TAX (DIRECT)</td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>PAY</td>
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<td>1,293.3</td>
<td>8.3</td>
<td>0.6</td>
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<td>1,319.6</td>
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<td>28.7</td>
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<td>129.6</td>
<td>126.1</td>
<td>3.5</td>
<td>2.7</td>
</tr>
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<td>*OTHERS TAXES</td>
<td>387.7</td>
<td>253.4</td>
<td>134.3</td>
<td>53.0</td>
</tr>
<tr>
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<td>97.5</td>
<td>79.1</td>
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<td>2.5</td>
<td>-</td>
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<td>40.5</td>
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<td>142.7</td>
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<td>PETROLEUM</td>
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<td>TOTAL TAX REVENUE</td>
<td>8,718.5</td>
<td>7,544.7</td>
<td>1,173.8</td>
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APPENDIX II
Percentage growth of total tax revenue and contribution to GDP 2007 – 2011

<table>
<thead>
<tr>
<th>YEAR</th>
<th>TOTAL TAX REVENUE (GH¢’M)</th>
<th>PERCENTAGE (%) GROWTH OVER PREVIOUS YEAR</th>
<th>PERCENTAGE (%) CONTRIBUTION TO GDP</th>
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<tbody>
<tr>
<td>2007</td>
<td>3,043.3</td>
<td>28.4</td>
<td>13.1</td>
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<tr>
<td>2008</td>
<td>3,750.9</td>
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<td>2009</td>
<td>4,635.5</td>
<td>23.6</td>
<td>12.6</td>
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<tr>
<td>2010</td>
<td>5,950.6</td>
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<td>2011</td>
<td>8,718.5</td>
<td>46.5</td>
<td>16.3</td>
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APPENDIX 4
Major Tax types (%) percentage contribution to GDP (2010 and 2011)

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<thead>
<tr>
<th></th>
<th>Direct</th>
<th>Indirect (Domestic)</th>
<th>Customs</th>
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<tr>
<td>% to GDP 2010</td>
<td>5.5</td>
<td>2.4</td>
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<tr>
<td>% to GDP 2011</td>
<td>7</td>
<td>2.6</td>
<td>6.7</td>
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## APPENDIX 4
Revenue Performance

<table>
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<tr>
<th>AGENCY</th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
<th>2011</th>
</tr>
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<td></td>
<td>ACTUAL</td>
<td>TARGET</td>
<td>DEV (%)</td>
<td>ACTUAL</td>
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<tr>
<td>IRS</td>
<td>1,234.06</td>
<td>1,122.43</td>
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<td>1,790.57</td>
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<td>450.70</td>
<td>13.8</td>
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<td>60.25</td>
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<td>509.76</td>
<td>14.1</td>
<td>737.5</td>
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<td>OTHERS</td>
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<td>76.72</td>
<td>18.1</td>
<td>138.6</td>
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<td>0.00</td>
<td>-</td>
<td>0.3</td>
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<tr>
<td>AIRPORT TAX</td>
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<td>(56.3)</td>
<td>25.5</td>
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<tr>
<td>NFSL</td>
<td>33.2</td>
<td>-</td>
<td>-</td>
<td>94.8</td>
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<tr>
<td>VAT</td>
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<td>544.19</td>
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<td>840.4</td>
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<td>168.3</td>
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<tr>
<td>PETROLEUM EXPORT DUTY</td>
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<td>490.08</td>
<td>(19.1)</td>
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<td>4.5</td>
<td>4,625.88</td>
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