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RECENT AMENDMENTS IN TAX LAW



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A summary of the changes in tax law in 2023



In 2023..

The landscape of tax saw several significant changes. These changes carry implications for businesses and individuals alike. This piece aims to provide a concise yet insightful summary of the recent modifications in tax legislation

Introduction

In the realm of economic governance, the landscape of tax laws is ever-evolving, shaping the financial contours of nations. Ghana, too, has recently witnessed a series of amendments to its tax laws, introducing changes that carry implications for businesses and individuals alike. This piece aims to provide a concise yet insightful summary of the recent modifications, offering readers a clear understanding of the key alterations to Ghana's tax framework. From revised rates to new provisions, join us as we unravel the essence of these changes, shedding light on their impact and implications in the broader economic context.

Value Added Tax (Amendment) 2023 (Act 1107)

This legislation seeks to revise the Value Added Tax Act of 2013 (Act 870) by introducing several changes. These include establishing a flat tax rate for the rental of commercial premises, excluding commercial rental establishments, and implementing a flat tax rate for the supply of immovable property by estate developers. The amendment also aims to prolong the zero-tax rate for locally manufactured textiles and vehicles, introduce a zero-tax rate for locally manufactured sanitary towels, exempt electric vehicles used for public transportation from taxes, review exemptions for specified goods and services, and address other relevant matters.

The amendment to the Value Added Tax Act, 2013 (Act 870) introduces a new provision in section 3 which stipulates the following:

- A taxable person who makes a taxable supply of immovable property for rental purposes, excluding accommodation in a dwelling or commercial rental establishment, must account for VAT at a flat rate of five per cent (5%).
- A taxable estate developer, who makes a taxable supply of immovable property is

required to account for VAT at a flat rate of five per cent (5%).

The Value Added Tax Act, 2013 (Act 870) has been revised by the inclusion of Section 47D which introduces a penalty of thirty per cent (30%) of the amount withheld on a withholding agent who fails to withhold Value Added Tax and remit it to the Commissioner-General by the **15th day of the subsequent month**.

In contrast, section 47E details that a withholding agent who fails to withhold Value Added Tax from their client but in spite of this fact remits the amount which should have been withheld to the Commissioner General can recover the VAT paid from their client or customer.

The VAT Act, 2013 (Act 870) has also been amended in section 48 to introduce the following changes:

- a taxable person must include in their tax liability an amount equal to the VAT tax fraction of any payment made during the tax period to indemnify another person under a non-life insurance contract where:



- a. the non-life insurance contract is a taxable supply;
- b. the non-life insurance contract is not taxed at a rate of zero per cent;
- c. the payment does not result from a supply of goods or services located outside Ghana or physically performed outside Ghana at the time of the supply;
- d. the payment is not related to the supply of goods or services to the taxable person; or
- e. related to the importation of goods or services by the taxable person;

- Subsections 7E and 7F also include amendments that state that a taxable person is not eligible for an input tax deduction with respect to tax paid on immovable property held for rental. A taxable person is also not qualified for an input tax deduction regarding the supply of immovable property.

Excise Duty (Amendment) (No.2) Act, 2023 (Act 1108)

This legislation proposes modifications to the Excise Duty Act of 2014 (Act 878). The proposed amendments include increasing the excise duty rate on cider beer to match that of beer, decreasing the excise duty on plastics, and extending the scope of the excise duty on plastics to include imported plastic packaging, along with other related matters.

Below is a table showing the changes:

Commodities	Old Rate of Duty (on the prices prevailing at the factory gate)	New Rate of Duty (on the prices prevailing at the factory gate)
Cider Beer	20%	47.5%
Plastics*	10%	5%

(* listed under Chapters 39 and 63 of the Harmonized System and Custom Tarrif Schedules, 2012)



Exemptions (Amendment) Act, 2023 (Act 1110)

This legislation seeks to modify the Exemptions Act, 2022 (Act 1083) by introducing an exemption from customs duties and customs taxes for the importation of fishing gear intended for agricultural purposes and a few related matters.

New Section - Fishing Gear Exemption:

A new section, 19A, has been included in the Act stating that fishing gear imported for agricultural purposes, certified and approved by the Minister responsible for Fisheries and Aquaculture Development, are exempt from customs duties and customs taxes.

Definition of Fishing Gear:

The definition for "fishing gear" has been amended in S34 of the Act to include fishing floats in addition to its previous scope.

Income Tax (Amendment) Act 2023 (Act 1111)

The Income Tax Act has been amended to increase the non-taxable annual chargeable income of a resident individual from GHS 4,824 to GHS 5,880. What this means is that your income below GHS 5880 per year or GHS 490 per month is subject to tax at NIL rate or is not subject to income tax.

The next page has an amended graduated scale for resident individuals in a year of assessment:



Chargeable Income (GHS/ per year)	Cumulative Chargeable Income (GHS/ per year)	Rate of Tax
First 5,880	5,880	NIL
Next 1,320	7,200	5%
Next 1,560	8,760	10%
Next 38,000	46,760	17.50%
Next 192,000	238,760	25%
Next 366,240	605,000	30%
Exceeding 600,000	-	35%

Chargeable Income (GHS/ per month)	Cumulative Chargeable Income (GHS/ per month)	Rate of Tax
First 490	490	NIL
Next 110	600	5%
Next 130	730	10%
Next 3,166.67	3,896.67	17.50%
Next 16,000	19,896.67	25%
Next 30,520	50,416.67	30%
Exceeding 50,000	-	35%

Excerpt

The Stamp Duty Act typically receives attention when people need to present documents in court. It has seen some amendment in the last year

Stamp Duty (Amendment) Act, 2023 (Act 1109)

The Stamp Duty Act is a tax legislation that people tend to become most curious about when they need to present a document in court. Since its promulgation in 2005, it has only been amended twice. In the latest amendment which was gazetted on 29th December 2023, the focus is on increasing the rates payable for different categories of documents under the first schedule.

The stamp duty on Mining Leases and Concessions is now GHS 18.00. In addition to this rate, the following new additional rates apply depending on the type of document to be stamped:



Amount payable (GHS)	Type of lease or concession
896.30	Mineral lease
896.30	Offshore lease
896.30	Timber lease
437.40	Timber licence
180	Exclusive prospecting License
90	Quarry licence
90	Diamond digging licence

The fee payable on mortgages, bonds, debentures, covenants, guarantees, liens, or instruments of security of any other kind is a percentage of the amount secured. Below is table of the percentage payable for each type of security:

Percentage Payable	Type of security document
0.5%	A document which is the only or principal security for the payment or repayment of the secured amount
0.25%	A second security given for further assurance, where the primary security has already been stamped
0.25%	Transfer or assignment of any mortgage, bond, debenture, covenant, guarantee, lien, or other security document

The following security documents are exempt from the payment of stamp duty:

- 1.A bond given by a public officer for the due execution of his duty.
- 2.A bond on which a fee must be charged under any other enactment.
- 3.A bond entered into, under, or for the purposes of any enactment related to customs or excise.
- 4.Release, discharge, or surrender of a security mentioned above or of the benefit of the security or the money secured by the security.

The stamping of a Power of Attorney or similar document now comes at a cost of GHS 71.00. However, where it is given to a proxy to vote at a meeting, to authorise a person to withdraw money from a bank, or to receive money from the Controller and Accountant-General on behalf of a public officer, it is exempt from stamp duty. A Power of Attorney which is required by the Ghana Revenue Authority is also exempt from stamp duty.

Exemptions:

Nearly all of the documents that thus far have been exempt from stamp duty are still exempt. These include archives and documents belonging to a diplomatic mission, gifts made to family members during the lifetime of a person, the exemptions for security documents listed above, conveyances related to intestacy, stamp duty to be paid by the government, to name a few.

The key change in this amendment is the taxation of memoranda of hypothecation which is a written document that shows an agreement between a borrower and a lender, where the borrower uses a movable asset as security to secure or guarantee the loan, would be stamped at 18gh. Prior to this amendment, such documents were exempt from tax.

Conclusion

In conclusion, these changes to the Tax laws can directly affect businesses and individuals, potentially influencing financial planning, compliance responsibilities, and overall economic conditions. Businesses and individuals might undergo shifts in tax obligations which may have an impact on profitability and strategic decision-making. Its therefore important to know your tax obligations and plan effectively.





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