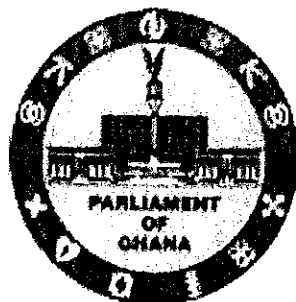


**IN THE SECOND SESSION OF THE EIGHTH PARLIAMENT
OF THE FOURTH REPUBLIC OF GHANA**



**REPORT OF THE FINANCE COMMITTEE ON THE
INCOME TAX (AMENDMENT) (NO.2) BILL, 2022**

1.0. INTRODUCTION

The **Income Tax (Amendment) (No.2) Bill, 2022** was *presented and read the first time* in the House on 14th December 2021 by the Hon. Deputy Minister for Finance, Mrs. Abena Osei-Asare on behalf of the Minister responsible for Finance.

The Bill was subsequently *referred* to the Finance Committee for consideration and report in accordance with Order 169 of the Standing Orders of the House.

The Committee met and considered the Bill with Deputy Ministers for Finance, Hon. Mrs. Abena Osei-Asare and Hon. John Ampontuah Kumah, the Chief Director and a team of officials from the Ministry of Finance, the Ghana Revenue Authority (GRA) and the Attorney General's Department.

The Committee is grateful to the above-mentioned Hon. Deputy Ministers, Chief Director and the team of officials of the Ministry of Finance, GRA and the Attorney General's Department for attending upon the Committee.

2.0. REFERENCES

The Committee referred to and was guided by the following documents *inter alia* during its deliberations on the Bill:

- The 1992 Constitution of the Republic of Ghana.
- The Standing Orders of the Parliament of Ghana.
- Interpretation Act, 2009 (Act 792).
- Public Financial Management Act, 2016 (Act 921).
- The Budget Statement and Economic Policy of the Government of Ghana for the 2023 Financial Year.
- Ghana Revenue Authority Act, 2009 (Act 791).
- Income Tax Act, 2015 (Act 896).

3.0. BACKGROUND

The individual personal income tax bands have been reviewed to accommodate the minimum wage for 2023 as the basic tax free income and an additional band at thirty-five percent as part of the high net worth taxation policy. The upper limits for quantification of motor vehicle benefits have not been revised since 2015. Government has revised these upper limits to account for inflation.

Compliance with the requirements for payment of tax on realisation of assets and liabilities is being made more efficient

with the introduction of a return to be submitted within thirty days of the realisation and a withholding tax. The optional tax rate for individuals on the gain from realisations has also been increased. The rate for income from gifts will also be increased as a consequential amendment.

4.0. OBJECT OF THE BILL

The object of the Income Tax (Amendment) Bill, 2022 is to amend the Income Tax Act, 2015 (Act 896) to revise the rates of income tax for individuals and introduce an additional income tax bracket, introduce a withholding tax rate on the realisation of assets and liabilities and on winnings from lottery, unify the loss carried forward provisions and revise the treatment of foreign exchange losses and increase the optional rate for individuals on the gain from the realisation of an investment asset, revise the upper limits for the quantification of motor vehicle benefits and increase the concessional income tax rates.

5.0. CONTENTS OF THE BILL

The Bill contains a total of fourteen (14) Clauses.

Clause 1 amends Act 896 by introducing a new section 2A to require a person to compute and pay tax on a minimum chargeable income of five percent of total income.

Clause 2 amends section 6 of Act 896 by adding winnings from lottery to the items to be included in the calculation of the amount specified for a year of assessment.

Clause 3 amends section 17 of Act 896 to provide for a person who is ascertaining the income of that person or of another person from a business for a year of assessment to deduct an unrelieved loss of the person for any of the previous five years of assessment from the business.

Clause 4 amends section 25 of Act 896 to provide for the deduction of any foreign currency exchange loss other than a loss that is capital in nature, incurred in the production of income during the period in respect of a debt claim, debt obligation or foreign currency holding of that person for the purposes of ascertaining the income of a person for a basis period.

Clause 5 amends Act 896 by introducing a new section 39A to provide for the submission of return for gains on realisation of assets and liabilities.

Clause 6 amends section 94 of Act 896 to exempt from income tax for 2023, a withdrawal from a provident fund or personal pension scheme before the retirement age by an employee due to loss of permanent employment or a self-employed person from the savings account provided under paragraph (a) of subsection (2) of section 109 of the National Pensions Act, 2008 (Act 766).

Clause 7 amends Act 896 by introducing a new section 100A to provide for lottery operations.

Clause 8 amends section 115 of Act 896 to provide for a resident person to withhold tax at the rate specified in paragraph 8 of the First Schedule, where that person pays a dividend, winning from lottery, interest, natural resource payment, rent or royalty to

another person or pays consideration to another person in respect of the realisation of asset or liability and the payment has a source in the country.

Clause 9 amends Act 896 by introducing a new section 116A to provide for a resident person to withhold tax on the gross amount of the payment at the rate specified in paragraph 8 of the First Schedule.

Clause 10 amends section 119 of Act 896 by substituting paragraph (f) of subsection (1) with winnings from lottery. The rationale for the amendment is to introduce a withholding tax on winnings from lottery.

Clause 11 amends Act 896 by substituting section 128 with a new provision. The rationale for the amendment is to provide clarity on persons in a controlled relationship.

Clause 12 amends section 133 of Act 896 by introducing new definitions for "betting", "game of chance" "gaming" "lottery" and "stake"

Clause 13 amends the First Schedule to the Act by substituting paragraph 1 with a new paragraph. The rationale for the amendment is to revise the income tax brackets provided for in the paragraph and introduce an additional income tax bracket with a tax rate of thirty-five per cent. The *clause* further amends subparagraph (1) of paragraph 3 to provide for the chargeable income of a company and income from goods and services provided to the domestic market by a free zone enterprise after

the concessionary period other than a company principally engaged in the hotel industry for a year of assessment to be taxed at the rate of twenty-five per cent.

The *clause* further amends paragraph 7 by introducing a new paragraph 7A to provide for the rate of tax on income from lottery operations.

The *clause* further introduces new sub paragraphs to provide for the rates of tax in the case of winnings from lottery which is to be ten per cent on gross winnings at the end of each game, in the case of realisation of an asset or liability by a resident person, three per cent of the consideration received and in the case of realisation of an asset or liability by a non-resident person ten per cent of the consideration received.

Clause 14 amends the Fourth Schedule to the Act by substituting the table specified in paragraph 1 with a new table. The rationale for the amendment is to review the upper limits for the motor vehicle benefits specified in the table.

6.0. OBSERVATIONS

6.1. Unification of Loss Carried Forward

The Committee noted that the loss carried forward provisions are being unified at five percent while the treatment of foreign exchange gains is being restricted to actual losses. Foreign exchange losses relating to capital expenditure are to be capitalised.

6.2. Temporary Concessions

The Committee noted that the income tax rates for temporary concessions are being reviewed upwards with the intent to gradually phase them out.

6.3. Fiscal Impact

These amendments are considered necessary to support the growing economy and will lead to a revenue yield of approximately *one billion, two hundred and ninety million Ghana Cedis (GH¢1,290,000,000.00)*.

7.0. AMENDMENT PROPOSED

- i. **Clause 1 – Amendment Proposed** – Line 7, *delete* “total income”
- ii. **Clause 11 – Amendment Proposed** – Add a new subclause as follows
“(3) for purposes of this section,
“control” in relation to an entity, means holding directly or through one or more interposed entities, twenty-five percent or more of the voting power or rights to income or capital of the entity, and
“relative” in relation to an individual, means the individual’s child, spouse, parent, grandparent, grandchild, sibling, aunt, uncle, nephew, niece or first cousin, including by way of marriage or adoption”.

8.0. RECOMMENDATION AND CONCLUSION

The Committee recommends to the House to adopt this report and pass the **Income Tax (Amendment) (No.2) Bill, 2022** into law, subject to the amendments proposed.

Respectfully Submitted.



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HON. KWAKU AGYEMAN KWARTENG
(CHAIRMAN, FINANCE COMMITTEE)



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JOANA A.S. ADJEI (MRS)
(CLERK, FINANCE COMMITTEE)

19TH DECEMBER, 2022