

GHANA TAX NEWS FLASH

Ghana Supreme Court Clarifies Finality of Tax Objection Decisions at Administrative Level

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Ghana Supreme Court Clarifies Finality of Tax Objection Decisions and Limits on Successive Tax Objections

1.0 Executive summary

On 3 June 2026, the Supreme Court of Ghana, in Seadrill Ghana Operations Limited v. Commissioner-General, GRA, clarified the application of the dispute resolution provisions under the Revenue Administration Act, 2016 (Act 915), as amended. The Court held that an objection decision issued under Section 43, including any revised or adjusted objection decision, is not a "tax decision" under Section 41 and therefore cannot be subjected to a further objection under Section 42. The Court emphasized that the statutory framework permits one round of objection followed by an appeal and does not allow repeated objections. The Court further clarified that a valid right of appeal under Section 44 can only arise from a valid objection decision under Section 43. Accordingly, subsequent administrative correspondence with the Commissioner-General does not constitute an objection decision and cannot create or revive a right of appeal. The judgment underscores the importance for taxpayers, including multinational enterprises, to pursue appeals within the statutory timelines following an objection decision, as continued administrative engagement with the GRA may not preserve their appeal rights.

Highlights:

- *A revised or adjusted objection decision is not a new tax decision and cannot be challenged through a fresh objection.*
- *An objection lodged against an adjusted or revised objection decision is not a valid objection under Section 42.*
- *Subsequent administrative communications with the GRA do not constitute objection decisions and therefore do not trigger a right of appeal under Section 44*



2.0 Background facts

Seadrill Ghana Operations Limited is a Ghanaian registered branch of a foreign company engaged as a subcontractor to provide a drilling unit and associated services in Ghana.

Following a tax audit by the GRA covering 2012 to 2018, the GRA, on 8 November 2019, served a tax audit assessment on Seadrill of approximately US$305.6m, comprising direct taxes of approximately US$65.9m and indirect taxes of approximately US$239.6m.

On 11 December 2019, Seadrill lodged an objection to the first assessment. The CG exercised its discretion under Section 42(6) and allowed Seadrill to pay approximately US$12.5m as an objection deposit, in lieu of the 30% ordinarily required under Section 42(5) of Act 915.

On 8 July 2020, the CG issued its first objection decision under Section 43, revising the assessed liability from approximately US$305.6m to approximately US$22.7m inclusive of the objection deposit. Seadrill submitted a letter dated 28 July 2020, raising further objections regarding the audit report. No additional deposit was requested or paid at this stage. On 1 December 2020, the CG issued another letter reducing the tax liability to approximately US$17.9m inclusive of the objection deposit.

By a letter dated 30 December 2020, Seadrill again challenged the second objection decision. However, on 24 March 2021, the CG expressly declined to entertain any further review, indicating that it lacked statutory authority to entertain additional objections and that the position communicated on 1 December 2020 remained unchanged.

The position was reiterated in a subsequent letter dated 8 October 2021 from the Commissioner of the Domestic Tax Revenue Division, which maintained that the tax liability determined on 1 December 2020 was the final objection decision and directed Seadrill to settle the outstanding balance of approximately US$5.4m exclusive of the objection deposit.

On 8 November 2021, Seadrill filed a Notice of Tax Appeal before the High Court. The CG raised a preliminary objection, arguing that the appeal had been filed outside the statutory time limit prescribed under Act 915. The High Court upheld the preliminary objection, and the Court of Appeal subsequently affirmed the High Court's decision. Seadrill then appealed to the Supreme Court.

3.0 Supreme Court's judgment

Issue 1: Whether the second objection decision of 1 December 2020 was a "tax decision" capable of further objection

The Court held that the central issue was whether the CG's 1 December 2020 letter, described as the second objection decision, constituted a "tax decision" for which a further objection could be entered under Act 915. The Court considered the statutory framework under Sections 41(1), 41(1)(d), 42(9), 39 and 43 of Act 915 and held that the tax dispute resolution process under Act 915 is "sequential, purposeful and finite."

The Court emphasized that Act 915 provides for one round of administrative review followed by quasi-judicial and judicial oversight and not repeated administrative objections. It dismissed Seadrill's assertion that when an objection decision amends a previous tax decision, the amended decision becomes a new tax decision capable of fresh objection.

Accordingly, the Court held that the CG's letter of 1 December 2020 was an objection decision and therefore did not constitute a tax decision capable of further objection.

◎ EY Point of View

The amendment of a tax decision during CG's objection decision process does not transform the objection decision into a new tax decision or create a fresh right of objection. However, the decision of the Court seems to suggest that the CG is allowed to at the CG's discretion revise the objection decision as adjusted assessment to ensure that correct taxes are paid at all material times

Issue 2: Whether Seadrill's letter of 30 December 2020 constituted a valid objection to a tax decision under Act 915

The Court held that, having determined that the second objection decision of 1 December 2020 was an objection decision and not a tax decision, Seadrill's letter of 30 December 2020 could not constitute a valid objection under Act 915 because Section 42 permits objections only against a tax decision, not against an objection decision.

The Court also noted that Seadrill had not made any fresh payment of the 30% objection deposit required under Section 42(5), and no formal waiver was sought or expressly granted under Section 42(6). It affirmed that the deposit requirement or the formal grant of a waiver is a condition precedent to the entertainment of an objection.

Accordingly, the Court held that Seadrill's letter of 30 December 2020 did not constitute a valid objection to a tax decision under Act 915.

◎ EY Point of View

The Court's decision suggests that the administrative objection process is available only in respect of a tax decision. Accordingly, once the CG has issued an objection decision, or has made an adjustment pursuant to that objection decision, any further challenge would appear to lie outside the CG's administrative remit and should properly be pursued by way of appeal. That said, some uncertainty remains as to whether the payment of 30% of an assessment arising from an objection decision may confer on the taxpayer a further opportunity to object administratively. In our view, such an opportunity is unlikely to arise as of right and would, at most, depend on whether the CG elects to entertain the further objection.

Issue 3: Whether the CG's letter of 8 October 2021 constituted an objection decision capable of grounding an appeal under Section 44

The Court dismissed Seadrill's reliance on the broad definition of "decision" in Section 41(5). The Court held that the relevant question was not whether the 8 October 2021 letter was a decision in the broad sense. The precise question was whether it was an objection decision within the specific meaning of Section 43, so as to trigger a right of appeal.

The Court held that because Seadrill's letter of 30 December 2020 (the third objection) was not a valid objection. When the CG issued the letter of 8 October 2021, there was no valid antecedent objection under Section 42. Without a valid antecedent objection, the letter of 8 October 2021 could not have been a valid objection decision under Section 43. The Court therefore held that the right of appeal under Section 44 applies only to objection decisions validly made under Section 43. It does not apply to every communication issued by the CG, regardless of its provenance.

Accordingly, the Court held that the CG's letter of 8 October 2021 did not constitute an objection decision within the meaning of Section 43. It was, at best, an administrative communication reiterating a prior position and providing updated payment directions. It therefore did not ground a right of appeal to a Court under Section 44. The third ground of appeal was dismissed.

◎ EY Point of View

Only a valid objection decision issued under Section 43 following a valid objection under Section 42 can trigger an appeal right under Section 44.



4.0 Implications

The Court's decision fundamentally confirms that an objection decision issued under Section 43 does not constitute a "tax decision" capable of being subjected to a further objection at the administrative level. Once the CG has determined a taxpayer's objection, the taxpayer's recourse is to invoke the statutory appeal mechanism within the prescribed timeline.

The judgment reinforces the principle of finality in tax administration. Taxpayers cannot rely on repeated correspondence, follow-up submissions, or purported additional objections to reopen matters that have already been determined by the CG through the objection process.

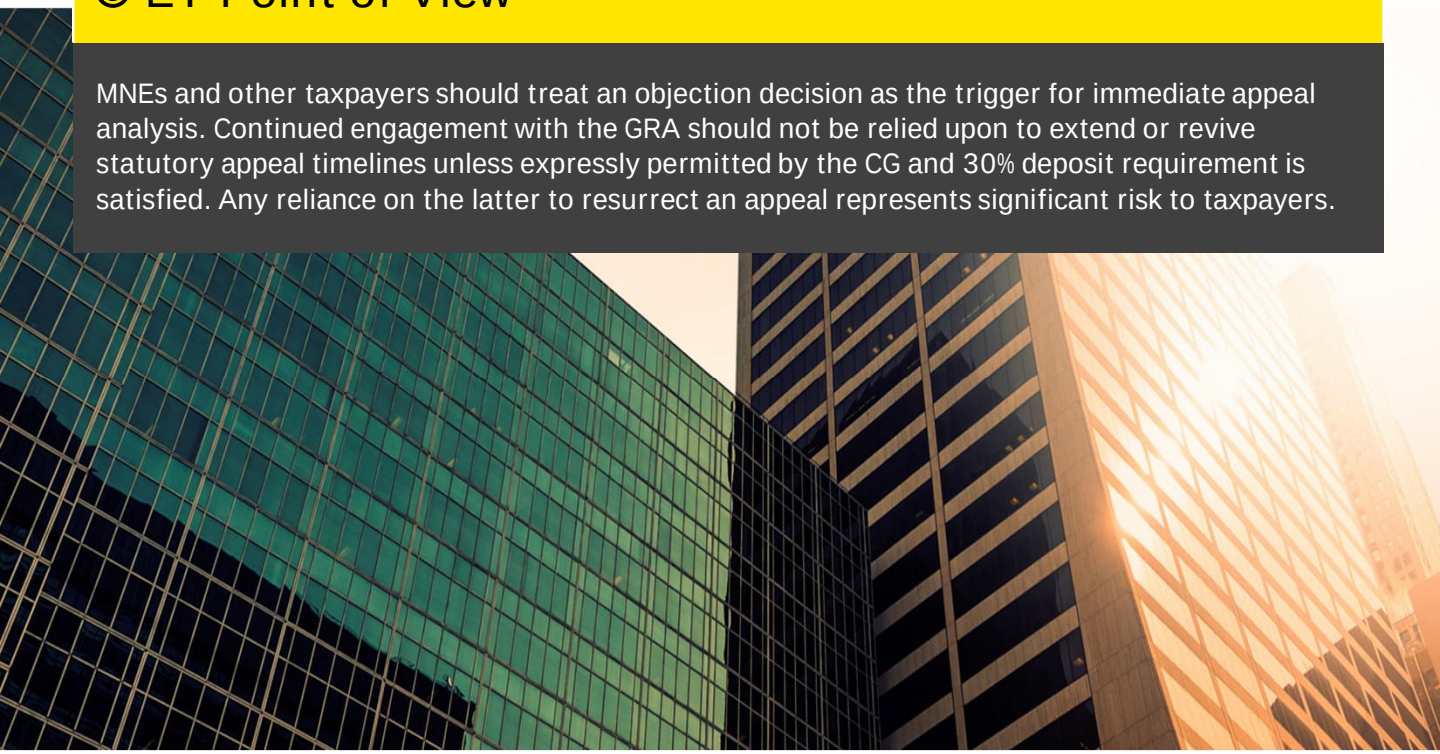
The decision underscores the importance of complying with the objection deposit requirements under Section 42. A taxpayer seeking to challenge an assessment must either satisfy the statutory deposit threshold under Section 42(5) or obtain an express waiver, variation or suspension from the CG under Section 42(6).

Taxpayers should distinguish between a general administrative communication from the GRA and a formal objection decision that gives rise to appeal rights. Not every communication from the GRA will have legal significance for purposes of calculating statutory appeal deadlines.

Taxpayers must carefully monitor statutory timelines once a tax decision or objection decision is issued. Failure to file an objection or appeal within the prescribed period may result in loss of the right to challenge the assessment or adjusted assessment, regardless of subsequent discussions or correspondence with the GRA.

© EY Point of View

MNEs and other taxpayers should treat an objection decision as the trigger for immediate appeal analysis. Continued engagement with the GRA should not be relied upon to extend or revive statutory appeal timelines unless expressly permitted by the CG and 30% deposit requirement is satisfied. Any reliance on the latter to resurrect an appeal represents significant risk to taxpayers.





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