

IN THE FOURTH SESSION OF THE SIXTH PARLIAMENT OF THE FOURTH REPUBLIC OF GHANA

# REPORT OF THE FINANCE COMMITTEE

ON THE

INCOME TAX (AMENDMENT) (NO.2) BILL, 2016

JULY, 2016

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**REPORT OF THE FINANCE COMMITTEE ON THE INCOME TAX  
(AMENDMENT) (NO. 2) BILL, 2016**

**1.0 INTRODUCTION**

The Income Tax (Amendment) (No. 2) Bill, 2016 was presented to Parliament and read the first time by the Hon. Deputy Minister for Finance, Mr. Cassiel Ato Baah Forson on Friday 15<sup>th</sup> July, 2016 and referred to the Finance Committee for consideration and report in accordance with Article 174 (1) of the 1992 Constitution and Order 169 and 125 of the Standing Orders of the Parliament of Ghana.

Pursuant to the referral, the Committee met and considered the Bill with the assistance of Hon. Deputy Minister for Finance, Mr. Cassiel Ato Baah Forson, the Commissioner-General of the Ghana Revenue Authority (GRA), Mr. George Blankson, Commissioners, and other officials from GRA, Attorneys from the Attorney-General's Department and officials from the Tax Policy Unit of the Ministry of Finance.

The Committee is grateful to the Hon. Deputy Minister, the Commissioner-General, Commissioners and officials from the Ministry of Finance, GRA and Attorney-General's Department for the assistance.

## **2.0 REFERENCE**

The Committee referred to the following documents at its deliberations:

- a. The 1992 Constitution of Ghana.
- b. The Standing Orders of the Parliament of Ghana.
- c. Income Tax Act, 2015 (Act 896)

## **3.0 BACKGROUND**

Parliament in 2015 passed the Income Tax Act, 2015 (Act 891) into law. The income Tax Act, 2015 (Act 896) revised the treatment of gift tax and capital gains tax as stand-alone taxes and incorporated them into income tax. In so doing though the coverage of capital gains tax was maintained, that of gifts tax was inadvertently reduced. Also, as a middle income country, Government will continue to raise funds from the international capital market to support the development agenda and for financing local government projects. The current rendition of the law does not make these instruments attractive to non-resident institutional investors who currently take up the bulk of the bonds issued by government. There is therefore the need to amend the Act to exempt non-residents from payment of taxes on gains from the realization of bonds issued by the government to encourage non-residents to patronise government of Ghana bonds. The amendment also seeks to bring clarity to some provisions, eliminate conflicts and introduce new provisions aimed at preventing tax avoidance and improve compliance.

## **4.0 PURPOSE OF THE BILL**

The Bill seeks to amend Income Tax Act, 2015 (Act 896) to make the filing of annual income tax returns mandatory for all categories of employees. It also seeks to expand the coverage of investment income to cater for the residual category of gifts presently not catered for. Again, the Bill enables an individual to elect to treat income from investment separately for tax purposes. Various sections of the Act are also amended

to remove ambiguity and tighten identified loopholes to promote equity, reduce tax avoidance and improve compliance.

## **5.0 DIVISION OF THE BILL**

The Income Tax (Amendment) Bill, 2016 has seventeen (17) Clauses.

Clause 1 amends section 6 of Act 896 to expand the charge on gifts to cover all gifts received other than as a result of employment or business.

Clause 2 amends section 7 of Act 896 to exempt amounts paid as interest to a non-resident person on bonds issued by the Government of Ghana.

Clause 3 amends section 15 of the Act to replace 'income' with chargeable income' while Clause 4 amends section 30 to provide for operating lease.

Clause 5 amends section 77 of Act 896 to substitute 'mining' with 'mineral' while clause 6 amends section 78 to delete parts of the section that contradicts current practices.

Clause 7 amends section 89 of Act 896 to include the reserve for unexpired risk from previous periods in the computation of income from general insurance and Clause 8 amends section 97 to delete registered sporting clubs from the list of charitable organizations.

Clause 9 amends section 116 of the Act to delete the portion that restricts the ability to withhold tax on some categories of payments made by individuals and Clause 10 amends section 119 to delete repetition of the provision that makes withholding tax on income derived from petroleum subcontracts a final tax.

Clause 11 amends section 124 to delete the clause that exempts some categories of employees from filing personal income tax returns. Clause 12 amends section 125 to replace 'year of assessment' with 'basis period'

Clause 13 amends section 130 of Act 896 to add depreciation of fixed assets to the list of excluded expenditure and clause 14 amends section 135 to correct the wrong numbering.

Clause 15 amends the First Schedule to provide a rate for an individual who may elect to pay taxes on gifts separately; additional incentives for agro-processing businesses located outside Accra and Tema; a reduction in the rate of withholding tax on services provided by individuals; and differently withholding tax rates for resident and non-resident petroleum subcontractors.

Clause 16 of the Bill amends the Third Schedule to correct the cross-referencing in some paragraphs. Clause 17 of the Bill amends the Sixth Schedule to expand the incentive for agricultural enterprises to all persons.

## **6.0 OBSERVATIONS**

### ***Rational for the Amendment***

The committee noted that the proposed amendment bill among other things, seeks to exempt from tax, interest paid to a non-resident on bonds issued by government and gains from the realisation of bonds issued by government by non-resident. It was explained that the interest paid to non-resident person on bonds issued by the Government of Ghana was exempted from tax under Regulation 18 of the Internal Revenue Regulations, 2000 (LI 1675) but was inadvertently left out of the exempt amounts specified under section 7 of Act 896. It was noted that the current rendition of the law does not make these bonds attractive to non-resident institutional investors who currently take up the bulk of the bonds issued by government. Currently the exemption is being enjoyed by resident Ghanaians. There is therefore the need to amend the Act 896 to exempt non-residents from tax on gains from the realization of bonds issued by the government and interest paid to a non-resident person on bonds issued by the government so as to correct the perceived in-equitability in application of the Act.

The Hon. Deputy Minister further explained that, the implementation of the Act is facing some operational challenges in relation to some provisions with the possibility of tax avoidance and the discriminatory nature of others. The amendment therefore also seeks to delete these conflicting sections to provide clarity and seal identified loopholes so as to reduce tax avoidance and improve compliance.

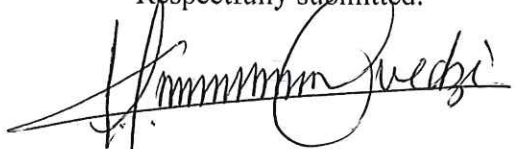
**7.0 PROPOSED AMENDMENTS BY THE COMMITTEE**

1. Clause 6 – **Amendment Proposed** – line 2, *delete* “subsections (3) and (4)” and *insert* “subsection (3) and subsection (4)”.
2. Clause 12 – **Amendment Proposed** – line 3, *delete* “has not,” and *insert* “does not have”.
3. Clause 15 – **Amendment Proposed** – paragraph (b), concluding sentence, first paragraph, *delete*.
4. Clause 15 – **Amendment Proposed** – paragraph (c), *delete*.

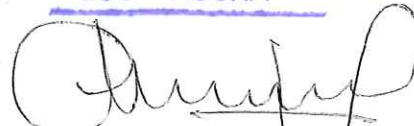
**8.0 CONCLUSION AND RECOMMENDATION**

The Committee upon a thorough examination of the Bill recommends to the House to adopt its report and pass the Income Tax (Amendment) (No. 2), Bill, 2016 into law in accordance with Article 106 of the Constitution and Orders 126 and 127 of the Standing Orders of the House.

Respectfully submitted.



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



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

*July, 2016*