Daniel Nuer, Head of Tax Policy Unit, Ministry of Finance, has justified the need for a Tax Exemptions Bill, citing the abuse in the granting of exemptions as one of the primary reasons.

Speaking during the 3rd in UKGCC's Quarterly Tax Dialogue Series on "Public Dialogue on the Tax Exemptions Bill", he said, "over the period, there's been quite a number of challenges when it comes to the granting of exemptions."

Incentives were being granted without recourse to statutory legislations, and without the knowledge of the Ministry of Finance and without sunset clauses. There was also the abuse and transfer of exemptions to 3rd parties, and inadequate monitoring and review of tax incentives.

According to Mr. Nuer, these are detrimental to the preparation of the Budget.

"The minister comes out with the Budget for the year. If (there) are exemptions he's not aware of, it means he doesn't factor it into his budget. So, mid-year, he's expecting that he's getting some revenue from somewhere and someone flashes an agreement in front of him exempting them from taxes. Meanwhile we've budgeted to use that tax for some expenditure. So, then it becomes difficult".

Some measures have been taken to mitigate the challenges, such as empowering the Commissioner-General to ignore any exemption unless it is sanctioned by law, and excluding income tax and 3rd party payments from exemptions.

Additional measures include passage of an exemptions Act to rationalise the exemptions regime and limiting project exemptions to import of machinery and equipment.

The Tax Exemptions Bill

The Tax Exemptions Bill, when passed by Parliament, is intended to harmonise the tax exemption and incentives regime, making it more structured and more efficient with minimum or no abuse, thus enabling Government to achieve its revenue target without necessarily having to increase taxes.

The Bill outlines, among others, "preliminary provisions which deal with the object and application of the Exemptions Act and the definition of exemption; general provisions which provide for prohibitions, general responsibility, responsibility of the Minister and process for negotiation and approval of exemptions. The Bill also prohibits exemption of Administrative Fees and Transnational Levies; and miscellaneous provisions covering monitoring and reporting, local content, consequential amendments and repeals and savings.

A feature of the Bill is Commercial Government Projects, which states that a person acting on behalf of government or state entity commits an offense when they exempt a supplier/contractor from paying customs duties and taxes. This person is liable, upon summary conviction, to a fine.

The Bill, however, makes provision for the granting of some exemptions which must be backed by legislative instrument upon the recommendation of the relevant sector minister and with Cabinet approval for specific industries/programmes.

Discussion
Mr. Nuer clarified that "if there is an exemption in another law, apart from the VAT Act, the law on Income Tax, and certain sections of the Customs Act, every other exemption will not stand".

Sharing his view on the Bill, Mr. Kofi Frempong-Kore, Partner/Head of Tax, KPMG Ghana, initially asserted that, "We do not need an Exemptions (Bill) at this time or stage (in the country's development).

He explained that the Bill is "more of procedural" and that "various laws...provide and allocate exemptions already". Mr. Frempong-Kore urged government to rather enforce the laws and focus on widening the tax net to increase tax revenues to GDP ratios".

He, however, later opined that government should proceed with passing the Bill, but tread cautiously in terms of how exemptions are given to foreign investors at the detriment of local entrepreneurs, who seldom benefit from tax exemptions. This will give them the room and capital to manage their business and move the country forward.

Mr. Isaac Quaye, Tax Associate Director, Ghana Global Compliance & Reporting, EY, concurred with Mr. Nuer that the granting of exemptions has indeed been abused "so for me, this Bill is long overdue".

He added though that the Bill should be able to resolve the ills for which it was created, and help build strong institutions upon its implementation.

The panel, moderated by Abeku Gyan-Quansah, Tax Partner, PwC Ghana and chaired by Theophilus Tawiah, Managing Partner, WTS Nobisfields and UKGCC Board Member, also discussed the impact of the Bill on Ghana's chances of getting a sizeable share of the AfCFTA market; and other relevant matters such as the Bill's impact on the Free Zones Act.