

GIMPA LAW & ETHICS POLICY PAPER

TAX IMPLICATIONS OF COVID-19

Executive Summary

On Wednesday, 10th June 2020, William Owusu Demitia Esq., Lecturer of the University of Ghana School of Law, delivered via Zoom, the sixth edition of the GIMPA Law and Ethics Web series on the theme: *Tax Implications of COVID-19*. This session was moderated by Mrs. Clara Kasser-Tee, a Lecturer at the GIMPA Faculty of Law.

In the wake of the outbreak of COVID-19, one of the greatest challenges facing the Government of Ghana (GoG) has been how to raise funds to meet the unbudgeted for expenditure that the pandemic portends. Getting tax payers to fulfil their tax obligations without delay during these unprecedented times, without overly and unduly burdening them is also an uphill task. These challenges are further exacerbated by the fact that borrowing, which is the easiest short term means of raising funds, will be detrimental in terms of the country's debt to Gross Domestic Product (GDP) ratio in the long term.

The GoG has thus come out with tax relief measures, including: extending the due dates for filing taxes from 4 months to 6 months after the end of the basis year; granting a remission of penalties on principal debts to tax payers who redeem their outstanding debts due to the Ghana Revenue Authority (GRA) up to 30th June 2020; waiver of Value Added Tax (VAT) on donations of stock of equipment and goods for fighting COVID-19; and permitting the deduction of contributions and donations towards COVID-19 as allowable expenses for tax purposes.

Given the current circumstances, only time can tell if the Ghanaian economy will be resilient enough to withstand the long-term impact of the pandemic. In the meantime, the economy should be positioned to absorb the inevitable losses of revenue as a result of COVID-19. It is thus recommended that the GoG should explore other means of raising revenue, as well as adopt technology to maximize the payment and collection of taxes.



I. Introduction

To contain the spread of COVID-19, the Government of Ghana (GoG) has implemented a number of measures which have affected business in the hospitality industry, services industry, retail and trading industry, among others. The Minister of Finance in his statement to Parliament on 30th March 2020, indicated that COVID-19 would result in a decline in import volumes and a slowdown in economic activities, which would impact import duties and other tax revenues. He further stated that import duties are expected to fall below target by GH¢808 million for the 2020 fiscal year. Tax revenues, excluding oil tax revenues and import duties, are expected to experience a shortfall amounting to GH¢1,446 million, bringing the total estimated shortfall in non-oil tax revenues to GH¢2,254 million. As a result, a number of tax reliefs have been rolled out in order to reduce the tax impact of COVID-19 on businesses and households. These include the extension of due dates for the filing of taxes; granting remission of penalties on principal debts to tax payers; and waiver of Value Added Tax on

COVID-19 donations. A number of questions however remain to be answered. For instance, will the Ghanaian economy be resilient enough to accommodate these tax reliefs? Will the reliefs be adequate to deal with the negative impact of COVID-19 on the Government and the tax payer? What conversations should the populace be having with the appropriate authorities to mitigate the impact of COVID-19 on businesses, households and individuals? This policy paper seeks to address these and other pertinent questions relating to the implications of COVID-19 on the tax regime in Ghana, in order to provide recommendations to the various stakeholders regarding the way forward in the aftermath of COVID-19. This policy paper thus advocates that the Government should explore alternative means of revenue generation, as well as adopt and embrace technology in maximizing the payment and collection of taxes during these uncertain times. The Government must implement and/or speed up the implementation of legislation that has the potential of strengthening the tax system, as well as encourage tax payers to comply with their obligations.



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II. Tax Related Implications of COVID-19 and Responses

The tax related implications of COVID-19 include the following:

- Tax Residency Classification of individuals for personal income tax purposes i.e. the closure of borders has influenced the residence status of individuals who would not ordinarily be classified as residents for tax purposes. Unfortunately, the Income Tax Act, 2015 (Act 896) does not provide for a non-resident who has overstayed and thus attained residency status as a result of unforeseen circumstances like a pandemic;
- Delay in the payment of taxes and filing of tax returns, although the Revenue Administration Act, 2016 (Act 915) allows for tax payers to apply for extension of deadlines for filing and paying taxes if good cause is shown;
- Corporate Income Tax could be affected i.e. adverse adjustments including bad debts and impairments, which are non-allowable expenses under Act 896 may arise; and
- There is likely to be an increase in the Cost, Insurance and Freight (CIF) value in computing custom duties on goods.

Tax related responses to COVID-19 implemented by the Government include:

- Extension of the due dates for filing of taxes from four to six months after the end of the basis year;
- Granting a remission of penalties on principal debts to taxpayers who redeem their outstanding debts due GRA up to 30th June 2020;
- Waiver of VAT on donations of stock of equipment and goods for fighting COVID-19;
- Waiver of taxes on Third-tier pension withdrawals by employees who have lost their permanent employment and self-employed persons who have lost their business capital;
- Tax exemption of income tax for the employment income of health workers for three months (April to June 2020);
- Permitting the deduction of contributions and donations towards COVID-19 as allowable expenses for tax purposes; and
- Dissemination of information to aid the payment of taxes by bank transfers and the filing of tax returns by email.



III. Challenges

The challenges posed by COVID-19 in respect of taxation generally have been enormous and include the following:

- COVID-19 expenditure was not budgeted for in the 2020 budget;
- The Government of Ghana may have to engage in borrowing to offset the adverse impact of COVID-19. More borrowing will however result in increased interest to be paid on debts, slowing down the overall progress of the Ghanaian economy in the long run;
- Although exemptions from taxation was granted, as well extension of time for filing of tax returns and the payment of taxes (including VAT, NHIL, Getfund and Withholding Taxes) during the partial lockdown period, there have been no exemptions granted afterwards; even though such measures may not necessarily be adequate to make up for the lack of cash flow likely to be experienced throughout the year by companies for instance;
- In ascertaining the income of a person from employment, section 8 of Act 896 does not allow for any deductions to be made where the employees work remotely using their personal resources to achieve targets for their employers – a main characteristic of the COVID-19 era;
- The cumbersome process for the payment of taxes and the multiplicity of avenues of tax collection by the various agencies, are major factors negatively affecting the compliance of the informal sector regarding tax obligations; and
- The presumptive tax approach for collecting taxes if not challenged in these times may become an instrument of extortion for businesses not generating income. Unfortunately, most businesses in the informal sector do not keep accurate financial records of their expenditure, making the alternative of charging taxes on the actual income generated virtually impossible.

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IV. Policy Recommendations

- Rather than resort to borrowing, COVID-19 presents the perfect opportunity for the Government to consider its tax regime and realign it regarding alternative means of raising revenue to meet expenditure;
- Government should rationalize the exemptions being granted in terms of tax waivers i.e. government contracts, temporary concessions, industry location savings. In order to do this, a policy check should be undertaken by government to find out whether the state machinery is getting the intended benefit of providing tax reliefs, tax holidays, tax rebate, waiving of duties and taxes on imports of items etc.;
- Government should take the necessary steps to pass into law the Tax Exemptions Bill that has been pending in Parliament for a while now, to deal with the weaknesses in the tax exemption regime;
- A well structured system of property taxation should be explored as an alternative means of revenue generation for government. Stakeholder consultation is necessary to implement a property tax regime that brings the local assemblies enough revenue to develop their localities;
- The Fiscal Electronic Device (FED) should be utilized to maximize and monitor revenue collection of VAT, NHIL and Getfund;
- Parliament must pass legislation to enable the Commissioner-General waive, where possible, interest charges incurred, by an extension of time for paying taxes, to cushion the impact of COVID-19 on businesses and households;
- Mobile Money and other means of electronic transactions should be explored as an innovative way of paying taxes. The GRA should thus absorb the transactional costs of using these platforms, by embedding it in their cost of collection, thus making it easier and convenient for persons especially those in the informal sector to comply with their tax obligations;
- The GRA must refund monies in respect of taxes paid in excess or institute a mechanism for so doing in a timely manner, in order to help businesses having difficulties with cash flow;
- The Coronavirus Alleviation Programme should be used to minimize the impact of the virus on businesses;
- Act 896 should be amended to exclude for tax purposes, non-residents who have overstayed and thus deemed to have attained residency status as a result of the pandemic;
- Government should adopt a balanced approach in awarding stimulus packages to businesses and households, with priority given to taxpayers, but not to the neglect of non-taxpayers who genuinely need support during these times;
- Government should increase its tax base by encouraging voluntary disclosure regimes and/or tax amnesty measures;
- The GRA should engage in tax prosecution strategies in respect of recalcitrant persons who do not pay taxes, step up compliance measures and encourage people to voluntarily provide information on persons breaching tax laws etc.;
- Third party verified biometric data (from SSNIT, DVLA etc.) can be relied upon by the GRA to monitor payment of taxes; and
- The fresh graduate incentive in Act 896 must be applied to employment as a temporary concession.

V. Conclusion

Taxation will be key in stabilizing the economy in the wake of COVID-19. The pandemic thus provides an opportunity for the Government of Ghana to consider its tax regime and revamp it in order to raise revenue to meet government expenditure. However, the government has to be creative in getting taxpayers to fulfill their tax obligations without unduly burdening them. All sectors of the economy, both formal and informal, must thus be considered in easing the tax burden, whilst encouraging businesses and individuals to comply with their tax obligations for revenue generation.

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