

**Integrity. Fairness. Service.**



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## **TAX DIALOGUE WITH THE GHANAIAN BUSINESS COMMUNITY**

**Topics:** Taxpayer Obligations & Rights, Objection Procedures, Taxpayer Role in the Conduct of Tax Audit, VAT Refunds & Exemptions procedures.



# OUTLINE OF THE PRESENTATION

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- Introduction
- Taxpayer Rights & Obligations
- Objection Procedures
- Taxpayer Role in the conduct of Tax Audit
- Conditions for granting VAT Refund, and
- The procedure for granting exemptions under the Exemptions Act, 2022 ( Act 1083 ).

# INTRODUCTION

The Ghana Revenue Authority ( GRA ) is mandated under the Ghana Revenue Authority Act, 2009 ( Act 791 ) to collect both domestic taxes and taxes on imports. In doing this, the GRA regularly interacts with taxpayers to educate them on the dos and don'ts under relevant provisions of the Tax Laws, and to obtain feedback from taxpayers on the difficulties & challenges they face in complying with the Tax Laws.

# INTRODUCTION CONT'D

For the year 2024, the tax education strategy focuses on interactions with religious bodies, and key stakeholders like the Local Business Community.

The purpose of today's presentation is to remind you, not to teach you, on few relevant areas of the Tax Laws, and to listen to the concerns and challenges you face in your dealings with the GRA.

# TAXPAYER RIGHTS

The exercise and enjoyment of rights and freedom is inseparable from the performance of duties and obligations. Accordingly, Article 41 (J), of the 1992 constitution of Ghana provides that every citizen must declare their income honestly to the appropriate lawful agency and to satisfy all tax obligations.

One of the cardinal principles of taxation is fairness, and as a result, tax administrations throughout the world, and for that matter Ghana Revenue Authority ensure that taxpayer rights as enshrined in the tax laws such as the Revenue Administration Act( Act 915 ), the Income Tax Act ( 896 ), the Value Added Tax Act ( Act 870 ) etc. are protected.

Some of the rights of taxpayers are:



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# TAXPAYER RIGHTS

## RIGHTS TO BE INFORMED

- Taxpayers have the right to what they need to do to comply the tax laws.
- Entitled to clear explanations of the laws and GRA procedures in all tax forms, instructions, publications, notices and correspondences.
- The right to be informed of the GRA's decisions about their tax affairs and to receive clear explanations of the outcomes of GRA inquiries.

## RIGHT TO QUALITY SERVICE

- Taxpayers have the right to receive prompt, courteous, and professional service in their dealings with GRA, to be spoken to in a way they can easily understand, and to receive clear and easy understandable communications from the GRA.

## RIGHT TO PAY NO MORE THAN THE CORRECT AMOUNT OF TAX

- Taxpayers have the right to pay only the amount of tax legally due, including interests & penalties and have the right to receive a response.



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# TAXPAYER RIGHTS

## RIGHT TO OBJECT AND APPEAL TO A TAX DECISION

Taxpayers are entitled to a fair and impartial administrative appeal of tax decisions, including penalties, and have the right to a written response regarding the Appeal's decision.

## RIGHT TO PRIVACY

Taxpayers have the right to expect that any GRA inquiry, examination, or enforceable action will comply with the law and be no more intrusive than necessary, will respect all due process rights, including search and seizure protections.

## RIGHT TO CONFIDENTIALTY

Taxpayers have the right to expect that any information they provide to the GRA will not be disclosed unless authorized by taxpayer or by law. Taxpayers have the right to expect appropriate action will be taken against employees and others who wrongfully use or disclose taxpayer return information.

## RIGHT TO REPRESENTATION

Taxpayers have the right to appoint an authorized representative of their choice to represent them in their dealings with the GRA.

# TAXPAYER OBLIGATIONS

- **Register with GRA**
- **Filing of Tax Returns by due date**
- **Paying taxes by due date**
- **To inform GRA about material change in business.**
- **Voluntary compliance with the tax laws.**



# OBJECTION TO TAX DECISIONS/ASSESSMENT

Taxpayers have the right under Section 42 of the Revenue Administration Act, 2016 ( Act 915 ) to object to other tax decisions of the Commissioner General if they are dissatisfied with such decisions.



File objection within 30 days from the date of notification to tax decision.



The objection **MUST** be in written form and should clearly state the grounds/reasons for the objection.



An application may be made to the Commissioner – General for extension of time to file the objection.



The Commissioner – General may approve or reject the application for time extension.



All outstanding taxes, including 30% of the taxes in dispute must be paid before Commissioner – General accepts the application.



In the case of import duty and taxes all taxes including taxes in dispute must be paid in full.

# OBJECTION DECISION

Section 43 of the RAA enjoins the Commissioner General (CG) to communicate his decision on objections which were successfully filed, within sixty ( 60 ) days of receipt of an objection.

After a careful review of the objection, the CG may vary the tax decision in whole, in part, or disallow the objection completely.

-Where the CG does not serve the person with notice of the decision within sixty ( 60 ) days, the person may, by notice in writing elect to treat the CG as having made a decision to disallow the objection.

A notice served on a person is a conclusive evidence that a decision has been made.

A person who is dissatisfied with a decision of the CG may seek redress at the Independent Tax Appeals Board.

A person who is dissatisfied with the decision of the Independent Tax Appeals Board (ITAPB) may further seek redress at the High Court, then to the Appeals Court, then to the Supreme Court.

# THE ROLE OF TAXPAYER IN TAX AUDIT

- ✓ All taxpayers are periodically audited with the purpose of determining whether the correct amount of taxes have been declared and paid to the Authority.
- ✓ **ROLE OF TAXPAYER**
- ✓ Provide office space for the audit
- ✓ Provide documents/information to the audit team on timely basis.
- ✓ Be honest, truthful and candid in responding to questions raised by the auditors.
- ✓ Designate a responsible officer to be in charge of the audit, by providing documents and responding to audit queries/issues.

# ROLE OF A TAXPAYER CONT'D

- ✓ Create a harmonious atmosphere conducive for audit. Avoid hostilities and unnecessary confrontations with the auditors.
- ✓ Report unprofessional and unethical conduct on the part of the auditors to their superior/supervisor/Area Director. The Tax Audit Quality Assurance Department (TAQAD) has initiated Post Audit Survey, and this is going to help in addressing misconduct and unprofessional behavior put up by some auditors.
- ✓ Avail yourself for entry and exit conferences on timely basis.

# VAT REFUND - CONDITIONS

- Section 50 (1) of the Act 870 states that “ Where the amount of input tax which is deductible exceeds the amount of output tax in respect of the tax period, ( a ) the excess amount shall be credited by the Commissioner General to the taxable person, and (b) in the case of the portion of the excess attributable to exports, the Commissioner General may refund the excess credit to the taxable person where that person’s exports exceed twenty five per cent of the total supplies within the tax period and the total export proceeds have been repatriated by the importer’s banks to the taxable person’s authorized dealer banks in the country”.

# CONDITIONS FOR REFUNDING EXCESS INPUT TAX

Return **MUST** be filed for each tax period

All VAT arrears for previous periods must have been paid

For exporters, 25% of total supplies for the period must be exported

Taxpayer must be in a credit position for a continuous period of three months or more

100% of the export proceeds must be repatriated to Ghana (companies in the mining & other sectors may have retention agreements).

Refund application based on subsection 4 of Section 50 must be accompanied by documentary proof of the excess amount paid.

# CONDITIONS FOR REFUND CONT'D

- The Commissioner – General will always ensure that taxpayer has complied with other tax types before making payment for VAT refund. Taxpayers making refund claims should ensure that PAYE, WHT, CIT and all other relevant Returns have been submitted and that all outstanding taxes have been paid. Where audit had been conducted ensure that assessment raised has been paid in full.

# TIME FOR PAYMENT OF REFUND

- ✓ Section 51 of the Value Added Tax Act, 2013( Act 870 ), as amended, requires that where the taxpayer has satisfied all the conditions, the CG pays the refund within 30 days after receipt of the application
- ✓ Subsection (2) of Section 50 of the Act states that “where the Commissioner – General orders an audit of the claim of refund, for the purposes of section 51, the application shall be treated as received on the date that the audit is concluded.
- ✓ Where the CG fails to pay the recommended refund amount within the stipulated period, the outstanding amount shall attract interest at the prevailing Bank of Ghana discount rate plus a quarter of that rate for each day that the amount remains outstanding.



# EXEMPTION - PROCEDURE

## ✓ DEFINITION

✓ The Exemptions Act, 2022 ( Act 1083 ) defines Exemption as ' A waiver or variation of a tax, levy, rate, duty, fee or charge provided for under an enactment; or a variation of the timing of the payment of a tax, levy, rate, duty, fee or charge which results in a reduction in the effective liability of the payer'.

## ✓ PROCEDURE

- ✓ - Application by the covered entity to the Minister
- ✓ - Minister's assessment of the application.
- ✓ - Minister may make a recommendation to cabinet for approval

# PROCEDURE - CONTINUED

- ✓ - State clearly the basis for recommendation.
- ✓ - If approved by cabinet, the Minister shall seek Parliamentary approval.
- ✓ - Where Cabinet disapproves of the recommendation, the Minister is required to inform the entity ( applicant ) within 14 days of the receipt of the decision.
- ✓ - Where the Minister does not make a recommendation to Cabinet for an exemption, the Minister is required to inform the entity ( applicant ) within 14 days

# CONDITIONS- PRIOR TO PARLIAMENTARY APPROVAL

- ❖ - A detailed assessment of the value of the anticipated exemptions contained in the contract
- ❖ - The list of items and taxes to which the exemption applies.
- ❖ - A limit on the total value of the exemptions to be granted.
- ❖ - A time limit on the exemption to ensure that the exemption does not exceed the duration of the contract.
- ❖ - The impact of the exemption on the programmed revenue.
- ❖ - Details of the beneficial owners of the entities involved in the contract; and
- ❖ - A value for money assessment report.



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*Thank You*