

## MEMORANDUM

The object of this Bill is to establish a Chartered Institute of Taxation to regulate the practice of taxation in the country.

The Chartered Institute of Taxation, Ghana has been practising as a professional body registered under the Professional Bodies Registration Act, 1973 (NRCD 143) and is a founding member of the West African Union of Tax Institutes and currently occupies its Presidency position. The Chartered Institute of Taxation, Ghana is also a founding member of the Africa Association of Tax Institutions and occupies its Vice Presidency position.

The Chartered Institute of Taxation, Ghana has made and continues to make significant contributions both internationally and locally in diverse areas. For instance the President of the Chartered Institute of Taxation, Ghana and the West African Union of Tax Institutes played an instrumental role in the St Petersburg Declaration, signed at the recently held Confederation Fiscale Europeanne spring events in St. Petersburg, Russia from 18th to 19th September, 2013 which will lead to the formation of the Global Organisation of Tax Advisers worldwide. This conference had representatives from the West African Union of Tax Institutes, the Asia-Oceania Tax Consultants Association and the Confederation Fiscale Europeanne.

In Ghana, the Institute on an annual basis has been an active participant of the pre-budget consultations organised by the Ministry of Finance and has provided position papers as an input to guide Government tax policy direction in the national budget. The Institute also organises Annual Tax Conferences to provide a unique platform for the Ghana Revenue Authority, tax consultants, and taxpayers to build their capacities, network and discuss matters that touch on taxation.

The Chartered Institute of Taxation, Ghana has also made contributions to reforms in tax laws such as the Transfer Pricing Regulations recently enacted by Parliament as well as research on Ghana's current laws on capital allowance among others.

Furthermore, the Chartered Institute of Taxation, Ghana, on the discovery of oil in Ghana, organised a three-day training seminar for key stakeholders. Participants at this workshop included officials of the Bank of Ghana, the Ghana Revenue Authority, the Parliamentary Committee on Finance, representatives from the Tax Policy Unit of the Ministry of Finance and representatives from Ghana National Petroleum Authority. The Institute has also organised workshops for members of Parliament to help them better understand the tax laws.

On the front of tax education, members of the Institute have always been available to speak to the media and public on various tax issues, aside from the free public tax fora which it organises to educate the public on various tax issues.

In order to ensure the quick adjudication of tax cases, the Chartered Institute of Taxation, Ghana, recommended to the Chief Justice to introduce Special Tax Courts in the Country to ensure proper adjudication of tax cases in the country. This recommendation led to the establishment of two Tax Courts in Accra and Kumasi in October, 2013. In

furtherance of its recommendation to the Chief Justice, the Institute organised training for Justices of the Superior Courts of Judicature on transfer pricing and other related international tax laws to equip them especially to deal with cases involved in the Oil and Gas Industry.

Although the Chartered Institute of Taxation exists as a professional body, it has not been properly set up by an Act of Parliament to regulate the practice of taxation. This Bill therefore seeks to do so.

The Bill is divided into four groups of clauses captioned the Chartered Institute of Taxation, Qualification and membership of the Institute, Administrative and financial provisions and Miscellaneous provisions.

*Clause 1* to 11 is on the Chartered Institute of Taxation. *Clause 1* establishes the Chartered Institute of Taxation as a body corporate with the usual attributes including the right to sue and be sued in its corporate name and the right to hold movable and immovable property and to enter into contracts or other transactions.

*Clause 2* enumerates the object of the Institute which is to promote the advancement of taxation and practice of taxation in the country.

The functions of the Institute are spelt out in *clause 3* of the Bill and include regulating the practice of taxation in the country, determining the standard of knowledge and skills to be attained by persons seeking to practise taxation in the country, and the conduct of qualifying examinations for membership of the Institute. The Institute is also to prescribe professional standards for members and educate members on the methods and practices necessary to maintain those professional standards. It is also to ensure that the professional standards are maintained by members of the Institute.

*Clause 4* provides for the governing body of the Institute which is a thirteen member Council consisting of eight members of the Institute elected by members of the Institute at an annual general meeting of the Institute. Other members of the Council are representatives from the Ministry of Finance, Education and the Attorney-General's Department.

*Clause 5* to 9 deals with the standard provisions such as the tenure of office of members of the Council, meetings of the Council and the disclosure of interest. The others are on the establishment of Committees of the Council, allowances to be paid to members of the Council and Ministerial directives. Provision is made for the Institute to hold meetings with its members as specified in the Second Schedule to the Bill, *clause 10*.

*Clause 12* to 25 provides for the qualification and membership of the Institute. *Clause 12* mandates a person who intends to practise taxation to register with the Institute. The qualification required to practise as a chartered tax practitioner or tax practitioner is stipulated in *clause 13*. A person qualifies to be registered to practise taxation if that person among other things has passed the qualifying examination for membership of the Institute conducted by the Council and has completed practical training for a period determined by the Council in an institution or organisation of equivalent status with the Institute.

The Bill states the membership of the Institute which consists of ordinary members and fellows in *clause 14*. *Clause 15* deals with the procedure for enrolment as an ordinary member of the Institute. The applicant may be enrolled either as a chartered tax practitioner or as a tax practitioner. *Clause 16* empowers the Council to confer the title “Fellow of the Chartered Institute of Taxation on an ordinary member who has acquired at least ten years practical experience in taxation and met other qualifying criteria determined by the Council. The Registrar of the Institute is required in *clause 17* to keep and maintain a register of members and practising firms. *Clause 18* requires the Council to publish the list of members and practicing firms annually in the *Gazette* and in at least two state owned newspapers in the country.

*Clause 19* prohibits a person who is not registered as a member of the Institute from practising as a chartered tax practitioner or a tax practitioner or to be a partner or a member of a firm of tax practitioners unless that person is registered as a member of the Institute. *Clause 20* specifies the designations that may be used by a firm of chartered tax practitioners or a firm of tax practitioners. *Clause 21* provides for fees to be prescribed by the Council and paid to the Registrar of the Council. *Clause 22* specifies the procedure for striking off the name of a tax practitioner from the register of the Institute. An inquiry by the Disciplinary Committee is a condition precedent to a name being struck off the register and this together with the composition and procedure to be adopted by the Disciplinary Committee are provided for in the First Schedule. The conditions under which a member’s registration may be suspended or cancelled are dealt with under *clauses 23* and *24* and provision is made for appealing against decisions of the Council under *clause 25*.

*Clause 26* to *32* deals with administrative and financial provisions. Under *clause 26* the Council is required to appoint a person with tax, administrative or managerial skills as a Registrar of the Institute. The functions of the Registrar are spelt out under *clause 27* of the Bill while *clause 28* deals with appointment of other staff of the Institute that are necessary for the effective performance of the functions of the Institute.

Provision is made for funds of the Institute under *clause 29*. The sources of money for the Institute include fees charged by the Institute in the performance of its functions and moneys approved by Parliament. The Council is required to open bank accounts in reputable banks for and on behalf of the Institute. Standard provisions on accounts and audit and annual report and other reports are provided for under *clause 31* and *32*.

The final clauses of the Bill, *clause 33* to *37* deals with miscellaneous provisions. *Clause 33* provides for offences whilst *clause 34* is the enabling power for the Minister responsible for Education to make Regulations. Finally, *clauses 35*, *36* and *37* deal with interpretation, transitional provisions and repeal and savings.

HON. NAANA JANE OPOKU-AGYEMAN  
*Minister responsible for Education*

Date: 14th November, 2014.

## ARRANGEMENT OF SECTIONS

### *Section*

#### *Chartered Institute of Taxation*

1. Establishment of the Institute
2. Object of the Institute
3. Functions of the Institute
4. Governing body of the Institute
5. Tenure of office of members
6. Meetings of the Council
7. Disclosure of interest
8. Establishment of committees
9. Allowances
10. Meetings of the Institute
11. Ministerial directives

#### *Qualification and membership of the Institute*

12. Registration of tax practitioners
13. Qualification
14. Categorisation of members
15. Application for ordinary membership
16. Fellowship of the Institute
17. Register
18. Annual publication
19. Prohibition from practising as a chartered tax practitioner or tax practitioner
20. Use of designation by firms
21. Fees
22. Removal of name from Register
23. Suspension of registration
24. Cancellation of registration
25. Representation to the Council and appeal

#### *Administrative and financial provisions*

26. Registrar
27. Functions of the Registrar
28. Appointment of other staff
29. Funds of the Institute
30. Bank accounts of the Institute
31. Accounts and audit
32. Annual report and other reports

#### *Miscellaneous provisions*

33. Offences
34. Regulations
35. Interpretation
36. Transitional provisions
37. Repeal and savings

*FIRST SCHEDULE*  
*Disciplinary Committee and its proceedings*

*SECOND SCHEDULE*  
*Meetings of the Institute*

*THIRD SCHEDULE*  
*Professional misconduct*

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# BILL

ENTITLED

## THE CHARTERED INSTITUTE OF TAXATION ACT, 2014

**AN ACT** to establish the Chartered Institute of Taxation to regulate the practice of taxation and to provide for related purposes.

**PASSED** by Parliament and assented to by the President:

*Chartered Institute of Taxation*

### **Establishment of the Institute**

1. (1) There is established by this Act a body corporate with perpetual succession to be known as the Chartered Institute of Taxation.

(2) Where there is hindrance to the acquisition of property, the property may be acquired for the Institute under the State Lands Act, 1962 (Act 125) and the costs shall be borne by the Institute.

### **Object of the Institute**

2. The object of the Institute is to promote the advancement of taxation and the practice of taxation in the country.

### **Functions of the Institute**

3. To achieve its object, the Institute shall

- (a) regulate the practice of taxation in the country;
- (b) facilitate the exchange of information and ideas related to the practice of taxation;

- (c) conduct and provide for the conduct of qualifying examinations for membership of the Institute and prescribe and approve courses of study for the examinations;
- (d) evaluate and approve the curricula and certificates of other professional organisations considered by the Institute to be of equivalent status with the Institute;
- (e) keep, maintain, and publish a register of chartered tax practitioners and tax practitioners;
- (f) determine the standard of knowledge and skills to be attained by persons seeking to practise taxation in the country;
- (g) strike off from the register of chartered tax practitioners and tax practitioners, the name of a member for stated misconduct, incompetence or for other justifiable reasons on the recommendations of the Disciplinary Committee;
- (h) prescribe and maintain professional standards and educate members on the methods and practices necessary to maintain professional standards and also ensure that the professional standards are maintained by members of the Institute;
- (i) organise continuous professional development courses for members of the Institute as a condition precedent for the renewal of the practising certificate of members of the Institute;
- (j) establish and maintain a library of books and periodicals on taxation and related subjects;
- (k) encourage research in the subject and practice of taxation generally to secure the well-being and advancement of the tax profession,
- (l) encourage members to publish books on taxation related subjects; and
- (m) perform any other functions that are ancillary to the object of the Institute.

#### **Governing body of the Institute**

4. (1) The governing body of the Institute is a Council consisting of
- (a) eight members of the Institute elected by members of the Institute at an annual general meeting of the Institute,
  - (b) two members of the Institute nominated by the Minister,
  - (c) one representative of
    - (i) the Ministry of Education not below the rank of a Director,
    - (ii) the Ministry of Finance not below the rank of a Director, and
    - (iii) the Attorney-General not below the level of Principal State Attorney.
- (2) The members of the Council shall elect two members under subsection (1)(a) as
- (a) chairperson of the Council and President of the Institute, and
  - (b) Vice-President of the Institute.
- (3) The members of the Council shall be appointed by the President in accordance with article 70 of the Constitution.
- (4) The Council shall ensure the proper and effective performance of the functions of the Institute.

### **Tenure of office of members**

5. (1) A member of the Council shall hold office for a period not exceeding three years and is eligible for re-appointment but a member shall not be appointed for more than two terms.

(2) A member of the Council may at any time resign from office in writing addressed to the President and the Minister, through the President of the Institute.

(3) A member of the Council who is absent from three consecutive meetings of the Council without sufficient reason ceases to be a member of the Council.

(4) The President may by letter addressed to a member revoke the appointment of that member.

(5) Where a member of the Council is, for a sufficient reason, unable to act as a member, the Minister shall determine whether the inability would result in the declaration of a vacancy.

(6) Where there is a vacancy

(a) under subsection (2) or (3) or section 7;

(b) as a result of a declaration under subsection (5); or

(c) by reason of the death of a member

the Minister shall notify the President of the vacancy and the President shall appoint a person to fill the vacancy.

### **Meetings of the Council**

6. (1) The Council shall meet at least once every three months for the despatch of business at the times and in the places determined by the chairperson.

(2) The chairperson shall at the request in writing of not less than one-third of the membership of the Council convene an extraordinary meeting of the Council at the place and time determined by the chairperson.

(3) The quorum at a meeting of the Council is six members of the Council or a greater number determined by the Council in respect of an important matter.

(4) The chairperson shall preside at meetings of the Council and in the absence of the chairperson, the Vice-President of the Institute or a member of the Council elected by the members present from among their number shall preside.

(5) Matters before the Council shall be decided by a majority of the members present and voting and in the event of an equality of votes, the person presiding shall have a casting vote.

(6) The Council may co-opt a person to attend a Council meeting but that person shall not vote on a matter for decision at the meeting.

(7) The proceedings of the Council shall not be invalidated by reason of a vacancy among the members or a defect in the appointment or qualification of a member.

(8) Subject to this section, the Council may determine the procedure for its meetings.

### **Disclosure of interest**

7. (1) A member of the Council who has an interest in a matter for consideration

(a) shall disclose the nature of the interest and the disclosure shall form part of the record of the consideration of the matter; and

(b) shall not participate in the deliberations of the Council in respect of that matter.

(2) A member ceases to be a member of the Council, if that member has an interest in a matter before the Council and

(a) fails to disclose that interest, or

(b) participates in the deliberations of the matter.

### **Establishment of committees**

8. (1) The Council may establish committees consisting of members of the Council or non-members or both to perform a function.

(2) Without limiting subsection (1), the Council shall have a Disciplinary Committee.

(3) A Disciplinary Committee shall investigate allegations of professional misconduct made against a member of the Institute.

(4) The composition of the Disciplinary Committee, the procedures for the conduct of inquiries by the Disciplinary Committee and the powers of the Disciplinary Committee shall be as specified in the First Schedule.

(5) A committee of the Council may be chaired by a member of the Council.

(6) Section 7 applies to members of committees of the Council.

### **Allowances**

9. Members of the Council and members of a committee of the Council shall be paid the allowances approved by the Minister in consultation with the Minister responsible for Finance.

### **Meetings of the Institute**

10. The meetings of the Institute shall be held in accordance with the provisions of the Second Schedule.

### **Ministerial directives**

11. The Minister may give directives to the Council on matters of policy and the Council shall comply.

### *Qualification and membership of the Institute*

### **Registration of tax practitioners**

12. A person shall not practise as a chartered tax practitioner or tax practitioner unless that person is registered as a member of the Institute.

### **Qualification**

13. (1) A person is not qualified to be enrolled as an ordinary member of the Institute unless that person

(a) has passed the qualifying examination for membership of the Institute conducted by the Council; and

(b) has completed practical training for a period determined by the Council in an institution or organisation recognised by the Council.

(2) A person who has been

(a) certified by a certified psychiatrist and adjudged by a court of competent jurisdiction to be of unsound mind,

- (b) convicted by a court of competent jurisdiction of an offence involving fraud or dishonesty for which the penalty is ten years, or
- (c) adjudged an insolvent or bankrupt by a court of competent jurisdiction and is not discharged

shall not be enrolled as a member of the Institute.

(3) Subsection (2)(c) does not apply to a person who has been adjudged as an insolvent or bankrupt and has been granted a certificate specifying that the insolvency or bankruptcy was wholly or partly as a result of unavoidable losses or misfortune.

### **Categorisation of members**

14. The membership of the Institute consists of ordinary members and fellows.

### **Application for ordinary membership**

15. (1) A person who desires to be enrolled as an ordinary member of the Institute shall apply to the Institute.

(2) An application for enrolment shall be in written form with supporting documents including the qualification of the applicant.

(3) The application shall be submitted to the Council through the Registrar of the Institute.

(4) The Council shall

- (a) enrol the applicant either as a chartered tax practitioner or a tax practitioner, and
- (b) enter the applicant's name in the register of chartered tax practitioners or tax practitioners as the case may be,

where the Council is satisfied with the qualification of the applicant and the applicant has paid the required entrance fee and annual subscription fee.

(5) A chartered tax practitioner may use the title "MCITG" after enrolment.

(6) A tax practitioner may use the title "TPG" after enrolment.

### **Fellowship of the Institute**

16. (1) The Council may confer the title 'Fellow of the Chartered Institute of Taxation' on an ordinary member of the Institute who has,

- (a) acquired at least ten years practical experience in the subject of taxation, and
- (b) submitted a thesis or publication to the Council in accordance with the qualifying criteria determined by the Council.

(2) A fellow of the Institute may use the title "FCITG".

### **Register**

17. The Registrar shall keep and maintain a register of members and practising firms and enter in the register information and particulars on its members and practising firms that the Council considers appropriate.

### **Annual publication**

18. (1) The Council shall cause the annual publication of the list of members and firms and their particulars in the *Gazette* and in at least two state owned newspapers in the country.

(2) A member of the public may inspect the register of members and firms or make a copy or extract of parts of the register subject to the payment of the prescribed fee and adherence to the prescribed procedures.

(3) At the beginning of each calendar year, the person responsible for the management of a firm shall submit to the Institute a list of names and particulars of each partner in that firm stating;

- (a) the partners and membership certificate number;
- (b) the partners practising certificate number; and
- (c) the partnership firm certificate number issued by the Institute.

(4) A member of the Institute shall notify the Registrar of any change in information or particulars of the member within thirty days after the change has been made.

#### **Prohibition from practising as a chartered tax practitioner or tax practitioner**

**19.** (1) A person shall not practise as a chartered tax practitioner or tax practitioner or profess to practise as a chartered tax practitioner or tax practitioner, unless that person

- (a) is a registered member of the Institute and has the name of that person on the Register of chartered tax practitioners or tax practitioners published by the Council, and
- (b) holds an unexpired certificate to practise.

(2) For purposes of this section, “practise” means a person who

- (a) engages in the practice of taxation or professes to practise as a chartered tax practitioner, tax practitioner or tax adviser,
- (b) offers to perform or performs a tax service,
- (c) renders professional service or assistance in respect of matters that in principle or detail relate to taxation, or
- (d) renders any other services prescribed by the Council by Regulations to be service constituting practice as a chartered tax practitioner, tax practitioner or tax advisor

in consideration of remuneration received or receivable by that person or in partnership with another person

(3) A person shall not be made a partner or a member of a firm of chartered tax practitioners or tax practitioners unless that person is registered by the Institute as

- (a) a chartered tax practitioner, or
- (b) a tax practitioner.

#### **Use of designation by firms**

**20.** (1) A firm of chartered tax practitioners may use the designation “Chartered Tax Practitioners”.

(2) A firm of tax practitioners may use the designation “Tax Practitioners”.

(3) A firm of both chartered tax practitioners and tax practitioners may use the designation “Chartered Tax Practitioners”.

#### **Fees**

**21.** (1) The fees payable under this Act shall be prescribed by the Council and paid to the Registrar of the Council.

(2) The annual subscription fee shall be paid on or before the first day of January each year and in the case of members enrolled after this date on the date of enrolment.

### **Removal of name from Register**

22. (1) The Council may strike off the name of a person from the register of the Institute if

- (a) the Council is satisfied that that person is unfit to practise the profession of taxation because that person has been found guilty of professional misconduct or has been disqualified under this Act; or
- (b) that person fails to pay the prescribed fees for a period exceeding four months.

(2) A person whose name has been struck off the register of the Institute may have the name restored

- (a) if the Council is satisfied that that person has subsequently become a fit and proper person to practise the profession of taxation; or
- (b) upon payment of the prescribed fee.

(3) The name of a member shall not be struck off the register of the Institute for professional misconduct unless the Disciplinary Committee has made a report to the Council that the member concerned is liable for professional misconduct after due inquiry.

### **Suspension of registration**

23. The Council may suspend the registration of a member of the Institute where

- (a) an offence in relation to the member is being investigated;
- (b) allegations of misconduct have been made against the member;
- (c) a false declaration was made in an application for registration as a member of the Institute; or
- (d) the member has contravened a provision of this Act.

### **Cancellation of registration**

24. The Council shall cancel the registration of a member on the recommendation of the Disciplinary Committee of the Council where the member

- (a) is convicted of an offence under this Act or the Regulations,
- (b) has lost the qualification on the basis of which the registration was made, or
- (c) is sentenced to a term of imprisonment for a criminal offence.

### **Representation to the Council and appeal**

25. (1) Registration shall not be suspended or cancelled unless the Council has given the member at least thirty days notice of the Council's intention to suspend or cancel the registration and has provided the member with an opportunity to make a representation to the Council.

(2) A person dissatisfied with a decision of the Council may appeal to the High Court.

### *Administrative and financial provisions*

### **Registrar**

26. (1) The Council shall appoint a member of the Institute with tax, administrative or managerial experience as the Registrar of the Institute.

(2) The Registrar shall hold office on the terms and conditions specified in the letter of appointment.

(3) The Registrar is the secretary to the Council.

### **Functions of the Registrar**

27. (1) The Registrar is responsible for the day to day administration of the affairs of the Institute and is answerable to the Council in the performance of functions under this Act.

(2) The Registrar shall

(a) organise annually a continuous professional development course for members of the Institute; and

(b) perform any other functions determined by the Council.

(3) The Registrar may delegate a function to an officer of the Institute but shall not be relieved from the ultimate responsibility for the performance of the delegated function.

#### **Appointment of other staff**

28. (1) The Council shall appoint other staff of the Institute that are necessary for the proper and effective performance of its functions.

(2) Other public officers may be transferred or seconded to the Institute or may otherwise give assistance to it.

(3) The Institute may engage the services of advisers on the recommendations of the Council.

#### **Funds of the Institute**

29. (1) The funds of the Institute include

(a) moneys approved by Parliament,

(b) fees charged in the performance of the functions of the Institute,

(c) donations, grants and gifts, and

(d) any other moneys that are approved by the Minister responsible for Finance.

(2) The Institute shall retain funds internally generated from the activities of the Institute.

#### **Bank accounts of the Institute**

30. The Council shall open bank accounts for the Institute in reputable banks.

#### **Accounts and audit**

31. (1) The Council shall keep books of account and proper records in relation to them in the form approved by the Auditor-General.

(2) The Council shall submit the accounts of the Institute to the Auditor-General for audit within three months after the end of the financial year.

(3) The Auditor-General shall, not later than three months after the receipt of the accounts, audit the accounts and forward a copy of the audit report to the Minister.

(4) The financial year of the Institute is the same as the financial year of the Government.

#### **Annual report and other reports**

32. (1) The Council shall within one month after the receipt of the audit report, submit an annual report to the Minister covering the activities and the operations of the Institute for the year to which the report relates.

(2) The annual report shall include the report of the Auditor-General.

(3) The Minister shall, within one month after the receipt of the annual report, submit the report to Parliament with a statement that the Minister considers necessary.

(4) The Council shall also submit to the Minister any other reports which the Minister may require in writing.

#### *Miscellaneous provisions*

#### **Offences**

**33.** (1) A person who

- (a) makes a false declaration in an application for registration as a chartered tax practitioner or tax practitioner,
- (b) willfully and falsely uses a name or title implying a qualification to practise as a chartered tax practitioner or tax practitioner,
- (c) without being registered under this Act,
  - (i) practises or professes to practise as a chartered tax practitioner or tax practitioner, or
  - (ii) receives payment for the practice of taxation, or
- (d) willfully destroys or damages a register kept under this Act

commits an offence and is liable on summary conviction to a fine of not more than five thousand penalty units or to a term of imprisonment of not more than one year or to both.

(2) In the case of a continuing offence a person is liable to a further fine of ten penalty units for each day during which the offence continues after written notice has been served on the offender by the Institute.

#### **Regulations**

**34.** (1) The Minister may, on the advice of the Council, by legislative instrument, make Regulations to

- (a) prescribe practice standards for members of the Institute;
- (b) provide for the discipline of members;
- (c) prescribe the fees to be paid under this Act;
- (d) amend the Schedules to this Act; and
- (e) provide for any other matter necessary for the effective implementation of the provisions of this Act.

(2) A person who commits an offence under the Regulations is liable on summary conviction to a fine of not more than five thousand penalty units or to a term of imprisonment of not more than one year or to both.

#### **Interpretation**

**35.** In this Act, unless the context otherwise requires,

“Council” means the governing body of the Chartered Institute of Taxation established under this Act;

“Institute” means the Chartered Institute of Taxation established under this Act;

“Minister” means the Minister responsible for Education; and

“professional misconduct” means conduct specified in the Third Schedule.

#### **Transitional provisions**

**36.** (1) The rights, assets and liabilities accrued in respect of the properties vested in the Chartered Institute of Taxation (Ghana) established under the Professional Bodies Registration Act, 1973 (NRCD 143) immediately before the commencement of this Act and the persons employed by the Institute shall be transferred to the Chartered Institute of

Taxation established under this Act and accordingly proceedings taken by or against the former Institute may be continued by or against the Institute under this Act.

(2) A contract subsisting between the former Institute established under the Professional Bodies Registration Act, 1973 (NRCD 143) and another person and in effect immediately before the commencement of this Act shall subsist between the Institute under this Act and that other person.

### **Repeal and savings**

**37.** (1) The Chartered Institute of Taxation (Ghana) established under the Professional Bodies Registration Act, 1973 (NRCD 143) is hereby repealed.

(2) Despite the repeal of the Chartered Institute of Taxation (Ghana), the Regulations, bye-laws, notices, orders, directions, appointments or any other act lawfully made or done under the repealed enactment and in force immediately before the commencement of this Act shall be considered to have been made or done under this Act and shall continue to have effect until reviewed, cancelled or terminated.

(3) Registers in use immediately before the commencement of this Act and every document prepared or issued under NRCD 143 shall continue in force as if kept, prepared or issued under the corresponding provisions of this Act.

(4) The Council of the Chartered Institute of Taxation (Ghana) shall on the commencement of this Act be the first Council of the Institute and shall within three months after the commencement of this Act convene a general meeting of members of the Institute for the purpose of electing a new Council.

(5) Members and Fellows of the Chartered Institute of Taxation (Ghana) shall be members of the Institute as Ordinary members and Fellows respectively after the commencement of this Act

(6) A person who holds a qualification approved by the Council and is practising as a tax practitioner prior to the commencement of this Act may, within three months after the commencement of this Act, submit an application for membership of the Institute to the Council and on approval by the Council, shall be registered to continue as a tax practitioner.

**FIRST SCHEDULE**  
**Disciplinary Committee and its proceedings**  
**(Section 8 (4))**

1. (1) The Council shall appoint five persons, of whom at least three shall be from among its members, to constitute a Disciplinary Committee for the purposes of an inquiry to be held under Section 8 (4) of this Act.

(2) One of the members shall be appointed by the Council to be chairperson of the Disciplinary Committee.

(3) Where the person whose conduct is the subject of the investigation is a chartered tax practitioner or tax practitioner, membership of the Disciplinary Committee shall include a chartered tax practitioner or tax practitioner.

2. (1) The Council shall cause a statement to be prepared setting out the charges to be investigated by the Disciplinary Committee and the secretary of the Council shall submit a copy of the statement to each member of the Disciplinary Committee and to the person whose conduct is the subject of the inquiry.

(2) Where the inquiry is to be held in consequence of a petition or complaint alleging misconduct by any person, the secretary of the Council shall, in addition, transmit a copy of that petition or complaint to that person and to each of the members of the Disciplinary Committee.

3. (1) The secretary of the Council shall give notice of the first date fixed for the inquiry to the person whose conduct is the subject of the investigation.

(2) Each notice shall be sent to the last known address of the person and shall be delivered by hand or sent by registered mail, at least fourteen days before the date fixed for the inquiry.

(3) Where a person to whom a notice has been given, fails to appear in person or is not represented by counsel, the inquiry may be held by the Disciplinary Committee in the person's absence.

4. (1) If the Council is of the opinion that the evidence of a person or the production of a document by a person is necessary to enable a matter to be investigated by the Disciplinary Committee, the Council shall direct the secretary of the Council to require that person to attend or produce the document at a time and place specified in a notice which shall be addressed to and delivered at the last known place of residence of that person by hand or registered mail.

(2) A person commits an offence under this Act, if that person after being served with a notice, without reasonable cause fails to attend or produce a document at the time and place specified in the notice.

(3) The secretary of the Council shall be the secretary to the Disciplinary Committee and shall sign every notice issued for the purpose of a disciplinary proceeding.

(4) The Disciplinary Committee shall have power to administer oaths or affirmations to persons who are required to give evidence before the committee, and a person who refuses to be sworn or affirmed, or to answer questions put to that person concerning a matter in respect of which the inquiry is held, commits an offence.

(5) A person who willfully gives false evidence on examination on oath or affirmation before a Disciplinary Committee commits an offence.

(6) A person whose conduct is the subject of investigation at an inquiry or who is in anyway concerned or implicated in the inquiry may be represented by Counsel at the inquiry.

(7) The Council may authorise a legal practitioner to assist the Disciplinary Committee as to the leading and taking of evidence.

(8) Every inquiry held by a Disciplinary Committee shall be held in camera unless the Council otherwise determines.

(9) A question before a Disciplinary Committee shall be determined by the decision of the majority of the members of that committee present and voting at the meeting.

(10) Upon the conclusion of an inquiry, the Disciplinary Committee shall prepare and submit a report to the Council on their findings on the matters in respect of which the inquiry was held.

## **SECOND SCHEDULE**

### **Meetings of the Institute**

#### **(Section 10)**

#### **Annual General Meetings**

1. (1) The Council shall convene an Annual General Meeting of the Institute to

(a) elect members of the Council,

(b) approve the annual report of the Council, the audited accounts of the Institute and the auditor's report on the accounts,

(c) determine the allowances to be paid to members of the Council.

(2) The Annual General Meeting of the Institute shall be held not later than the 30th of June each year or on a date appointed by the Council but which date shall not be more than fifteen months from the date of the previous Annual General Meeting.

(3) The President of the Institute shall preside at each Annual General Meeting of the Institute and in the absence of the President of the Institute the Vice-President of the Institute shall preside.

(4) In the absence of both the President and the Vice-President of the Institute a member of the Council elected from among the members of the Council present at the meeting shall preside.

(5) In the absence of the officers specified under subsection (4), a member of the Institute shall be elected from amongst the members of the Institute present at the meeting, to preside.

(6) A member who intends to move a motion not related to the ordinary annual business of the Institute may do so when,

(a) notice in writing of the proposed motion is given to and received by the secretary not later than five weeks before the date of the Annual General Meeting,

- (b) not less than ten members entitled to vote at the Annual General Meeting have given notice in writing to the secretary of the Institute not later than four weeks before the date of the Annual General Meeting expressing a desire that the proposed motion be brought before the Annual General Meeting, and
- (c) the proposed motion relates to matters affecting the Institute or the taxation profession.

### **Special meeting**

2. (1) The Council may convene a special meeting of the Institute on its own or on receipt of a written request signed by not less than twenty members of the Institute.

(2) A request for a special meeting shall state the purpose of the proposed meeting and be submitted to the secretary to the Council.

(3) A special meeting of the Institute shall be adjourned if at least fifteen percent of the members of the Institute are not present for the meeting.

### **Notification of a meeting**

3. (1) The secretary shall send to each member of the Institute a notice giving the day, time, place of the meeting and the agenda for the meeting not less than fourteen days and not more than twenty-one days before an Annual General Meeting or Special Meeting of the Institute.

(2) The secretary shall send each member of the Institute

- (a) a notice of the meeting;
- (b) a copy of the annual report of the Council;
- (c) a copy of the audited accounts of the Institute with the auditors' report on the accounts;
- (d) a list of persons nominated for membership of the Council;
- (e) the name of any auditor for the Institute; and
- (f) particulars of motions to be moved at the meeting in the case of the Annual General Meeting.

(3) The non-receipt of the documents by a member of the Institute shall not invalidate the proceedings of the meeting to which they relate.

### **Quorum at a meeting of the Institute**

4. (1) Ten percent of the members of the Institute in good standing shall form a quorum for an Annual General Meeting of the Institute.

(2) Where this condition is not met, the meeting shall be adjourned for a period of not more than fourteen days to be held at the same hour and place or at a place determined by the Council.

(3) The adjourned meeting shall proceed to do business on the next adjourned date despite the fact that the members present do not form a quorum.

### **Adjournments**

5. (1) The person presiding at a meeting of the Institute may adjourn the meeting with the consent of the members present at the meeting.

(2) Business left unfinished at the previous meeting from which the adjournment took place shall take precedence over any other business to be transacted at an adjourned meeting.

### **Resolutions**

6. (1) Every resolution and amendment proposed and seconded at a meeting of the Institute shall be put to the meeting by the person presiding and decided by majority of members of the Institute present and voting.

(2) The person presiding shall in the event of an equality of votes cast have a casting vote.

(3) A declaration by the person presiding as to the decision of the meeting shall be final.

(4) A poll of members of the Institute present at a meeting and entitled to vote may be taken in writing prior to a decision made being declared, but a poll shall not be taken on a resolution or amendment relating to the election of the person presiding, the appointment of electoral officers or the adjournment of a meeting.

### **Polling at meetings**

7. (1) The person presiding at a meeting of the Institute at which a poll is demanded shall at the conclusion of the meeting, state any resolution or amendment in the form of a proposition which in the opinion of that person will be most suitable to ascertain the thinking of the members of the Institute on the substance of the resolution or amendment and the rendition of the person presiding shall be final.

(2) Voting papers setting out the propositions stated, together with necessary notes and directions shall within fourteen days after the meeting, be issued by the Council to all members of the Institute entitled to vote at the meeting at which the poll was demanded.

(3) Members of the Institute wishing to vote on a proposition shall do so by sending the voting papers to the Institute addressed to the electoral officers so as to be received by them not later than twenty-one days after the meeting.

(4) At each meeting of the Institute at which a poll is demanded, the meeting shall appoint five members of the Institute present from amongst their number as electoral officers, any three of whom shall form their quorum.

(5) The electoral officers shall reject the vote of a member of the Institute whose subscription or other sum payable by the person under this Act or Regulations made under this Act is in arrears at the date of the meeting, and may in their discretion, reject any vote where the voter has failed to observe the notes and directions relating to it or any other vote which in their view ought properly to be rejected.

(6) The electoral officers shall, report the result of the voting to the person presiding at the meeting as soon as is practicable and shall include in the report, a statement of the number of votes rejected by them and the reasons for their rejection.

(7) The person presiding shall send a copy of the report to each member of the Institute as soon as is practicable and where there is an equality of votes, the person presiding shall have a casting vote and declare when sending the report, the manner in which the casting vote is given and the result of the voting.

(8) The facts contained in the report of the electoral officers as to the result of the voting or the declaration by the person presiding, shall be conclusive.

(9) The results from the voting shall take effect from the date of the report of the electoral officers except that where a meeting was adjourned to receive the report of the electoral officers the voting shall take effect from the date when the report was presented to the adjourned meeting.

(10) Where the person presiding is unable to exercise powers granted to that person, the power shall be exercised by a member of the Council who is present at the meeting and authorised by the Council to exercise the powers.

**THIRD SCHEDULE**  
**Professional misconduct**  
**(Section 35)**

“Professional misconduct” on the part of a member of the Institute includes the member

- (a) paying or agreeing to pay or allowing to be paid to a person other than a chartered tax practitioner or a tax practitioner, a retired partner, a nominee or the legal representative of a retired partner, any share, commission or brokerage out of the fee or profits from professional services,
- (b) soliciting clients or professional work either by circular, advertisement, personal communication or interview or by other means,
- (c) advertising professional attainments or services or making paid announcements in the media except when
  - (i) applying to prospective employers for a salaried appointment,
  - (ii) advertising a professional appointment opening directed only to members of the profession concerned,
  - (iii) advertising in any media for employees,
  - (iv) advertising in any media of change of address,
  - (v) notifying correspondents of a change of address
- (d) disclosing information acquired in the course of professional engagement to another person without the consent of the client or otherwise than as required by any law,
- (e) unless where the position of a chartered tax practitioner or tax practitioner becomes vacant as a result of death of the previous office holder, accepting a position as a chartered tax practitioner or tax practitioner previously held by another member of the Institute without prior notice in writing given to the previous office holder of the offer made,
- (f) certifying or submitting in the member’s name or in the name of the member’s firm a professional work, unless the work was made by the

member, a partner of the member or an employee in the member's firm,

- (g) expressing an opinion on the tax affairs of a business or an enterprise in which the member, the member's firm or partner in the member's firm has substantial interest, unless the member disclosed the interest in the report which expressed the opinion,
- (h) charging in respect of any professional employment, fees which are based on a percentage of profits or which are contingent on results,
- (i) gross negligence in the conduct of professional duties,
- (j) expressing a professional opinion without sufficient information to arrive at the opinion,
- (k) failing to keep moneys of a client in a separate bank account or to use a client's money for purposes other than for which it was intended,
- (l) including in a statement, a return or form submitted to the Council, particulars knowing them to be false,
  - (i) allowing another person to practise in the member's name as a chartered tax practitioner or a tax practitioner, unless that person is also a chartered tax practitioner or a tax practitioner and is a partner or employed by the member,
  - (ii) entering into a partnership with a person other than a chartered tax practitioner,
  - (iii) being a member of a firm to practise taxation whose membership is not restricted exclusively to chartered tax practitioner and tax practitioners.

Despite the foregoing definition a member of the Institute does not commit professional misconduct by reason only that the member

- (a) entered into or is in partnership with a person resident outside Ghana who is a member of a society or Institute of tax professionals approved by the Council,
- (b) secured professional business as a result of the partnership entered into in paragraph (a),
- (c) allowed the partnership mentioned in paragraph (a) to be carried on in the member's name, or
- (d) paying or allowing or agreeing to pay or allow any such partner any share out of the fees or profits.