Taxation in Ghana
Presenter

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## General tax principles

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<th>Source or residence based tax system</th>
<th>Source based system</th>
</tr>
</thead>
<tbody>
<tr>
<td>Taxation of non-residence companies</td>
<td>Taxable on revenue derived in or accrued in Ghana</td>
</tr>
<tr>
<td>Corporate income tax rate</td>
<td>25%</td>
</tr>
<tr>
<td>Branch tax rate</td>
<td>25%</td>
</tr>
<tr>
<td>Withholding tax on dividends (recipient is an equity holder of 10%+)</td>
<td>8%</td>
</tr>
<tr>
<td>Withholding tax on dividends (any other case)</td>
<td>15%</td>
</tr>
<tr>
<td>Branch remittance tax</td>
<td>10%</td>
</tr>
<tr>
<td>VAT rate</td>
<td>15%</td>
</tr>
<tr>
<td>Withholding tax on fees</td>
<td>15%</td>
</tr>
</tbody>
</table>
## General tax principles

<table>
<thead>
<tr>
<th>Description</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>Existence of formal transfer pricing rules</td>
<td>Yes</td>
</tr>
<tr>
<td>Existence of thin capitalisation rules</td>
<td>Yes</td>
</tr>
<tr>
<td>2:1 debt to equity ratio</td>
<td></td>
</tr>
<tr>
<td>Tax treaty with Singapore</td>
<td>No</td>
</tr>
<tr>
<td>Existence of foreign exchange controls regulations</td>
<td>Yes</td>
</tr>
</tbody>
</table>
# Choice of business vehicle

<table>
<thead>
<tr>
<th></th>
<th>Branch</th>
<th>Subsidiary</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Appointment of a board</strong></td>
<td>► A board is not required</td>
<td>► The board should be made up of at least 2 directors one of whom must be present in Ghana at all times</td>
</tr>
<tr>
<td></td>
<td>► Only a local manager needs to be appointed and this is less costly</td>
<td>► A Secretary to the Board must also be appointed. The appointment of the board and the need to appoint functional managers would add to the cost of operations of the company</td>
</tr>
<tr>
<td><strong>Efficiency</strong></td>
<td>► Where the entity is only in Ghana to perform specific or one-off project which is not complex, and/or the scale of operations is not relatively huge, it may be efficient to employ a simple structure such as the branch</td>
<td>► Where the operations are complex and/or huge, it is usually efficient to have a full complement of the management closer to the scene. In such situations, the subsidiary may be better placed to achieve efficiency than the branch</td>
</tr>
<tr>
<td></td>
<td>► Where the existence of a Board of Directors ensures quick decision making to respond to operational and strategic issues on timely basis. This will be very important where the scale of operations or presence that entity intends having in Ghana is significant</td>
<td></td>
</tr>
<tr>
<td><strong>Exposure to tax</strong></td>
<td>► A branch is subject to a corporate income tax of 25%. A branch is subject to a branch profit transfer tax of 10%. A branch is deemed to have repatriated or transferred profits within one month of its financial year-end</td>
<td>► A subsidiary is subject to a corporate income tax of 25%</td>
</tr>
<tr>
<td></td>
<td>► A shareholder (owner of shares in the subsidiary) is subject to a dividend tax of 8%</td>
<td>► A shareholder only pays dividend tax when dividend is declared by the subsidiary</td>
</tr>
<tr>
<td></td>
<td>► A shareholder (owner of shares in the subsidiary) is subject to a dividend tax of 8%</td>
<td>► For a subsidiary which is not controlled by more than five persons, after the first 5 years of operations, any undistributed profit may be deemed by the CG as paid to the shareholders and subject the payment to dividend tax. In making the decision, the CG will consider whether entity has accumulated more than it is required for its operations, maintenance and development</td>
</tr>
</tbody>
</table>
**Choice of business vehicle**

**Representative office (RO)**

- The activities of RO which is auxiliary to the core activities of its parent entity does not create a taxable presence in Ghana.
- The RO must not carry out any trading activity in Ghana.
- No profit is attributable to the RO.
- The RO must go through the same registration process with Registrar General as an external company.
- It will be required to register with Ghana Revenue Authority (GRA) for:
  - Corporate income tax – file nil returns
  - Pay As You Earn (PAYE), and
  - Withholding tax
Exchange Control implications

- Ghana has exchange controls regulations governing transactions carried out in foreign currency.

- The Bank of Ghana requires all domestic transactions to be conducted in the local currency unless it authorises otherwise.

- Foreign companies (apart from the mining and petroleum companies for the time being) are required to register their investments with the Ghana Investment Promotion Centre (GIPC). There is a bill currently before Parliament which, when passed into law, will require mining and petroleum companies to also register with the GIPC.
Exchange Control implications

► Registration with the GIPC guarantees an investor the right to transfer foreign currency through a local bank which is an authorised dealer. This means that local currency can be converted into foreign currency without any restrictions to pay for dividends attributable to the investment, fees and charges in respect of technological transfers registered with the GIPC.

► Note, however, that payments out of foreign exchange accounts are restricted but payments out of foreign currency accounts are not restricted.

► Payments out of foreign exchange accounts need to have the necessary supporting documentation before the payment can be made. The documentation includes:
  ► Service agreement registered with the GIPC
  ► Tax Clearance Certificate, etc.
Manufacturing industries

Carry forward of losses

► The tax losses of a company engaged in agro-processing business can be carried forward for five years commencing from the year of assessment in which commercial production starts.

Location incentives

► There is a location incentive for manufacturing companies from manufacturing business (other than agro-processing and commercial production of cocoa by-products derived from sub-standard cocoa beans). The incentives excludes manufacturing companies located in Accra or Tema.

  ► Where the company is located in the regional capitals of Ghana other than Accra or Tema, the corporate tax rate is 18.75%.

  ► Where the company is located elsewhere, the corporate tax rate is 12.5%.
Manufacturing industries

Companies engaged in agro-processing business are exempt from tax for a period of five years commencing from and including the year in which the basis period of the company ends being the period in which commercial production commence.

After the exemption period, the applicable corporate income tax is as follows:

- Where the business is located in Accra or Tema, the rate is 20%.
- Where the business is located in other regional capitals except Northern, Upper East and Upper West regions, the rate is 10%.
- Where the business is located in Northern, Upper East and Upper West region or outside other regional capitals, the rate is 0%.
Manufacturing industries

Free zones

- Companies registered under the Free Zones are exempt from the payment of corporate income tax in the first 10 years. Thereafter, the company will be subject to corporate income tax at the rate not exceeding 8%.

- Payment of dividend is exempt from tax

- A Free Zones company can be 100% owned by a non-resident entity

- Free Zones companies are guaranteed unconditional transfer through any of the authorised dealer banks in free convertible currency of:
  - dividends or net profits attributable to the investment;
  - payments in respect of loan servicing;
  - fees and charges; and
  - remittance of proceeds (net of taxes and other obligations) upon sale or liquidation of the business
Taxation of employees

► Generally, resident employers are required to withhold appropriate tax from payments to the employees on account of their employment in Ghana.

► With regards to resident employees, they are taxed under the graduated scale while the non-residents are taxed at the final rate of 15%. The highest rate under the graduated scale is 25%.

► The tax withheld should be paid to the Ghana Revenue Authority by the 15\textsuperscript{th} of the month following the month of deduction.
Taxation of employees

Employers are required to make a mandatory contribution of 13% of the salary of each employee towards the First Tier Contribution. Further, employers are required to withhold an additional 5.5% of employee’s salary and pay same to the trustees.

Out of the total 18.5%:
- 13% is payable to Social Security & National Insurance Trust (in respect of Tier 1)
- 5.5% is payable to the private registered trustee (in respect of Tier 2)

Third Tier: Employers and employees may contribute towards the pension of their employees to an approved pension fund. A maximum of 16.5% of the salary is allowable for deduction in calculating the respective chargeable income of the person who makes the additional contribution.

Returns

Employers are required to file the monthly social security returns by the 14th of the following month in which the deductions were made.
Corporate tax

- The standard corporate tax rate is 25%
- A person is required to file a return of income for a year of assessment not later than four months after the end of a basis period of that person ending within a year
- An extension of a maximum two months may be given by the Commissioner General (CG) upon a written application to him
- A taxable person may be assessed to tax by the CG or it shall be allowed to self-assess itself to tax
Tax compliance requirements - General

Value added tax (VAT and National Health Insurance Levy (NHIL))

► VAT is at the rate of 12.5% and the NHIL is 2.5%. The two are charged together, so the aggregate rate is 15%

► A person is required to register for VAT within 30 days of engaging in the supply of value added taxable goods and services for which the annual turnover exceeds the GHS90,000 threshold

► Failure to register for VAT is a criminal offence and a person shall be liable to a summary conviction of a fine or term of imprisonment or both

► VAT is accounted for one month in arrears. At the end of every month, the input VAT is offset against the output VAT for the period. The difference is either VAT payable or VAT receivable. Where VAT is due, it must be paid by the last working day of the subsequent month
Tax compliance requirements - General

Withholding tax

► Withholding tax is 5% of the gross amount for payments between resident persons. Payments by a resident to a non-resident person is 15% subject to Double Tax Agreement (DTA)

► Filing and payment of withholding tax shall not exceed the 15th of the month following the month to which it relates

► A person who fails to withhold and remit taxes to the CG shall be liable to pay the amount he failed to withhold

Custom duties

► Custom duty ranges from 0 – 20% depending on the description of the commodity
# Special tax regimes – Oil & Gas

<table>
<thead>
<tr>
<th>Petroleum contractors</th>
<th>Petroleum sub contractors</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Corporate tax</strong></td>
<td><strong>Corporate tax</strong></td>
</tr>
<tr>
<td>Corporate tax rate is 50%. However most signed Petroleum Agreement (PA) provide for 35%</td>
<td>A subcontractor is any person who enters into a contract with a contractor to provide works or services (including rental of equipment) in connection with a PA</td>
</tr>
<tr>
<td>Cost incurred wholly, exclusively and necessarily for the purpose of generating the income is deductible for tax purposes. These include rentals, royalties etc.</td>
<td>Subcontractors are subject to withholding tax on the aggregate income derived from services rendered to the contractors. The PAs sighted so far provides for a final withholding tax rate of 5%</td>
</tr>
<tr>
<td>Deductions not allowed include depreciation, private and domestic outgoings</td>
<td></td>
</tr>
</tbody>
</table>

---

**Footnote:**

- Corporate tax rate:
  - 50%
  - Most Petroleum Agreements provide 35%

- Subcontractor definition:
  - Enters into a contract with a contractor
  - To provide works or services
  - Includes rental of equipment

- Deductions:
  - Not allowed include depreciation, private and domestic outgoings

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**Note:**

- Income is deductible for tax purposes.
- Final withholding tax rate for subcontractors is 5%.
Special tax regimes – Oil & Gas

Withholding Tax

- Dividend income earned by investors in the upstream sector is exempt from tax
- Contractors are required to withhold tax on payment for other services procured from non-resident companies
- Ghana has an anti-treaty shopping provision which precludes companies from enjoying the benefits pertaining to a Treaty unless more than 50% of the underlying ownership of the company is held by individual(s) who is/are himself/themselves resident in the other Contracting State
Special tax regimes – Oil & Gas

Value Added Tax (VAT) and National Health Insurance Levy (NHIL)

- The rate of VAT and NHIL is 12.5% and 2.5% respectively.
- Petroleum Contractors are relieved from the payment of VAT and NHIL on invoices issued to them. They pay for the VAT and NHIL component of their invoices with VAT Relief Purchase Order (VRPO).
- Sub-contractors who provide taxable services are required to register and charge VAT and NHIL.
- VAT is accounted for one month in arrears. At the end of every month, the input VAT is offset against the output VAT for the period. The difference is either VAT payable or VAT receivable. Where VAT is due, it must be paid by the last working day of the subsequent month.
- Supply of hydrocarbon products by contractors are exempt from tax.
- Where management and technical services are imported into Ghana, the company is required to self-assess itself to VAT and NHIL.
Special tax regimes – Oil & Gas

Custom Duties

► Petroleum contractors and sub-contractors are normally permitted to import plant, equipment and materials into Ghana solely and exclusively for the conduct of petroleum operations without paying any import duties.

► Foreign national employees of petroleum contractors and their sub-contractors are allowed to import their personal and household items into Ghana without incurring any import duties. However, the employees must not sell their belongings in Ghana to avoid incurring any import duties.

► Where this has been done, the items stated above can be imported free of import duties.

► Where goods previously imported under the exemptions have to be re-exported, the Petroleum Commission has to be notified by the contractor. Where this has been done, no duties will be levied by Customs Excise and Preventive Services (CEPS) upon re-exportation.
Special tax regimes – Oil & Gas

Custom Duties

► The recommended practice for the importation of items by contractors and sub-contractors are as follows:

► The petroleum contractor notifies the Petroleum Commission of the imports and requests for an exemption

► The petroleum contractor considers whether items being imported are required and will be used to conduct petroleum operations

► Where satisfied, the Petroleum Commission, in turn, notifies the Ghana Revenue Authority (GRA)(Customs Division) of its recommendation for the exemption

► The GRA (Customs Division) grants the exemption

► Where this has been done, the items stated above can be imported free of import duties

► Where goods previously imported under the exemptions have to be re-exported, the Petroleum Commission has to be notified by the contractor. Where this has been done, no duties will be levied by CEPS upon re-exportation
## Special tax regimes – Oil & Gas

### Returns

<table>
<thead>
<tr>
<th>Contractors</th>
<th>Sub-contractors</th>
</tr>
</thead>
<tbody>
<tr>
<td>Both quarterly and annual returns</td>
<td>Annual returns</td>
</tr>
<tr>
<td>Quarterly returns - Within 30 days after the end of the quarter</td>
<td>Within four months after the end of the year of assessment</td>
</tr>
<tr>
<td>Annual returns - Within four months after the end of the year of assessment</td>
<td></td>
</tr>
<tr>
<td>An extension of up to 2 months may be granted by the CG upon a reasonable cause</td>
<td>An extension of up to 2 months may be granted by the CG upon a reasonable cause</td>
</tr>
</tbody>
</table>
Corporate income tax

- Corporate income tax rate applicable to companies principally engaged in mining sector is 35%
- Companies that provide support services to the mining companies are, however, subject to 25% corporate income tax
- Mining activities in one area is ring-fenced against the activities in other areas
- Mining companies are allowed deductions for expenses incurred wholly, exclusively and necessarily for the purposes of generating income for the company
- The following costs shall, however, not be deductible:
  - Domestic and private outgoings
  - Expenses of capital nature etc.
Special tax regimes – Mining

Value Added Tax and National Health Insurance Levy

- Mining companies are required to register for VAT and NHIL
- The export of bullion is subject to VAT and NHIL at 0%
- Mining companies are granted relief to pay VAT and NHIL on their local purchases using the VRPO
- Mining support services companies are required to charge VAT and NHIL at 15%
- The mining companies will pay the VAT with the VRPO
- Compliance with VAT on imported management and technical services is similar to the one covered under the Oil & Gas section
Special tax regimes – Mining

Withholding Tax

► Dividend income earned by investors in the mining industry is subject to 8% tax

► The DTA and other withholding tax issues addressed under the Oil & Gas section is also applicable in the mining sector except for issues under the Petroleum Agreement.

Customs

► Mining companies are charged custom duties at concessary rates ranging from 0% to 5% on the transaction value of plant, machinery, equipment and accessories provided in the Mining List which are imported specifically and exclusively for mining operations. Other assets are imported at the normal rates as provided for in the Harmonized System Code.

Returns

► Mining companies are required to file annual returns within four months after the year of assessment

► Extension of time for up to two months may be granted by the Commissioner-General upon reasonable grounds
Appendix 1 - Withholding tax rates

Ghana has DTA with the following countries. The table below illustrate the withholding tax rate applicable on certain income streams and also the reduced rates as provided for in the DTA.

<table>
<thead>
<tr>
<th>Income Type</th>
<th>Domestic</th>
<th>South Africa</th>
<th>United Kingdom</th>
<th>Germany</th>
<th>France</th>
<th>Italy</th>
<th>Netherlands</th>
<th>Switzerland</th>
<th>Belgium</th>
</tr>
</thead>
<tbody>
<tr>
<td>Management Fees</td>
<td>15</td>
<td>10</td>
<td>10</td>
<td>8</td>
<td>10</td>
<td>10</td>
<td>8</td>
<td>8</td>
<td>10</td>
</tr>
<tr>
<td>Royalties</td>
<td>10</td>
<td>10</td>
<td>12.5</td>
<td>8</td>
<td>12.5/10*</td>
<td>10</td>
<td>8</td>
<td>8</td>
<td>8</td>
</tr>
<tr>
<td>Interest</td>
<td>8</td>
<td>5/8</td>
<td>8</td>
<td>8</td>
<td>8</td>
<td>8</td>
<td>8</td>
<td>10</td>
<td>10</td>
</tr>
<tr>
<td>Dividends (where recipient is an equity holder of 10+)</td>
<td>8</td>
<td>5</td>
<td>7.5</td>
<td>5</td>
<td>5/7.5***</td>
<td>5</td>
<td>5</td>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td>Dividends (in any other case)</td>
<td>15</td>
<td>15</td>
<td>15</td>
<td>15</td>
<td>15</td>
<td>15</td>
<td>10</td>
<td>15</td>
<td>15</td>
</tr>
</tbody>
</table>

**the rate is 12.5% where the beneficial owner is resident in France, 10% where the beneficial owner is resident in Ghana.
***5% if the payor is resident in France, 7.5% if the payor is resident in Ghana.
****5% if the recipient is a bank.
Thank you
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