

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

**REPORT OF THE FINANCE
COMMITTEE**

ON THE

**AGREEMENT BETWEEN THE
GOVERNMENT OF THE REPUBLIC OF
GHANA AND THE CZECH REPUBLIC FOR
THE AVOIDANCE OF DOUBLE TAXATION
AND THE PREVENTION OF FISCAL
EVASION WITH RESPECT TO TAXES ON
INCOME AND CAPITAL GAINS AND THE
PROTOCOL TO THE AGREEMENT DATED
11TH DAY OF APRIL, 2017.**

PARLIAMENT OF GHANA LIBRARY

JUNE 2018

1.0 INTRODUCTION

The **Agreement between the Government of the Republic of Ghana and the Czech Republic for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and Capital Gains and the Protocol to the Agreement dated 11th day of April 2017** were laid in Parliament on 15th May, 2018 by the Honourable Minister responsible for Monitoring and Evaluation, Dr. Anthony Akoto Osei on behalf of the Minister responsible for Finance.

The Agreement was subsequently *referred* to the Finance Committee for consideration and report in accordance with article 75 (2) of the 1992 Constitution and Order 169 of the Standing Orders of the Parliament of Ghana.

The Chief Director and other officials from the Ministry of Finance and the Ghana Revenue Authority attended upon and assisted the Committee in its deliberations on the Agreement.

The Committee expresses its gratitude to the Chief Director and the officials from the Ministry of Finance and Ghana Revenue Authority (GRA) for attending upon the Committee.

2.0 REFERENCES

The Committee referred to the following documents *inter alia* during its deliberations on the Agreement:

- a. The 1992 Constitution of Ghana.
- b. The Standing Orders of the Parliament of Ghana.
- c. Income Tax Act, 2015 (Act 896)
- d. Revenue Administration Act, 2016 (Act 915)

3.0 BACKGROUND

The Government of the Republic of Ghana and the Government of the Czech Republic in their desire to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, have entered into the present Agreement.

The Agreement would come into force upon ratification by Parliament in accordance with the 1992 Constitution of the Republic of Ghana.

4.0 PURPOSE OF THE AGREEMENT

The purpose of the Agreement is to avoid the double payment of taxation on the same income or capital gains in Ghana and in the Czech Republic, as well as to prevent fiscal evasion.

5.0 CONTENTS OF THE AGREEMENT

The Agreement contains 28 articles.

Article 1 provides that the Agreement covers persons who are residents of one or both of the Contracting States.

Article 2 provides for the taxes covered under the Agreement. Generally, the Agreement applies to taxes on income and on capital gains imposed on behalf of a Contracting State or its political subdivisions or local authorities, irrespective of the manner in which they are levied. In particular, the Agreement applies to “the income tax” and “the capital gains tax” in Ghana and “the tax on income of individuals” and “the tax on income of legal persons” in the Czech Republic as well as other taxes of similar character.

The terms used in the Agreement are defined in article 3.

Article 4 clarifies who a “resident” is for the purpose of the Agreement. The term “resident of a Contracting State” is defined as “any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature and also includes that State and any political subdivision or local authority thereof”.

The article further makes provision for determining the status of a person who by virtue of the definition above, is a resident of both Contracting States.

Article 5 is on “permanent establishment”. It means a fixed place of business through which the business of an enterprise is wholly or partly carried on. The term includes:

- a. A local place of management
- b. A branch
- c. An office
- d. A factory
- e. A workshop
- f. A warehouse, in relation to a person providing storage facilities for others
- g. A mine, an oil or gas well, a quarry or any other place of extraction of natural resources; and
- h. An installation or structure used for the exploration of natural resources
- i. A building site or construction, installation or assembly project, or supervisory activities in connection therewith, but only if such site, project or activity lasts more than 9 months.
- j. The furnishing of services including consultancy services by an enterprise of a Contracting State through employees or other personnel engaged in the other Contracting State, provided that such activities continue for the same or connected

project for a period or periods exceeding in the aggregate six months within any 12 month period.

Under article 6, Income derived by a resident of a Contracting State from immovable property, including income from agriculture or forestry, situated in the other Contracting State, may be taxed in that other State.

Article 7 provides that the profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein.

Article 8 determines how profits from shipping and air transport are to be taxed under the Agreement.

Article 9 distributes the taxing rights in respect of associated enterprises.

Per article 10, dividends paid by a company which is a resident of Contracting State to a resident of the other Contracting State may be taxed in that other State. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of the State, but if the beneficial owner of the dividends is a resident of the other Contracting State the tax so charged shall not exceed **6 percent** of the gross amount of the dividends.

Article 11 apportions taxing rights with respect to interest arising in a Contracting State and paid to a resident of the other Contracting State.

Per Article 12, Royalties and Services Fees are to be taxed at a rate not exceeding **8 percent** of the gross amount of the royalties or service fees where the royalties or services fees arise in one Contracting State and the beneficial owner is a resident of the other Contracting State.

Article 13 makes provision for the taxing of capital gains derived by a resident of a Contracting State from the alienation of immovable and movable property.

Article 14 is on Income from Employment. It provides that salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State in which case it may be taxed in that other State.

Article 15 permits directors' fees and other similar remuneration derived by a resident of a Contracting State for being a member of the board of directors of a company which is a resident of the other Contracting State to be taxed in that other Contracting State.

By article 16, income derived by entertainers and sportsmen who are resident in one Contracting State from their activities in the other Contracting State may be taxed in the other Contracting State.

Article 17 makes pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment to be taxable only in that State. Article 18 allocates taxing rights in respect of salaries, wages and other similar remuneration paid by a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State.

Article 19 states that a student or a business apprentice who is present in a Contracting State solely for the purpose of his education or training and who is, or immediately before being so present was, a resident of the other Contracting State, shall be exempt from tax in the first-mentioned State on payments received from outside that first-mentioned State for the purposes of his maintenance, education or training.

Article 20 deals with other income not otherwise dealt with in the foregoing articles.

Article 21 makes provision for the elimination of double taxation.

Article 22 prohibits discrimination against the nationals of a Contracting State relative to the nationals of the other State in the same circumstances.

Article 23 provides for the procedures by which a person can present his case for redress where the person considers that the actions of one or both Contracting States will result in him being taxed in a manner contrary to the Agreement.

Article 24 empowers the competent authorities of the Contracting States to exchange information that is foreseeably relevant for carrying out the provisions of the Agreement or to the administration or enforcement of the domestic laws of the Contracting States concerning taxes.

Article 25 excludes the fiscal privileges of members of diplomatic missions or consular posts from the application of the Agreement.

Articles 26, 27 and 28 provide for Miscellaneous Rules, Entry into Force and Termination respectively.

The Agreement comes with one Protocol dated the 11th day of April 2017.

6.0 **OBSERVATIONS**

6.1 Permanent Establishment

The Committee observed that an entity from a Contracting State in the other Contracting State shall be deemed to be a permanent establishment if that entity lasts for **more than nine months**. In the case of furnishing of services, an entity shall be deemed to be a permanent establishment where the activities continue for a period or periods exceeding in the aggregate six months within any twelve month period.

6.2 Dividends

The Committee further observed that the Dividend Tax rate applicable under the Agreement shall not exceed **six percent (6%)** of the gross amount of the dividends. The Committee noted that presently, the domestic Dividend Tax rate in Ghana is eight percent (8%) and therefore the potential loss of revenue under this tax would be two percent (2%).

6.3 Royalties and Service Fees

The Committee noted that under the Agreement, tax on Royalties and Service Fees arising in a Contracting State but whose beneficial owner is a resident of the other Contracting State shall not exceed **eight percent (8%)** of the gross amount of the Royalties or Service Fees. The Committee finds this to be a good incentive as the present domestic rate in Ghana is fifteen percent (15%) for non-residents.

6.4 Interest Earned

The tax on interest earned applicable under the Agreement is stipulated not to exceed **ten percent (10%)** of the gross amount of the interest.

The Committee was informed that at the time of negotiating this Agreement, the domestic tax rate in Ghana was 10%. However, it has come down to 8% presently and therefore there will be no potential loss in respect of this band, other things being equal.

6.5 Czech Investments in Ghana

Members requested to be given an indication of the level of Czech investments in Ghana.

To this, the Committee was informed by the Ghana Investment Promotion Center (GIPC) that there are currently three (3) registered Czech companies operating in Ghana in the fields of Manufacturing, Precious Metals and General Trading.

Total Foreign Direct Investment (FDI) from Czech Republic to Ghana from 2012 to 2015 amounted to **Sixty-Eight Million, Nine Hundred and Forty-Eight Thousand United States Dollars (US\$68,948,000.00)**.

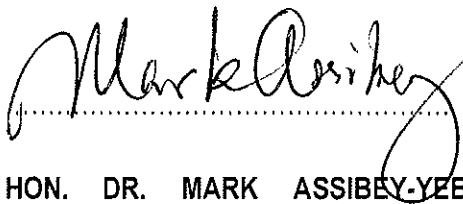
7.0 CONCLUSION

The Committee, having carefully examined the Agreement, finds that its passage is an important step towards enhanced cooperation between Ghana and the Czech Republic for preventing fiscal evasion and for the avoidance of double taxation on income and capital gains.

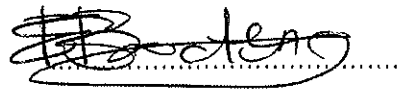
In accordance with Order 161(1) of the Standing Orders of the House, the Committee recommends to the House to adopt this report and approve by resolution, the

Agreement between the Government of the Republic of Ghana and the Czech Republic for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and Capital Gains and the Protocol to the Agreement dated 11th day of April 2017 in accordance with Article 75(2)(b) of the 1992 Constitution of the Republic of Ghana and the Standing Orders of the House.

Respectfully Submitted.



HON. DR. MARK ASSIBEY-YEBOAH
(CHAIRMAN, FINANCE COMMITTEE)



EVELYN BREFO-BOATENG (MS.)
(CLERK, FINANCE COMMITTEE)

11TH JUNE, 2018

