

# REPORT OF THE FINANCE COMMITTEE

*ON*

## THE INCOME TAX BILL, 2015

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**1.0 INTRODUCTION**

The Income Tax Bill, 2015 was presented to Parliament by the Hon. Minister for Local Government and Rural Development, Alhaji Collins Dauda on behalf of the Hon. Minister for Finance and read for the first time on Thursday, 26<sup>th</sup> March, 2015. The Rt. Hon. Speaker referred the Bill to the Finance Committee for consideration and report in accordance with Article 174(1) of the 1992 Constitution and Order 169 of the Standing Orders of the Parliament of Ghana.

The Committee was assisted in its deliberations by the Hon. Minister for Finance, Mr. Seth E. Terkper, the Hon. Deputy Ministers of Finance, Mr. Cassiel Ato Baah Forson and Mrs. Mona K. Quartey, the Commissioner-General of the Ghana Revenue Authority (GRA) and Officials from the Ministry of Finance, Attorney-General's Department and GRA. The Committee is grateful to the Hon. Minister, Hon. Deputy Ministers, Commissioner-General and Officials from the Ministry of Finance, Attorney-General's Department and the GRA for the assistance.

**2.0 REFERENCE**

The Committee referred to the following additional documents during its deliberations:

- The 1992 Constitution of Ghana;
- The Standing Orders of the Parliament of Ghana;
- The Internal Revenue Act, 2000, (Act 592) with Amendments Acts: 622, 644, 669, 684, 700, 710, 731, 757, 776, 797, 814, 839, 853, 859, 871 and 885; and

- The Internal Revenue Regulations (L.I. 1675 with Amendments) (L.I. 1831, L.I. 1830, L.I. 1829, L.I. 1821, L.I. 1820, L.I. 1819, L.I. 1811, L.I. 1810, L.I. 1803, L.I. 1727 and L.I. 1698)

### **3.0 BACKGROUND**

The passage of the Ghana Revenue Authority Act, 2009 (Act 791) integrated the erstwhile three main revenue agencies namely the Internal Revenue Service (IRS), Value Added Tax Service (VATS) and Customs, Excise and Preventive Service (CEPS) to form the Ghana Revenue Authority (GRA).

Prior to the passage of Act 791, the erstwhile revenue agencies had their respective tax laws made up of both the charging provisions and administrative provisions. Some of the administrative provisions were common to the respective tax laws while other provisions were inconsistent with similar ones in these tax laws. In pursuance of harmonization, all the common administrative provisions in the previous tax laws have been pooled together into a single legislation, the proposed Revenue Administration Bill. There is therefore the need to recognize the residual provisions in the respective revenue Acts.

The Income Tax Bill therefore seeks to reorganise the rest of the income tax law provisions to simplify the provisions and make it more user friendly. Provisions that are peculiar to income tax administration have been retained in the Bill. The provisions which specifically guide the different methods and time for payment including tax payable by withholding, tax payable by installment and tax payable by assessment have also been retained and improved to enhance efficiency and facilitate compliance.

### **4.0 PURPOSE OF THE BILL**

The purpose of the Bill is to revise and consolidate existing laws relating to income tax.

## 5.0 DIVISIONS OF THE BILL

The Bill has been divided into ten (10) Parts with each having a minimum of three divisions. In all there are a hundred and thirty-nine (139) Clauses with seven (7) Schedules.

*Clause 1* specifies the persons required by law to pay income tax for each year of assessment and the mode of calculation in respect of the income tax payable while clause 2 provides for the chargeable income of a person for a year of assessment.

*Clause 3* provides that the assessable income of a person for each year of assessment is the income of that person from an employment, business or investment less the total amount of deduction allowed that person under this Bill. The clause further provides that the income from an employment, business or investment has a source in Ghana if the income accrues in or is derived from Ghana.

*Clauses 4, 5 and 6* relate to income from employment, business and investment respectively. The clauses provide for what constitutes an income of an individual from an employment, business or investment for a year of assessment.

The clauses further stipulate amounts to be included and excluded in ascertaining the profits and gains of an individual from an employment, business and investment respectively for a year of assessment or for a part of that year.

*Clause 7* enumerates income exempt from tax. These include, among others, the salary, allowances, facilities, pension and gratuity of the President in accordance with article 68 (5) of the Constitution, the income from cocoa of a cocoa farmer and the income of a person, receiving instruction at an educational institution from a scholarship, exhibition, bursary or similar educational endowment.

The Commissioner-General is mandated under clause 8, to disallow a deduction for the purpose of ascertaining the income of a person from employment or a deduction in respect of domestic or excluded expenses incurred by a person.

Residual deduction rules which allows expenses wholly, exclusively and necessarily incurred by the person in the production of the income from the investment of business during the year to be deducted from the incomes is provided for under clause 9.

Interest is dealt with under clause 10.

Clause 11 requires a person who is ascertaining the income of that person or of another person from a business for a year of assessment to deduct in respect of trading stock of the business, the allowance calculated in accordance with the procedure specified in sub clause (2).

Clause 12 relate to deductions in respect of repairs and improvements.

Clause 13 permits the deduction of a research and development expenses that meets the requirements of clause 9 (1) irrespective of whether the expenses is of a capital nature.

Capital allowances is dealt with under clause 14. The clause allows capital allowances to be deducted for purposes of ascertaining the income of a person from a business for a year of assessment.

Clause 15 is on losses on realisation of assets and liabilities.

Clause 16 sets out the limits on deductions in respect of financial costs.

Losses from business or investment are allowed as deduction under clause 17.

Clause 18 defines a year of assessments and the basis period of a person.

Under clause 19, provision is made for the usage of the generally accepted accounting principles as regards the timing of inclusions and deductions in calculating the income of a person during a basis period subject to the provisions of this Bill.

Clauses 20 and 21 provide for the usage of the cash basis or accrual basis of accounting in calculating the tax base of an individual depending on the method which clearly reflects the income of that individual.

Clause 22 deals with claims of right whiles clause 23 provides that where a person deducts an expense or includes an amount in calculating the income of that person and that person later recovers the expenses or refunds the amount, that person is required to include the amount recovered or deduct the amount refunded in calculating the income of that person.

Calculation of the assessable income of a person with respect to a long term contract is provided for under clause 24.

Foreign currency and financial instruments are dealt with under clause 25.

Clause 26 to 34 addresses issues of quantification, allocation and characterization of amounts used in the calculation of a tax base.

Clause 26 provides that a payment or an amount to be included in income or deducted from income is quantified in accordance with the amount specified in the fourth schedule or prescribed by regulations in any other case in accordance to the market value.

Clause 27 deals with indirect payments.

Clause 28 provides for jointly owned investments whiles clause 29 deals with compensation and recovery payments.

Clause 30 deals with annuities, instalment sales and finance leases.

Clause 31 provides for dealing at arm's length and arrangements between persons who are in controlled relationships.

Clause 32 deals with income splitting.

Clause 33 and 34 deals with thin capitalization and general anti-avoidance rule respectively.

Clause 35 is on the mode of calculating a gain or loss made by a person from the realization of an asset or liability.

Clauses 36 and 37 outline what constitutes the cost of an asset and consideration received in respect of an asset of a person.

Clause 38 provides for the circumstances under which a person who owns an asset is considered to have realised the asset.

Clause 39 applies the provisions of clauses 37 and 38 of the Bill to the cost and the consideration received for a liability of a person whereas clause 40 deals with reverse, quantification and compensation of amounts.

Method for the determining cost of trading stock and other fungible assets is provided for in clause 41 while clause 42 deals with realization and retention of assets.

Clause 43 deals with the transfer of assets to spouse or former spouse whereas clause 44 caters for transfer of assets on death.

Transfer of ownership of the asset to a person who is in a controlled relationship with that person, by way of gift other than a will, upon intestacy by a way of transfer to the spouse, child or parent of that person is treated under clause 45.

Clause 46 enumerates the circumstances under which realisation of assets with replacement asset applies.

Realisation of an asset due to a merger, amalgamation or re-organisation is provided for under clause 47 while clause 48 deals with transfer by way of security, finance lease or instalment sale of assets.

Clauses 49 and 50 respectively deal with realisation by separation and apportionment of cost and consideration received in instances where a person acquires or realizes more than one asset.

Clause 51 to 62 deals with rules governing types of persons.

Clause 51 is on personal reliefs.

Under clause 52, principle of taxation relating to partnership is dealt with. Clause 53 provides for the assessment of income or loss from the business of a partnership.

Clause 54 mandates a person ascertaining the income of a partner from a partnership for a year of assessment to include the share of a partner of any partnership income or deduct

the share of that partner in any loss incurred by the partnership for the relevant partnership year.

Clause 55 enumerates the amount required to be included in calculating the cost of a membership interest of a partner in a partnership and the amount required to be included in calculating the consideration received for a membership interest of a partner in a partnership.

Clause 56 deals with taxation of trusts whiles clause 57 is on taxation of a beneficiary of a trust.

Clause 58 provides for the taxation of companies. Taxation of shareholders is provided for under clause 59 and a Branch profit tax is dealt with under clause 60.

Clauses 61 and 62 address the issues of tax dealings between entities and members of the entities and change in control of entities respectively.

Clause 63 to 100 deals with special industries. Clause 63 imposes a petroleum income tax on the income of a person with respect to petroleum operation.

The applicable rules where a development plan for a petroleum agreement area is approved are spelt out in clause 64.

Clause 65 relates to the exploration and development operations conducted by a person as part of a separate petroleum operation before the commencement of petroleum production.

Clause 66 outlines what constitutes the income of a person from petroleum operations for a year of assessment.

Deductions allowed in determining income derived from petroleum operations are contained in clause 67 whiles losses from petroleum operation are dealt with under Clause 68.

Clause 69 relates to disposal of petroleum rights and clause 70 deals with decommissioning fund.

Clause 71 deals with withholding tax for petroleum operations.



Furnishing of quarterly and annual returns of income are respectively dealt with under clauses 72 and 73.

Clause 74 empowers the Commissioner-General to request for further information as to the matters in connection with the quarterly returns and annual returns or any other matter for determination of the assessment of that person.

Clause 75 deals with payment of tax by quarterly instalment and Clause 76 provides for the interpretation of words relating to petroleum operations.

Clause 77 to 86 deals with mining operations.

Clause 77 imposes tax on the income of a person where the income of that person is derived from mining operations.

Clause 78 provides for separate mineral operations which are made up of a mineral operation pertaining to each mine and mineral operation with a shared processing facility.

Clause 79 applies to reconnaissance and prospecting operations conducted by a person as part of a separate mineral operation before the commencement of production of a commercial find.

Clause 80 is subject to clause 79 with respect to income from mineral operations. Clause 80 identifies other revenues that should be included in ascertaining the income of a person from a mineral operation for a year of assessment.

Clause 81 identifies the income that should be deducted in ascertaining the income of a person from a separate mineral operation for a year of assessment.

Clauses 82 and 83 deal with losses from mineral operations and disposal of mineral rights respectively.

Clause 84 exempts from tax an amount accumulated in or withdrawn from an approved rehabilitation fund for the purpose of rehabilitation of the area which is the subject of the mining lease. Withholding tax relating to minerals operations is provided for under clause 85.

Clause 86 deals with interpretation with respect to words used in clause 77 to 86.

Division III of Part VI which relate to financial institutions consists of clause 87 to 92 of the Bill.

Clauses 87 and 88 respectively deal with the banking business and provision for a debt claim.

Matters of general insurance business are provided for under clause 89.

Clauses 90 and 91 provide for life insurance business and proceeds from insurance respectively. Clause 92 deals with interpretation in respect of Division III of Part VI of the Bill.

Division IV of Part VI of the Bill which is made up of clause 93 to 96 deals with retirement savings.

Clause 93 clarifies the relationship between these divisions of the Bill and the National Pensions Act, 2008 (Act 766). Division IV of this Part is subject to Act 766, Clause 93.

Clause 94 exempts from tax, retirement contributions received by a retirement fund and those retirement contributions are not consideration received for an asset or liability of the fund.

Clauses 95 and 96 provide for retirement payments from retirement funds and interpretation of words used in Division IV of Part VI of the Bill respectively.

Public, mutual and non-profit causes are provided for in Division V of Part VI of the Bill.

The Commissioner-General is empowered under clause 97 to approve an entity as a charitable organization for purposes of the Bill.

Clause 98, 99 and 100 provide for clubs and trade associations, building societies and friendly societies, and contributions and donations to a worthwhile cause respectively.

Part VII of the Bill is made up of three Divisions, namely, residence and source (Division I), permanent establishment (Division II) and foreign source of income of a resident (Division III).

The circumstances under which a person, that is an individual, a partnership, a trust and a company, may be considered as a resident in the country for a year of assessment are indicated under clause 101 of the Bill while clause 102 deals with change of residence.

Source of income and quarantining of foreign losses are considered under clause 103.

Clause 104 provides for determination of income that has its source in the country. Clauses 105 and 106 provide for payments sourced from the country and interpretation of words used in Division I of Part VII respectively.

Principles of taxation relating to permanent establishment is treated under Clause 107.

Activities, assets and liabilities of permanent establishment are dealt with under clause 108

Clause 109 provides for the income or loss of a permanent establishment. Under clause 110, the words used in Division II of Part VII have been interpreted.

Principles of taxation relating to source of income of a resident and claim of foreign tax credit are respectively dealt with under clauses 111 and 112.

Part VIII is on tax payment procedure and made up of four Divisions. Division I is in respect of general obligations, Division II is on tax payable by withholding, Divisions three and four deal with tax payable by installment and tax payable on assessment respectively.

The method for the payment of tax imposed under section 1 of the Bill are payment by withholding, payment by installment, and payment on assessment, clause 113.

Clauses 114, 115 and 116 provide for withholding of tax for employer, withholding of tax from investment returns and withholding of tax from the supply of goods, services and fees and contract payment respectively.

Obligations of a withholding agent are specified under clauses 117, 118, 119 and 120.

Clauses 121, 122 and 123 deal with payment of tax payable by instalment while tax payable on assessment is provided for under clauses 124 to 126.

The power of the Minister to make Regulations in respect of matters under Part VIII of the Bill is set out in clause 127.

Part IX of the Bill comprises 128 to 133.

Clause 128 provides for the circumstances under which two or more persons may be considered as persons in a controlled relationship.

Circumstances under which an entity can be considered as a company is described under clause 129.

Clauses 130, 131 and 132 are in respect of domestic and excluded expenditure, financial instruments and derivative amount respectively. Words used generally in the Bill are interpreted under clause 133.

Part X of the Bill, clauses 134 to 139 deals with temporary and transitional provisions.

Tax rates, modified taxation, capital allowances, quantification of benefits, personal reliefs, temporary concession and tax administration are provided for in the First, Second, Third, Fourth, Fifth, Sixth and Seventh Schedules respectively.

## 6.0 OBSERVATIONS

Emphasizing on some of the mischiefs the Bill seeks to cure, the Commissioner-General (C-G) indicated that the 14 years of the implementation of the Internal Revenue Authority Act, 2000 (Act 592), has revealed the narrowness and distortedness of the country's tax base. The CG argued that in an era where many countries have broadened their tax base and lowered tax rates, the Ghanaian tax base seems to have been narrowed although tax rates have also gone down. It was indicated that broadening of the tax base was one of the rationales for the reforms carried out in the years 1999 and 2000 which aimed at restricting and phasing out tax concessions. The CG added that it was anticipated then that in time, more concessions would be removed, however, the opposite happened and Act 592 is still

littered with ill-targeted erosions of the tax base. The bill therefore seeks among others, to remove these erosions and broaden the tax base.

### *Personal reliefs*

The Committee noted that the bill provides for a number of personal reliefs for individual tax payers. These include reliefs for spouses and dependent children, individuals living with disabilities, old age and children and other dependent children education.

The Committee however, learnt that though some of these reliefs are provided for in the current Income Tax Act, most tax payers are not benefiting because they may not be aware or do not file their tax returns annually. The Committee therefore urges Ghana Revenue Authority to embark on tax payers' education on the reliefs and the need to file returns annually.

## **7.0 AMENDMENTS**

The Committee having carefully scrutinized the Bill proposes the following amendments for the consideration of the House:

1. **Clause 1 – Amendment proposed** - delete “,” after paragraph (a) of sub-clause (3) and insert “;”.
2. **Clause 3 – Amendment proposed** - In line 2 of sub-clause (2), delete “an” and insert “any” and in line 1 of sub-clause (2), delete “an” and insert “any”.
3. **Clause 4 – Amendment proposed** - In sub-clause (2) (a) (vi), reference to section 93 should read 94, and (2) (a) (d) should read (2) (a) (ix).
4. **Clause 6 – Amendment proposed** - In sub-clause (2) (a) (iv), replace “winning from lottery” with “winnings from lottery”.
5. **Amendment proposed** - Heading of Division III should read “Exempt amounts”
6. **Clause 7 – Amendment proposed** - In sub-clause (1) (f), delete “that” appearing after “in” in the last line and insert “this” and delete “or” at the end of paragraph (i) (ii).

7. **Clause 11– Amendment proposed** - delete sub-clause (2) and insert the following:
- “(2) The allowance is calculated by
- (a) adding the opening value of the trading stock of the business for the year of assessment to the expenses incurred by the person during the year and included in the cost of trading stock of the business; and
  - (b) deducting from the sum obtained in paragraph (a), the closing value of trading stock of the business for the year.”
8. **Clause 12 – Amendment proposed** - delete “;” after paragraph (a) of sub-clause (2) and insert “;”.
9. **Clause 15 – Amendment proposed** - In sub-clause (2) (c), delete “a chargeable asset” and insert “a capital asset”
10. **Clause 17 – Amendment proposed** - in line 2 of the opening paragraph of sub-clause (1), delete all words after “deduct”.
11. **Clause 19 – Amendment proposed** - in line 3 of sub-clause (1), replace “according to” with “in accordance with”.
12. **Clause 20 – Amendment proposed** - delete “;” after paragraph (a) and insert “;”.
13. **Clause 22 – Amendment proposed** - delete sub-clauses (1) and (2) and insert the following:
- “(1) A person is treated as deriving an amount if that person claims to be entitled to receive the amount even though the person may not be legally entitled to receive that amount.
- (2) A person is treated as incurring an amount if that person claims to be entitled to pay the amount even though the person may not be legally entitled to pay that amount.”
14. **Clause 25 – Amendment proposed** - insert “the person” at the beginning of sub-clause (2) (b).
15. **Clause 27 – Amendment proposed – sub-clause (2)** Reference to subsection (1) (b) should read subsection (1).
16. **Clause 31 – Amendment proposed – sub-clause (3)** – Substitute with the following:
- “The Minister may, by legislative instrument, make Regulations to prescribe matters relating to transfer pricing and the application of the arm’s length standard.”
17. **Clause 33 – Amendment proposed** - In lines 4 and 7 of sub-clause (1), replace “three-is-

to-one” with “three-to-one”.

18. **Clause 34 – Amendment proposed** - In the definition for “tax avoidance”, insert “,” after “arrangement”.
19. **Clause 35 – Amendment proposed** - In line 1 of sub-clause (2) (b), delete “less” and insert “more”
20. **Clause 37 – Amendment proposed** - Delete “or decreasing” in line 1 of sub-clause (1)(a)(i).
21. **Clause 38 – Amendment proposed** - Delete “twenty-five percent” and insert “fifty percent” in line 4 of sub-clause (2).
22. **Clause 45 – Amendment proposed** - Replace the headnote with “Transfer of asset not for consideration”
23. **Clause 47 – Amendment proposed** – sub-clause (4) (b) – In line 3, replace “the person” with “that person”.
24. **Clause 52 – Amendment proposed** - Replace opening paragraph of sub-clause (4) with the following:

“ An asset owned or a liability owed by a partner for and on behalf of the partnership in common is treated as an asset or a liability of the partnership and not the individual partners, and is treated” .
25. **Clause 56 – Amendment proposed** -
  - (1) Replace sub-clause (4) with the following:

“(4) Subsection (3) does not apply to a trust of an incapacitated individual.”
  - (2) Replace sub-clause (8) with the following:

“(8) A person shall treat an asset owned and liability owed by a trust or trustee as an asset or liability of the trust.”
  - (3) In sub-clause (9), delete “a bare agent” and insert “an agent”
26. **Clause 59 – Amendment proposed** - Delete paragraph (b) of sub-clause (4) and insert the following:

“ (b) a dividend that is the result of a re-characterisation under section 31(5) and 32(2).”.
27. **Clause 61 – Amendment proposed** - Remove bold font in cross-reference.
28. **Clause 64 – Amendment proposed** - Indent out the closing paragraph of sub-clause (2)

(a).

**29. Clause 65-- Amendment proposed -**

(1) Replace sub-clause (4) with the following:

“(4) Except for an amount that will be included to reduce the pool referred to in subsection (2), a person shall not include in the pool referred to that subsection

(a) an amount which is included in calculating the income of the person from the separate petroleum operation, or

(b) a consideration received in respect of a depreciable asset or capital asset of the operation. “

(2) Insert “by reason of a reduction in subsection (4) “after “negative” in line 2 of sub-clause (6).

**30. Clause 69 – Amendment proposed -**

(1) In line 2 of sub-clause (2)(a), delete “reacquired” and insert “re-acquired”

(2) in line 3 of sub-clause (4), delete all words after “failure”.

**31. Clause 76 – Amendment proposed - substitute the following definitions:**

“approved decommissioning plan” means a plan approved by the Minister responsible for petroleum for decommissioning the facilities used in petroleum operations upon cessation of those operations;

“petroleum” has the meaning assigned in the Petroleum Revenue Management Act, 2011 (Act 815);

“petroleum operations” has the meaning assigned in the Petroleum Revenue Management Act, 2011 (Act 815);

Heading for division II should read “Minerals and mining operations”.

**32. Clause 77 – Amendment proposed -**

(1) Replace “mining income tax” with mineral income tax” in line 2 of sub-clause (1)

(2) Replace “mining” with “mineral” in line 1 of sub-clause (2)

**33. Clause 79 – Amendment proposed -**

(1) Replace sub-clause (4) with the following:

“(4) Except for an amount that will be included to reduce the pool referred to in subsection (2), a person shall not include in the pool referred to that subsection



- (a) an amount which is included in calculating the income of the person from the separate petroleum operation, or
- (b) a consideration received in respect of a depreciable asset or capital asset of the operation.”

(2) Insert “by reason of a reduction in subsection (4) “after “negative” in line 2 of sub-clause (6).

34. **Clause 80 – Amendment proposed** - In line 2 of sub-clause (1) (e), delete “a” and insert “an approved” before “rehabilitation fund”.

35. **Clause 81 – Amendment proposed** - After sub-clause (9), number the next sub-clause as “(10)”

36. **Clause 83 – Amendment proposed** -

(1) Replace “a petroleum right” with “a mineral right” in line 2 of sub-clause (1)

(2) In sub-clause (2)(b), delete “(iii)” and insert “(ii)”

(3) Delete all words after “failure” in line 3 of sub-clause (4)

37. **Clause 84 – Amendment proposed** - Delete “;” after paragraph (a) of sub-clause (2) and insert “,”.

38. **Clause 85 – Amendment proposed** - Delete “;” after paragraph (a) of sub-clause (3) and insert “,”.

39. **Clause 86 – Amendment proposed** -

(1) In the definition of “mineral”, replace “Petroleum (Exploration And Production) Law, 1984 (PNDCL 84)” with “Petroleum Revenue Management Act, 2011 (Act 815)”.

(2) In the definition of mining area, insert “Minerals” before “Commission” in line 2.

(3) In the definition of “prospect”, delete “recon-naisance” and insert “reconnaissance”

(4) In the definition of “reconnaissance”, delete “collec-tion” and insert “collection”

40. **Clause 87 – Amendment proposed** - Insert a new sub-clause as follows:

“(3) The Minister may, by legislative instrument, make Regulations to require financial institutions to obtain from specified persons details of their place of residence for tax purposes.”

41. **Clause 89 – Amendment proposed – sub-clause (4)** – In line 3, reference to subsection

- (4) (a) should read subsection (3) (a).
- 42. Clause 91 – Amendment proposed** - Remove bold font from cross-reference.
- 43. Clause 94 – Amendment proposed** -
- (1) In line 1 of sub-clause (2) (a), insert “to be treated as” after “not”.
  - (2) In sub-clause (3), delete “,” after paragraph (a) and insert “;”.
- 44. Clause 97 – Amendment proposed** - Delete “;” after subparagraph (2) (b) (iii) and insert “.”
- 45. Clause 103 – Amendment proposed** - Delete sub-clause (2) and insert the following:
- “(2) A person shall calculate income earned that has a source in the country and derived by a person from any business or investment separately from income earned from any business or investment that has a source outside of the country.”
- 46. Clause 105 – Amendment proposed** -
- (1) Replace “situated” with “situate” in line 3 of paragraph (d).
  - (2) Delete “and” after paragraph “l”.
  - (3) Insert “and” after paragraph (m).
  - (4) Insert a new paragraph after paragraph (m) as follows:
- “(n) any other payment brought into or received in the country by a resident person.”
- 47. Clause 107 – Amendment proposed** - Delete sub-clauses (5) and (6).
- 48. Clause 115 – Amendment proposed – sub-clause (1)** – In line 2, reference to paragraph 6 should read paragraph 8.
- 49. Clause 116 – Amendment proposed** -
- (1) In line 2 of sub-clause (1), reference to paragraph 6 should read paragraph 8
  - (2) In line 4 of sub-clause (2) insert “not” after “who does”
  - (3) In sub-clause (2) (b) – replace “the provision of any works” with “the supply of any works”.
- 50. Clause 117– Amendment proposed** - replace sub-clause (6) with the following:
- “(6) Subject to this Act and except where an agreement is ratified by Parliament, a provision in an agreement which prohibits the deduction or withholding of a tax required to be deducted or withheld under this Act or any other enactment administered by the Commissioner General is void.”

51. **Clause 119 – Amendment proposed** - Replace “situated” with “situate” in line 3 of sub-clause (1) (c).
52. **Clause 120 – Amendment proposed** - in line 1 of sub-clause (1), delete “The” and insert “A” and in line 2, delete “any” and insert “the”.
53. **Clause 121 – Amendment proposed** -
- (1) In line 1 of sub-clause (2), delete “A” and insert “An”
  - (2) In line 1 of sub-clause (3)B(c), delete “117(3)” and insert “117(1)”
54. **Clause 122 – Amendment proposed** -
- (1) In line 1 of sub-clause (3), reference to sub-section (7) should read sub-section (6)
  - (2) In line 1 of sub-clause (6), reference to sub-section (6) should read sub-section (5).
55. **Clause 124 – Amendment proposed** - remove bold font from cross-reference
56. **Clause 125 – Amendment proposed** - insert “do so” at the end of sub-clause (3) after the words “is not required to”
57. **Clause 127– Amendment proposed** - Substitute for clause 127 the following:
- “Regulations**
127. (1) The Minister may, by legislative instrument, make Regulations
- (a) for matters authorised to be made or prescribed under this Act;
  - (b) amending the Schedules to this Act or any monetary amount set out in this Act;
  - (c) for, or in connection with, giving effect to or enabling effect to be given to
    - (i) any Competent Authority Agreement or other agreement signed between the Government of the Republic of Ghana and the government of another territory which makes provision corresponding, or substantially similar to the Common Reporting Standards; and
    - (ii) any arrangements for the exchange of tax information in relation to the Republic of Ghana and any other territory which makes provision corresponding or substantially

similar to the Common Reporting Standards; and

(d) for the better carrying into effect of the provisions of this Act.

(2) Without limiting paragraph (c) of subsection (1), the Minister may, in particular,

(a) authorise the commissioner-general to require persons specified for the purposes of paragraph (c) of subsection (1) to provide the Commissioner-General with information of specified descriptions;

(b) require that information be provided at a time and in a form and manner specified;

(c) impose obligations on relevant entities, including obligations to obtain from specified persons, details of their place of residence for tax purposes;

(d) make provision, including provision imposing penalties for the contravention of, or non-compliance with, the Regulations; and

(e) make provision for appeals in relation to the imposition of a penalty.

(3) In this section, “specified means specified in Regulations made under this section.”

**58. Clause 128 – Amendment proposed** - insert a new paragraph after paragraph (c) of sub-clause (1) as follows:

“(d) that of a settlor, trustee and beneficiary;”

**59. Clause 133 – Amendment proposed** -

(1) Insert a definition for “associate” as follows:

““associate” means a person who is in a controlled relationship with another person and has the meaning assigned in section 128;”.

(2) Delete “expenditure or” in the definition of “expenditure or expense”.

(3) Delete definition of “investment” and insert the following:

““investment” includes

(a) the owning of one or more assets of a similar nature or that are used in an integrated fashion; or

(b) a present, past or prospective investment  
but does not include business or employment;”.

(4) In line 5 of the definition of “national resource payment” insert after “from” “the”.

(5) In the definition of “payment”, delete paragraph (c) and insert the following:

“(c) the supply of services by one person to another; and”

(6) In the definition of “relative”, delete “given” and insert “assigned”

(7) In the definition of “small scale mining” delete “given” and insert “assigned”

**60. Clause 136 – Amendment proposed -**

(1) Insert that after extent in line 1 of sub-clause (1)(a)

(2) in sub-clause (1) (b) insert after “extent”, “that”

(3) In sub-clause (2) insert full stop after “terminated”.

**61. Clause 138 – Amendment proposed -** In sub-clause (1) insert a full stop after “effect”.

**62. Clause 139 – Amendment proposed -** replace “Tax Administration Law” with “Revenue Administration Law”.

## **SCHEDULES**

### **First Schedule – Amendment proposed -**

**1. Paragraph 3(6) –**

(1) In line 2, reference to paragraphs 3(1) and 3(3) should read subparagraphs (1) and (3)

(2) In the table, change all references to “paragraph 3 (1) “in the right column to  
“subparagraph (1)”

(3) Insert a new subparagraph after subparagraph (6) as follows:

“(7) In this paragraph, “non-traditional goods” means

(a) horticultural products;

(b) processed and raw agricultural products grown in Ghana, other than  
cocoa beans;

- (c) wood products, other than lumber and logs;
- (d) handicrafts; and
- (e) locally manufactured goods.”

2. Paragraph 4 – in line 4, replace “eight percent” with “fifteen percent”.
3. Paragraph 6 – In the Headnote delete “Mining” and insert “Mineral”.
4. Paragraph 8 – In subparagraph (1) (b) (vi) delete “and”, and after “subparagraph (vii)” insert “and”.

**Second Schedule – Amendment proposed -**

Paragraph 4 – in line 4, reference to “section 119” should read “section 121”

**Third Schedule – Amendment proposed -**

1. In the table under paragraph 1 (1), insert a dividing like between columns 3 and 4
2. Paragraph 5 (8) – In the opening paragraph insert after “unless” “the” and change the reference to “61” in the definition of “capital allowance” to “67”.

**Sixth Schedule – Amendment proposed -**

1. Paragraph 1(1)(b) – replace with the following:  
“(b) in the case of cash crops or farming livestock, other than cattle or fish, income of that individual from the business for a period of five years of assessment commencing from the year during which the business commences; and”
2. Paragraph 1
  - (1) In subparagraph (4), in the definition of “cocoa by-product business” insert in line 2 after “by-products”, a comma, and in line 3 insert a comma after “material” and in the definition of “tree crops”, delete “shearnut” and insert “shea nut.
3. Paragraph 4 - In subparagraph 4 (3) line 1 delete “sections 8 and 9 of the act” and insert “sections 8 and 9 of this Act”
4. Paragraph 6(3) – delete all words appearing after “First Schedule” in line 3.
5. Paragraph 7
  - (1) - delete “the exemption period” in line 3 of subparagraph (3) and replace with “period specified in subparagraph (1).”

(2) Delete the word “exemption” in line 4 of subparagraph (4).

(3) In sub paragraph (7) substitute for that paragraph

“(7) The interest and dividends paid or credited to a person on a qualifying investment in the company are subject to tax at the rate charged to that company under the First Schedule for the period specified in subparagraph (1).”

**Seventh Schedule – Amendment proposed -**

1. Paragraph 3 (3) (a) – delete “with” in line 5 and replace with “of”.
2. Paragraph 5 – In line 1 of subparagraph (4) (b), delete “inconsistent”.
3. Paragraph 8 – delete “law” in line 2 of subparagraph (2)
4. Paragraph 9
  - (1) in line 1, replace “this Act” with “this country”
  - (2) replace subparagraph (3) with the following:

“(3) The Commissioner-General may, on a written application by a person, require that person, in writing, to take a foreign currency amount into account for purposes of this Act.”
5. Paragraph 11
  - (1) delete all the words appearing after “electronic signature” in line 2 of subparagraph (1)(b)
  - (2) delete “a” appearing after “under” in line 1 of subparagraph (2).
6. Paragraph 12 – In line 2 of subparagraph (1), replace “a tax law” with “this Act”.
7. Paragraph 14
  - (1) – delete “of documents” in subparagraph (1)(c)
  - (2) – in line 2 of subparagraph (3), replace “a tax law” with “this Act”.
8. Paragraph 15 - Reference to paragraph 2 to 15 should read paragraph 2 to 14.
9. Paragraph 16
  - (1) In subparagraph (4), replace “Commissioner-General” with “person”
  - (2) In line 2 of subparagraph (5), delete “shall include” and insert “includes”
10. Paragraph 18– In line 4 of subparagraph (2), change “relates” to “relate” and in line 2 of subsection (4), change “relates” to “relate”.

11. Paragraph 19 (3) – In line 1, delete “subparagraph (1) (b)” and insert sub subparagraph (b) of subparagraph (1)”.
12. Paragraph 20 (1) (b) line 2 – Delete “the provisions of”
13. Paragraph 21
  - (1) Reference to section 117 should read section 122
  - (2) In line (2) of subparagraph (4), insert “in” after “or”.
14. Paragraph 22 – Substitute for subparagraph (2)

“(2) An appeal under subparagraph (1) shall be made by lodging five copies of the notice of appeal together with five copies of all relevant documents with the Registrar of the High court within thirty days after service of the notice of the decision.”
15. Paragraph 24 – Substitute for subparagraph (3)

“(3) A person may lodge a notice of appeal within three months after the date of expiry specified in subparagraph (2) if that person proves to the satisfaction of the court that the delay in lodging the notice of appeal is due to

  - (a) absence of that person from the country;
  - (b) sickness; or
  - (c) other reasonable cause

and that there has not been an unreasonable delay on the part of that person.”
16. Paragraph 24
  - (1) In subparagraph (1), reference to paragraph 22 should read paragraph 21 and delete in line (4), “and an appeal”.
  - (2) In subparagraph (2), reference to paragraph 23 should read paragraph 21 and delete in line (4), “of this paragraph”.
  - (3) In subparagraph (3), delete “a” in line 1 and in line 3 delete “or objection on appeal”, then in line 4 insert after “or”, “where the decision has been appealed against, within thirty days from”
  - (4) In subparagraph (4), replace “penalty” in line 4 with “interest”.



17. Paragraph 27 - Delete the word "with" in line of subparagraph (3) (a).
18. Paragraph 28 – Delete all words appearing after "Act" in line 2 of subparagraph (7).
19. Paragraph 29
  - (1) In subparagraph (2), reference to paragraph 28 should read paragraph 19
  - (2) Delete "any" appearing after "including" in line 3 of subparagraph (4).
20. Paragraph 30 - In subparagraph (1), reference to paragraphs 19 and 20 should read paragraphs 18 and 19.
21. Paragraph 31 – Delete "or an authorised officer" in line 1 of subparagraph (2).
22. Paragraph 32 - In subparagraph (1), reference to paragraph 27(6) should read paragraph 26(6).
23. Paragraph 33
  - (1) In line 1 of subparagraph (1), delete "such" and insert "a"
  - (2) In line 2 of subparagraph (3), delete "or reduced".
24. Paragraph 35
  - (1) In subparagraph (2)(a), reference to paragraph 30 or 33 in line 1 should read paragraph 31 or 33 and reference to paragraph 35 in line 3 should read paragraph 34
  - (2) In subparagraph (2)(b), reference to paragraph 35 in line 4 should read paragraph 34
  - (3) In subparagraph (2) (c), reference to paragraph 35 in line 3 should read paragraph 34.
25. Paragraph 38 - In subparagraph (2), reference to paragraph 37 should read paragraph 39.
26. Paragraph 39 – Reference in subparagraph (3)(d) to "paragraph 15" should read "paragraph 14"
27. Paragraph 43 - In line 1 of subparagraph (1), delete "person referred to as the "tax debtor""; and insert "tax debtor".
28. Paragraph 44 - Insert "the" after "tax on" in line 1 of subparagraph (1).
29. Paragraph 46
  - (1) delete headnote and replace with " Duties of a Receiver"
  - (2) delete "in respect of which that person is a receiver" in lines 1 and 2 of subparagraph (2)
  - (3) insert a new subparagraph (3) as follows:
    - "(3) The executor of an estate of a deceased individual or the legal representative of a person who is incapacitated shall complete and submit any returns required under this

Act on behalf of the deceased or incapacitated person with respect to matters occurring prior to the appointment of the executor or legal representative.”

(4) insert “of” after estate in line 1 of subparagraph (8)

(5) renumber remaining subparagraphs consequentially.

30. Delete paragraph 47

31. Paragraph 50 – insert “of” after “case” in line 2 of subparagraph 1(b).

32. Paragraph 51

(1) in subparagraph (3)(b), reference to paragraph 22 should read paragraph 21

(2) in subparagraph (4), substitute “shall” for “may” in line 3.

33. Paragraph 52 - In subparagraph (4), reference to paragraph 22, 28 or 36 should read paragraph 21, 28 or 36.

34. Paragraph 53 – In subparagraph (1) (b) delete “any matter or thing” and insert “any thing or matter”.

35. Paragraph 54

(1) Reference to paragraph 57 to 62 should read paragraph 48 to 52

(2) Headnote should read “Aiding or abetting”.

36. Paragraph 55

(1) in subparagraph (1), reference to paragraph 57 to 62 should read paragraph 48 to 53

(2) in subparagraph (2), reference to paragraph 57 to 62 should read paragraph 48 to 53

(3) in subparagraph (3), references to paragraph 57 to 62 should read paragraph 48 to 53.

37. Paragraph 56

(1) insert “this” after “with” in headnote

(2) in subparagraph (1)(a), replace “not more than” with “not less than” in line 2.

38. Paragraph 59

(1) in subparagraph (3)(a)(iii), reference to paragraph 19 should read paragraph 18

(2) in subparagraph (3)(b), reference to paragraph 20 should read paragraph 19

(3) in subparagraph (3)(e)(ii), reference to paragraph 42 should read paragraph 41

(4) in subparagraph (3)(f), reference to paragraph 19 in line 2 should read paragraph 18, paragraph 43 in line 3 should read paragraph 42 and paragraph 42 in line 4 should read paragraph 41

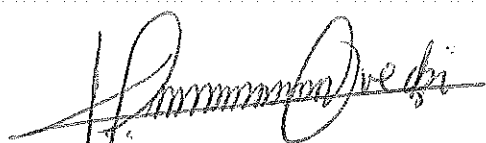
(5) in subparagraph (3)(j), reference to paragraph 63 should read paragraph 62.

39. Paragraph 60-insert “and not more than two hundred and fifty penalty units” after “penalty units” in subparagraph (1).
40. Paragraph 61 - in subparagraph (a), reference to paragraph 53 should read paragraph 57.
41. Paragraph 63
- (1) in subparagraph (1), reference to paragraph 58 should read paragraph 59
  - (2) in subparagraph (4), reference to paragraph 50 to 62 should read paragraph 48 to 60.
42. Paragraph 66 - in subparagraph (2), reference to paragraph 50 to 56 in line 2 should read paragraph 48 to 54 and reference to paragraph 57 to 63 in line 5 should read paragraph 55 to 60.
43. Paragraph 67
- (1) in subparagraph (2), reference to paragraph 52 should read paragraph 50
  - (2) in subparagraph (3), delete “minimum” in lines 2 and 3.
  - (3) delete subparagraph (7) and insert the following:  
“(7) For the purpose of this paragraph, refunds due under this Act shall be paid out of the Ghana Revenue Authority General Refund Account after certification by the Commissioner-General.”

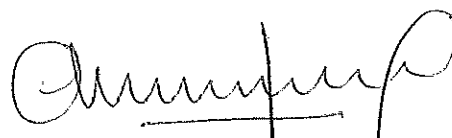
## 8.0 CONCLUSION

The Committee upon a thorough examination of the Bill recommends to the House to adopt its report and take the Income Tax Bill, 2015 through the second reading.

Respectfully submitted.



**HON. JAMES KLUTSE AVEDZI**  
**(CHAIRMAN, FINANCE COMMITTEE)**



**ROSEMARY ARTHUR SARKODIE (MRS)**  
**(CLERK, FINANCE COMMITTEE)**