



GHANATAX NEWS FLASH

Ghana Court of
Appeal favours VAT
refund opportunity
for taxpayers,
including non-
exporters

March 2026



The better the question.
The better the answer.
The better the world works.



EY

**Shape the future
with confidence**

| Contents

Executive summary	01
Background	02
Court of Appeal's judgment and EY Point of View	03
Significance of the decision of the Court of Appeal	04
Implications	05



GHANA COURT OF APPEAL FAVOURS VAT REFUND OPPORTUNITY FOR TAXPAYERS, INCLUDING NON-EXPORTERS

1.0 Executive summary

- ▶ *On 29 January 2026, the Court of Appeal decided in the case of the Republic v. Commissioner-General, Ghana Revenue Authority, an Ex Parte Application clarifying the procedures for claiming refunds of overpaid corporate income tax (CIT) and value-added tax (VAT).*
- ▶ *The Court determined that taxpayers are entitled to refunds for VAT overpayments under Sections 50(3) to (9) of the Value Added Tax Act, 2013, Act 870 (now repealed) (VAT Act), even if they do not qualify as exporters.*
- ▶ *The judgment allows taxpayers to apply for an order of mandamus to compel the Commissioner-General to process refund requests in a timely manner, reinforcing the legal obligation to honor legitimate tax refund claims.*
- ▶ *Multinational enterprises in similar circumstances should assess their VAT positions and consider filing for refunds on overpaid taxes.*



2.0 Background

On 29 January 2026, the Court of Appeal of Ghana delivered its judgment in *Republic v. Commissioner-General (CG), Ghana Revenue Authority*, an Ex Parte application at the High Court in the first instance, reversing the High Court's decision and holding that CIT refunds are governed by the Revenue Administration Act, 2016 (as amended) (RAA) not VAT Act, and that taxpayers are entitled to refunds for VAT overpayments under Sections 50(3) to (9) of the VAT Act, even if they do not qualify as exporters.

This case traces its origin to 2021 when the CG refused to grant a refund totaling 12,398,000 Ghanaian Cedi (GHS) (comprised of GHS200,112 in CIT and GHS12,197,888 in VAT), which the CG determined to be excess credit for the Appellant between 2015 to 2019 YoAs following a tax audit.

The appeal concerned the proper statutory treatment of refunds for excess VAT and corporate income tax (CIT) that the Appellant had paid between the 2015 and 2019 Years of Assessment (YoAs). The Appellant sought a refund of the overpaid taxes based on Section 68(1) of the RAA. However, the CG neither responded to the refund request nor provided a reason for declining to grant the refund, despite the Appellant's sending a reminder requesting a response.

Consequently, the Appellant invoked the High Court's supervisory jurisdiction under Article 141 of the 1992 Constitution of the Republic of Ghana and Section 16 of the Courts Act, 1993, Act 459, seeking an order of mandamus to compel the Respondent to refund the total excess tax paid. The Appellant argued that, applying the *leges posteriores priores contrarias abrogant* rule to interpretation (i.e., the provisions of a later law take precedence over those of an earlier law if there is a conflict between the two laws), Sections 50(1) and (2) of the VAT Act related to refunds of excess VAT had indirectly been repealed by the express language of later-enacted RAA Section 68. Therefore, the Appellant asserted that although refunds of excess VAT credits under Section 50(1) and (2) of the VAT Act are limited to persons engaged in export, it was entitled to refund under RAA Section 68.

The Respondent argued that Sections 50(1) and (2) of the VAT Act were specific provisions that applied to refunds of excess tax paid under the VAT Act, and that the proper rule to apply is *generalia specialibus non derogant* (i.e., if there is a conflict between two laws or provisions, the specific rule takes precedence over the general rule). The CG argued that, because only exporters are entitled to a refund under Section 50(1)(b) of the VAT Act, this provision was in conflict with Section 68 of the RAA. Therefore, the CG did not grant the refund sought by the Appellant but held the tax overpayment in the Appellant's credit to be carried forward in accordance with Section 50(1)(a) of the VAT Act.

The High Court delivered its decision (SUIT No H1/21/2024) on 17 July 2021, upholding the CG's position that matters of VAT refunds were specifically provided for under Section 50 of the VAT Act. The court determined that in cases of conflict between RAA Section 68 and Section 50 of the VAT Act regarding VAT refund issues, the VAT Act prevailed. It found that Sections 50(1) and (2) of the VAT Act entitled only exporters who met certain criteria to a refund of excess VAT paid, and the Appellant did not qualify. Consequently, the High Court held that an order of mandamus did not lie, as the CG had discharged his duty by allowing the Appellant to carry forward its VAT credit. The Applicant unhappy with the High Court's decision, appealed to the Court of Appeal.

3.0 Court of Appeal's judgment

Issue 1: Whether the trial judge erred in applying the VAT Act in dealing with the claim which law was applicable for purposes of claiming of a refund of overpaid CIT

The court held that, in the case of CIT refunds, the applicable law was the RAA (the general law on refunds), not the VAT Act. The court emphasized that the VAT Act was a law primarily to regulate VAT, but not any other tax. Thus, it was erroneous for the High Court to treat the CIT overpayment of GHS200,112 as excess VAT paid and apply the VAT Act to it. Instead, the applicable law was Section 68 of the RAA. Accordingly, the Court of Appeal reversed the High Court's decision on this matter.

EY Point of View

It seems that the High Court's misinterpretation of the law was unintentional, as it is clearly established that refund applications for CIT should be made under the Revenue Administration Act, 2016, Act 915, (as amended), rather than the VAT Act.

Issue 2: Whether the trial judge erred in treating VAT overpayment under Section 50(1) instead of Section 50(3) to (9) of VAT Act or under Section 68 of the RAA

The court rejected the argument of conflict between Section 50 of the VAT Act and Section 68 of the RAA. It found that while the VAT Act governs the specific procedure and mechanics for VAT refunds, the RAA provides the general administrative framework and applies to refunds of non-VAT taxes such as CIT, Pay-As-You-Earn and withholding tax. The court further said that the applicable provisions in the VAT Act and RAA are *in pari materia* (i.e., on the same subject) with each other. Therefore, they must be read in harmony to give effect to the intention of the law maker.

Further, the court rejected the Respondent's position that VAT refunds were available only to exporters. It held that section 50(1)(b) of the VAT Act creates a specific and limited refund route for exporters, in which excess input VAT arises from exports exceeding 25% of total supplies and export proceeds have been repatriated to Ghana. However, this provision does not cover the full scope of VAT refund entitlement under the VAT Act. Therefore, limiting VAT refunds to exporters was unwarranted.

The court clarified that Sections 50(3) to (9) of the VAT Act establish an alternative refund regime covering all other VAT credits, which applies to non-exporters. Thus, any taxpayer who had paid VAT in excess of what is lawfully chargeable was entitled to a refund

From the foregoing, the Court identified two distinct statutory pathways for VAT refunds:

- ▶ **Category 1: Export-related excess input VAT is governed by Sections 50(1) and (2)**
- ▶ **Category 2: All other VAT overpayments are governed by Sections 50(3) to (9)**

The court therefore held that although the Appellant was not entitled to a refund of excess VAT paid under Sections 50(1) and (2), it was entitled under Sections 50(3) to (9) of the VAT Act.

EY Point of View

The Court of Appeal's decision provides clarity to taxpayers who have overpaid VAT, allowing them to apply for refunds under Sections 50(3) to (9) of the VAT Act. Arguably, a similar dispensation should also be permissible for taxpayers under the new Value Added

Tax Act, 2025 (Act 1151) for VAT credits for periods from January 2026. This should be true even if a taxpayer does not meet the criteria for a refund opportunity for exporters under Section 50(1) of the VAT Act, now covered under section 53(1) of Act 1151.

It should be noted that, even though "VAT credit" and "tax credit" are not defined in the VAT Act or the RAA, ordinary meaning can be applied to interpret the terms in the statutes. Black's Law Dictionary, 10th Edition, defines tax credit at page 1689 as "*an amount subtracted directly from one's tax liability ... as opposed to a deduction from gross income.*" As a result, if input VAT (representing tax paid or payable on taxable purchases) is subtracted directly from output VAT (reflecting tax charged on taxable supplies payable to the Ghana Revenue Authority (GRA)), the net effect constitutes either an overpayment of tax or a tax liability due the GRA. Therefore, an argument that a VAT credit does not automatically constitute an overpayment of tax for which a refund opportunity should be available to taxpayers does not comport with the law. This aligns with the concurring persuasive opinion of the Court of Appeal where it established the principle that where a taxable person incurs more input VAT than it charged and remits the excess input VAT to the CG, the excess input VAT constitutes an overpayment of tax and creates a right in the taxable person.

Issue 3: Whether an order of mandamus would lie if the CG does not honor a request for a refund of overpaid taxes in a timely manner without legal justification.

The court held that an order of mandamus will lie if the CG fails, without lawful justification, to refund excess taxes within the time prescribed by statute. It found that Section 50(5) of the VAT Act and Section 68(1) of the RAA impose a clear statutory duty on the CG to refund excess tax paid within 30 days and 90 days for VAT and CIT, respectively. That duty is public in nature, given that the CG performs statutory tax administration functions. The taxpayer correspondingly has a legal right to enforce compliance with that duty. Therefore, if the taxpayer makes a demand for refund and the CG fails to act in a timely manner on the demand, an order of mandamus will lie.

The court held that in the case at hand, the conditions precedent for mandamus were satisfied: a formal demand had been made, and there was a refusal or failure to perform the statutory obligation. The Respondent's purported compliance—by crediting the amount instead of effecting a refund—did not amount to lawful performance of the duty and was found to be an attempt to circumvent the statutory requirement.

Accordingly, the application for mandamus was successful.

EY Point of View

If the CG fails to act or give any response to the taxpayer, the taxpayer has two options. A taxpayer has the right to apply to the High Court for an order of mandamus to compel the CG to fulfill his statutory obligation to honor refunds of excess credits. If the CG does not respond to a refund application following a tax audit, taxpayers may consider an alternative remedy – appealing to the Independent Tax Appeals Board (ITAB). This option should be assessed on case-by-case basis to determine the most efficient value proposition for a taxpayer.



4.0

Significance of the decision of the Court of Appeal

The Court of Appeal's decision is very significant to the VAT landscape in Ghana as it has altered the previous interpretation of the VAT Act by the High Court, which substantively restricted tax refunds for businesses in operation to only exporters. This restriction caused some taxpayers with VAT credits that are not engaged in exports, to end up with significant tax credits with no opportunity to recover them if they did not generate substantial output VAT and continued to claim VAT input over time. This decision resolves the challenge faced by these taxpayers.

EY Point of View

The decision of the Court of Appeal is subject to appeal to the Supreme Court of Ghana. Nonetheless, taxpayers should consider urgently assessing their VAT position arising from the decision, as the VAT-refund opportunity is subject to the statute of limitations. This is especially important because an appeal process may take three years or more, by which time some refundable VAT credit(s) could be time barred.

5.0 Implications

The Court of Appeal's decision has various implications for taxpayers, including multinational enterprises (MNEs). Generally, corporate tax overpayments should be refunded under the RAA while VAT overpayments should be refunded under the VAT Act.

Export businesses that overpay VAT arising specifically from excess input tax attributable to exports may apply for a refund, provided they satisfy the statutory conditions, including the requirement that the exports constitute at least 25% of total supplies and that all export proceeds are fully repatriated. Taxpayers that are not exporters may seek VAT refunds for excess VAT credits.

Companies may compel the CG to refund qualifying overpayments through mandamus if the CG delays in acting timely.

EY Point of View

The opportunity to receive a VAT refund can help MNEs manage cash positions of their businesses. Qualifying MNEs must assess their positions to prevent refundable credits from being time barred for failure to make a timely refund application.





Contact

For additional information concerning this alert, please contact:

Ernst & Young Chartered Accountants (EY), Accra



Kwasi Nyantakyi Owiredu
Associate Partner, Tax Services
kwasi.owiredu@gh.ey.com



Richard N. Akyeafo
Senior Manager, Tax Services
richard.akyeafo@gh.ey.com

EY | Building a better working world

EY is building a better working world by creating new value for clients, people, society and the planet, while building trust in capital markets.

Enabled by data, AI and advanced technology, EY teams help clients shape the future with confidence and develop answers for the most pressing issues of today and tomorrow.

EY teams work across a full spectrum of services in assurance, consulting, tax, strategy and transactions. Fueled by sector insights, a globally connected, multidisciplinary network and diverse ecosystem partners, EY teams can provide services in more than 150 countries and territories.

All in to shape the future with confidence.

EY refers to the global organization, and may refer to one or more, of the member firms of Ernst & Young Global Limited, each of which is a separate legal entity. Ernst & Young Global Limited, a UK company limited by guarantee, does not provide services to clients. Information about how EY collects and uses personal data and a description of the rights individuals have under data protection legislation are available via ey.com/privacy. EY member firms do not practice law where prohibited by local laws. For more information about our organization, please visit ey.com.

© 2026 EYGM Limited.
All Rights Reserved.

Creative service ref: Ariyo Olasunkanmi

ED-NONE

This material has been prepared for general informational purposes only and is not intended to be relied upon as accounting, tax, legal or other professional advice. Please refer to your advisors for specific advice.

ey.com