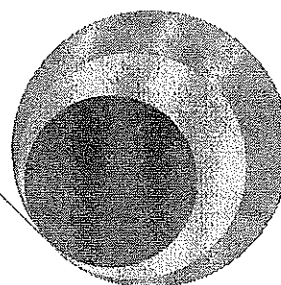
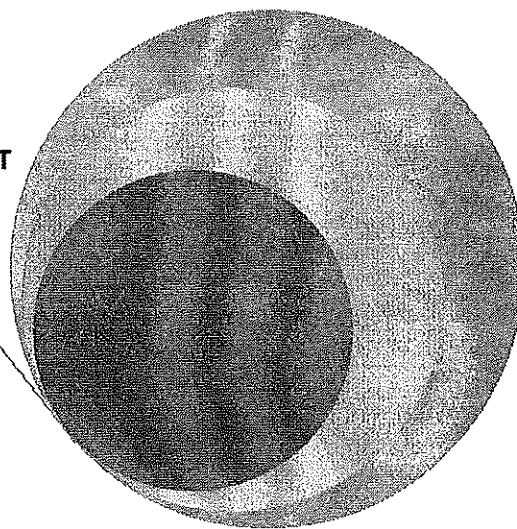
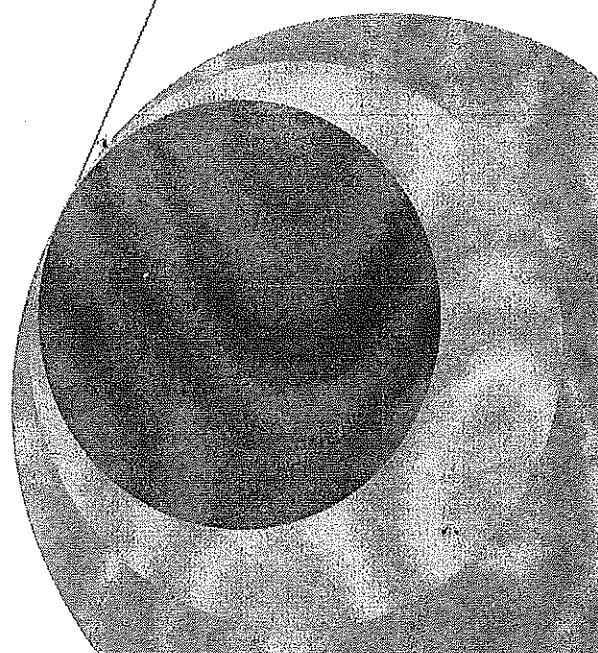


IN THE FIRST SESSION OF THE FIFTH PARLIAMENT  
OF THE FOURTH REPUBLIC OF GHANA

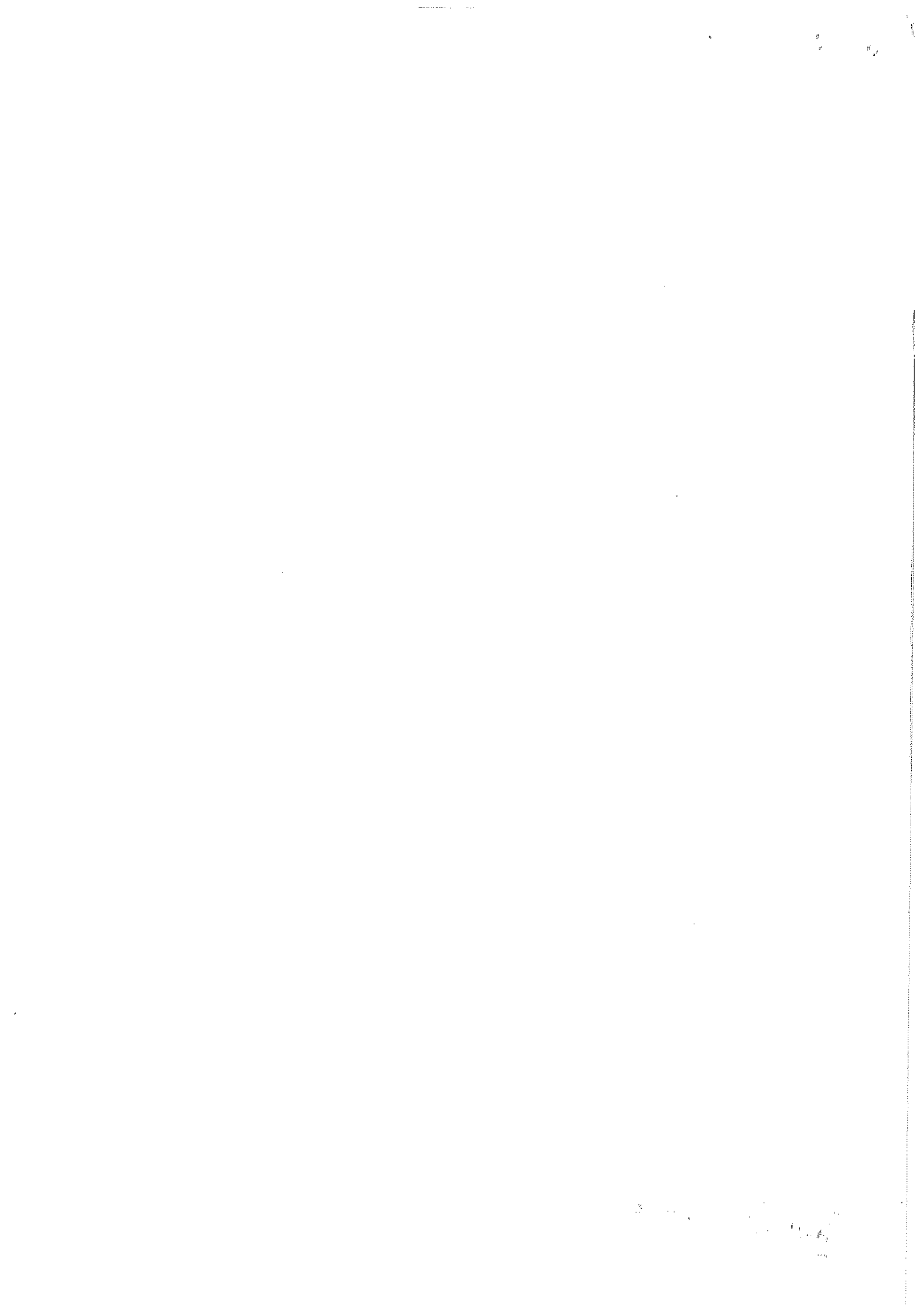


**REPORT OF THE  
FINANCE COMMITTEE  
ON THE GHANA  
REVENUE AUTHORITY  
BILL, 2009**

10/12/2009



PARLIAMENT OF GHANA LIBRARY



## **1.0 INTRODUCTION**

The **Ghana Revenue Authority Bill, 2009** was presented and *read the first time* in the House on Wednesday 25<sup>th</sup> November, 2009 and subsequently referred to the Finance Committee for consideration and report in accordance with article 103 and order number 169 of the Standing Orders of the House.

The Committee met and considered the Bill with the Deputy Minister of Finance and Economic Planning, Hon. Seth Terkper, the Executive Secretary of the Revenue Agencies' (Governing) Board, Hon. Samuel Sallas-Mensah, Commissioners and officials of the Internal Revenue Service (IRS), Customs, Excise and Preventive Service (CEPS) and Value Added Tax (VAT) Service as well as officials from the Ministry of Finance and Economic Planning and hereby submits this report.

## **2.0 BACKGROUND**

In 1983, Ghana as part of her Economic Recovery Programme (ERP) pursued major reforms in her revenue administration by establishing a National Revenue Secretariat and appointing a Minister responsible for Revenue. This resulted in the removal of the revenue departments from the civil service structure and made them semi-autonomous. Separate legal entities were created with governing boards.

The revenue agencies were created separately from the civil service in order to enable them attract qualified officers to the sector, to facilitate the procurement of equipment and logistics and give the revenue agencies a percentage retention of their collections to fund their operations. The separation was also to enable them hire and fire without having to go through the civil service bureaucracy and allow the revenue agencies prepare and own their budgets.

Whilst these reforms achieved some successes, it was realised in 1998 that the creation of the revenue agencies and the efficiencies hoped for could no longer be sustained by the existing structure. To improve on

the situation therefore, an attempt was made to embark on another reform of revenue administration with the passing of the Revenue Agencies' (Governing) Board Act, 1998 (Act 558) by Parliament to establish a Revenue Agencies' (Governing) Board (RAGB).

Act 558 was to provide for supervision and co-ordination of the revenue agencies and ensure efficient, effective, fair and optimum collection of taxes in the country. RAGB was to generally direct the revenue agencies on revenue related policies, to monitor the performance of the revenue agencies in carrying out their functions and to recommend to the Minister responsible for Finance measures for the effective collection of taxes and non-tax revenue. With the establishment of the Revenue Agencies' (Governing) Board (RAGB), synergy appeared to have been instilled from the new structure. Revenue generation improved but has currently stalled.

Considering that the Revenue Agencies' (Governing) Board (RAGB) has reached its pinnacle and is no longer appropriate, it is advisable for the country to adopt a single revenue authority to reap the benefits derivable from this arrangement.

## **2.1 APPRECIATION**

The Committee wishes to express its profound gratitude to the following persons who attended upon the Committee or sent in written memoranda to assist the Committee in its deliberations on the Bill:

1. The Minister for Finance and Economic Planning, Hon Dr. Kwabena Duffour
2. Deputy Minister of Finance and Economic Planning, Hon. Seth Terkper
3. The Executive Secretary of the Revenue Agencies Governing Board, Hon. Samuel Sallas-Mensah
4. Commissioners of the various revenue agencies
5. Senior Staff Association of the Customs, Excise and Preventive Service (CEPS)
6. Junior Staff Associations of VAT, CEPS and IRS

7. Public Services Workers Union (PSWU)
8. Federation of Associations and Unions of National Revenue Agencies (FAUNRA)
9. Officials from the Ministry of Finance and Economic Planning
10. Draftspersons from the Attorney-General's Department
11. Ghana Chamber of Commerce and Industry

### **3.0 PURPOSE OF THE BILL**

The purpose of the Bill is to establish a *Ghana Revenue Authority* to replace the Internal Revenue Service (IRS), the Customs, Excise and Preventive Service (CEPS) and the Value Added Tax (VAT) Service to provide a more integrated revenue agency for the administration of revenue collection. It is also to provide a holistic approach to tax administration with greater enforcement powers and respond to taxpayer's behaviour in an integrated manner, reduce compliance cost and provide better services to taxpayers.

### **4.0 CONTENTS OF THE BILL**

The Bill contains a total of thirty-one clauses and one schedule.

*Clause 1* establishes the National Revenue Authority as a body corporate with the right to enter into contracts, sue and be sued and to own movable and immovable property.

*Clause 2* specifies the objects of the Authority to include the provision of a holistic approach to tax administration and reduction of compliance cost.

*Clause 3* provides for the functions of the Authority. These include assessment and collection of taxes, interests and penalties due with optimum efficiency and the promotion of tax compliance and tax education.

The establishment of a Board to be the governing body of the Authority, its functions, tenure of office of its members and meetings are provided for in *clauses 4, 5, 6 and 7*.

*Clause 8* prohibits conflict of interest by members of the Board of the Authority.

Committees of the Board, allowances and ministerial directives are provided for in *clauses 9, 10 and 11*.

*Clause 12* makes provision for the establishment of departments, regional and district offices of the Authority.

*Clauses 13, 14 and 15* provide for the appointment, functions, suspension and removal of the Chief Executive Officer of the Authority in the person of the Commissioner-General whilst *clause 16* caters for the appointment of Commissioners and other staff of the Authority.

The appointment and participation of the management team in the meetings of the Board and the power of the board to make rules for matters of organisational structure are respectively captured in *clauses 17, 18 and 19*. *Clause 20* ensures co-operation of the Authority with public and private institutions and bodies to enhance efficiency.

*Clause 21* requires revenue collected by the Authority to be paid into the Consolidated Fund and further provides for the retention of a percentage of revenue collected by the Authority.

*Clauses 22 to 27* stipulate the funds of the Authority, the appointment of an internal auditor, documents, annual budgets and reports of the Authority.

Finally, the Bill makes provisions for miscellaneous matters such as Regulations, interpretation, transitional provisions, and repeals and savings in *clauses 28 to 31*.

The *SCHEDULE* to the Bill specifies the various enactments and the extent to which they are to be amended or repealed.

## **5.0 OBSERVATIONS**

The Committee observed that the tax system in its present form is bedevilled with several challenges including the fragmentation of the *domestic* tax administration between the Vat Service and the Internal Revenue Service resulting in duplication of functions.

Again, the current system is plagued by high compliance costs for taxpayers, ineffective compliance strategies and duplication of activities across revenue agencies operating independently of each other without harmonisation.

The Committee noted that the creation of the Ghana Revenue Authority (GRA) would facilitate the pursuit of reforms including computerisation and organisational changes.

The Committee further noted that Government's commitment to establish a Ghana Revenue Authority was outlined in the Budget and Economic Policy Statement of the Government for the year 2009 (paragraph 1013) that was passed by this Honourable House.

The Committee was informed that upon the passage of the Bill and completion of the intended reforms, the organisation and operations of VAT Service and IRS would be integrated into "domestic" tax administration whilst "customs" would stand as a division of the Authority. There will be a third division to provide "support services" to all divisions of the Authority.

Members noted with satisfaction that the Bill makes provision to disqualify Board Members of the Authority who have interest in a matter for consideration by the Board from participating in the deliberations of

the Board in respect of that matter. This would help check conflict of interest and reduce corruption.

It was further noted that provision has been made in the Bill for persons employed by the existing revenue agencies to be transferred to the Authority.

The Deputy Minister of Finance and Economic Planning, Hon. Seth Terkper informed the Committee that special training would be provided for officers of the Authority in specialised areas such as banking, insurance, mining, oil and gas among others to ensure the optimum collection of revenue from these sectors.

Members urged the Ministry of Finance and Economic Planning (MOFEP) and the Ghana Revenue Authority (GRA) when established to endeavour to fight corruption in revenue administration so as to enhance revenue collection.

Representatives of employee associations/unions of the various revenue agencies who appeared before the Committee upon invitation expressed total support for the Bill and the policy to integrate the revenue agencies to ensure optimum collection of revenue.

They were however of the view that labour relations issues have not been adequately addressed in the Bill. The unions also wanted more administrative power to be given to the management of the Authority rather than the Board. They were of the opinion that the Board should not be given excessive powers to micro-manage the Authority.

The Committee advised the various associations/unions to endeavour to educate and sensitize their members on the provisions of the Bill and safeguards provided for them so as to bridge the seeming information gap and forestall unnecessary panic and agitations.



## 6.0 AMENDMENTS PROPOSED

Upon critical examination of the Bill, the Committee respectfully proposes the following amendments to the Bill:

- i. Clause 2 – **Amendment proposed** – paragraph (d)(i), *delete*
- ii. Clause 2 – **Amendment proposed** – paragraph (e) *delete* “departments” and *insert* “divisions”
- iii. Clause 2 – **Amendment proposed** – paragraph (h) line 2, *delete* “generation in the public interest” and *insert* “administration”
- iv. Clause 3 – **Amendment proposed** – paragraph (a), *delete* sub-paragraphs (i) and (ii)
- v. Clause 3 – **Amendment proposed** – paragraph (b) *delete* line 1 and *insert* “pay the amounts collected”
- vi. Clause 3 – **Amendment proposed** – paragraph (f) line 2, after “collection” *delete* all words.
- vii. Clause 3 – **Amendment proposed** – paragraph (h) line 2, after “to” *insert* “it”
- viii. Clause 4 – **Amendment proposed** – Sub-clause (1)(f), *delete* and *insert* “four other individuals with considerable professional expertise, two of whom are women”
- ix. Clause 4 – **Amendment proposed** – Sub-clause (3), *Delete*
- x. Clause 5 – **Amendment proposed** – Sub-clause (1)(a) after “functions” in line 2, *delete* all words.

- xi. Clause 5 – **Amendment proposed** – Sub-clause (1)(c) line 1, *delete* “drawing up” and *insert* “determination”
- xii. Clause 5 – **Amendment proposed** – Sub-clause (1)(d), *delete*
- xiii. Clause 6 – **Amendment proposed** – Sub-clause (4), *delete* “other than the Commissioner-General and the Governor of the Bank of Ghana”
- xiv. Clause 8 – **Amendment proposed** – Sub-clause (2) *delete* “ceases to be a member” and *insert* “shall be removed from the Board”
- xv. Clause 12 – **Amendment proposed** – Sub-clause (1) line 1, *delete* “departments” and *insert* “divisions”
- xvi. Clause 14 – **Amendment proposed** – Sub-clause (5) line 2, before “shall” insert “in consultation with the Board”
- xvii. Clause 15 – **Amendment proposed** – Sub-clause (1) line 2, after “President” *delete* “on the recommendation of the Minister” and *insert* “for any of the following”
- xviii. Clause 15 – Amendment proposed – Sub-clause (2), *delete*
- xix. Clause 17 – Amendment proposed – *Delete*
- xx. Clause 19 – **Amendment proposed** – *Delete*
- xxi. Clause 20 – **Amendment proposed** – *delete* and insert the following:
  - “Co-operation with the Authority**
  - (1) A person shall co-operate with the Authority to ensure the assessment and optimum collection of revenue.

- (2) A person who fails to co-operate with the Authority to ensure the assessment and optimum collection of revenue commits an offence and is liable on summary conviction to a fine of not more than five hundred penalty units or to a term of imprisonment of not more than two years or to both.
- (3) In the case of continuing offence 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 Authority.
- xxii. Clause 21 – **Amendment proposed** – Sub-clause (2), delete and insert the following:  
“The Authority shall retain not more than 3 percent of the net annual revenue collected”
- xxiii. Clause 21 – **Amendment proposed** – Sub-clause (3), *delete* and insert the following:  
“The revenue retained under sub-section (2) shall, with the approval of the Minister, be applied for the payment of salaries, allowances, operational and administrative expenses and other expenditure of the Authority”
- xxiv. Clause 23 – **Amendment proposed** – Sub-clause (1), *delete* and *insert* “The Board shall appoint an internal auditor for the Authority”
- xxv. Clause 23 – **Amendment proposed** – Sub-clause (2) line 1, *delete* “is answerable” and *insert* “shall report”
- xxvi. Clause 24 – **Amendment proposed** – *Delete*
- xxvii. Clause 25 – **Amendment proposed** – Headnote, before “Authority” *insert* “the”

- xxviii. Clause 25 – **Amendment proposed** – Sub-clause (1), after “expected” in line 4, *delete* “recurrent income and expenditure capital” and *insert* “income and expenditure”
- xxix. Clause 25 – **Amendment proposed** – Sub-clause (2), *Delete*
- xxx. Clause 26 – **Amendment proposed** – Sub-clause (1) line 1, *delete* “Board” and *insert* “Authority”
- xxxi. Clause 26 – **Amendment proposed** – Sub-clause (3) line 2 *delete* “end of the financial year” and *insert* “receipt of the accounts”
- xxxii. Clause 27 – **Amendment proposed** – Sub-clause (4) line 1, *delete* “Ministry” and *insert* “Minister”
- xxxiii. Clause 28 – **Amendment proposed** – paragraph (a) *delete* and *insert* “(a) in respect of domestic tax in accordance with the applicable provisions of the Internal Revenue Act, 2000 (Act 592) and the Value Added Tax Act, 1998 (Act 546)”
- xxxiv. Clause 28 – **Amendment proposed** – paragraph (b), *delete* and *insert* “(b) in respect of customs and excise tax in accordance with the applicable provisions of the Customs, Excise and Preventive Service (Management) Act, 1993 (PNDCL 330)”
- xxxv. Clause 28 – **Amendment proposed** – paragraph (c), *delete*
- xxxvi. Clause 29 – **Amendment proposed** – Line 1, *delete* “other wise” and *insert* “otherwise”
- xxxvii. Clause 29 – **Amendment proposed** – Definition of “Commissioner-General” line 2, *delete* “section 14” and *insert* “section 13”

xxxviii. Clause 29 – **Amendment proposed** – Definition of “department”, *delete*

xxxix. Clause 29 – **Amendment proposed** – Definition of “public interest” *delete*

xl. Clause 29 – **Amendment proposed** – Definition of “revenue agencies” line 1, *delete* “and” and at the end of line 3 *add* “that existed prior to the coming into force of this Act”

xli. Clause 29 – **Amendment proposed** – Definition of “tax treaty”, *delete* “a bilateral” and insert “an”

Clause 31 – **Amendment proposed** – Add the following sub-clauses

“A reference in any enactment to the Commissioner of Internal Revenue Service, the Customs, Excise and Preventive Service or the Value Added Tax Service shall be read as a reference to the Commissioner-General provided for under this Act”

“A reference to the Internal Revenue Service, the Value Added Tax Service or the Customs, Excise and Preventive Service in an enactment in existence immediately before the coming into force of this Act shall be read as a reference to the Authority”

xlii. Add a new clause as follows

**“3B. Divisions of the Authority**

The Authority shall have the following divisions

- (a) Domestic Tax Revenue Division
- (b) Customs Division
- (c) Support Services Division, and
- (d) Any other division determined by Parliament

xliii. *Add* a new clause as follows:

**"Transitional operational arrangements**

30(A). Despite the repeal of the Internal Revenue Service Act, 1986 (PNDCL 143) and the amendments in the Schedule to substitute "Commissioner-General" for "Commissioner" wherever it appears in an enactment, until the Commissioner-General is appointed under section 13, the Commissioner of each revenue agency shall continue to perform the functions of a Commissioner under the relevant enactment"

xliv. Long Title – **Amendment proposed** – lines 1 and 2, *delete* "co-ordinate, integrate and ultimately"

**7.0 CONCLUSION**

The Committee has carefully considered the Bill and found that its passage would help streamline revenue administration, reduce compliance cost and provide better services to taxpayers.

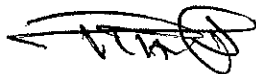
The Committee therefore recommends to the House to *pass* the **Ghana Revenue Authority Bill, 2009** subject to the Amendments proposed.

Respectfully submitted.



**HON. JAMES KLUTSE AVEDZI**

**CHAIRMAN**



**PEACE A. FIAWOYIFE (MS.)**

**CLERK**

**10<sup>TH</sup> DECEMBER, 2009**

