

GHANA INTEGRITY INITIATIVE (GII)

MEMORANDUM TO THE PARLIAMENT OF THE REPUBLIC OF GHANA

An Analysis of the Tax Policies in the 2015 Annual Budget

Introduction

On the 19th of November, 2014, the Minister of Finance presented the 2015 Budget Statement and Economic Policy to Parliament on behalf of the President of the Republic of Ghana. The Statement contained a number of fiscal policy initiatives that were aimed to enable the government attain the theme of the budget, *“Transformational Agenda: Securing the Bright Medium Term Prospects of the Economy.”* As a tax justice advocate and member of the Tax Justice Coalition in Ghana, Ghana Integrity Initiative carried out analysis of the tax initiatives presented in the recent budget statement not only with regards to the ability to rake in the needed revenue to meet government expenditure but also from the tax justice perspective. In other words, the analysis considered the potential impact of the tax initiatives on the ordinary people in the country. Government targets GHS 25.4 billion in taxes alone which will account for about 78% of total government revenue and grants but taxation has purposes other than just revenue generation.

The Budget Statement clearly demonstrates the government’s determination to continue rely on indirect taxes, particularly the value-added tax (VAT), extending the tax to other goods and services such as petroleum products and financial services, and reducing or removing it from other goods and services. From the tax justice perspective, indirect taxes are consumer-based taxes, thus, regressive in nature, impacting more the poor and marginalized in society than on the rich and powerful in the country. GII also wishes to indicate that frequent changes in tax policies, i.e., tax rates, exemptions, etc. are not good for businesses as they always want to be sure before investing. Inadequate consultation with relevant stakeholders (tax payers in a sector) often lead to failure or delays in implementing new tax initiatives as the actors in those sectors can resist the taxes.

GII also wishes to draw Parliament’s attention to the fact that virtually every sector is asking for tax concession and blaming their poor performance on high taxes. The government and Parliament must, therefore, be circumspect in responding to these demands as the country also needs funds for its development agenda. The burden on salary workers, who have no choice than to pay PAYE on a monthly basis and still be subjected to the numerous indirect taxes, is becoming unbearable as government continues to yield to the demands for tax concessions.

Reduction in VAT rate on Real Estate

The VAT Act 2013 Act 870 introduced a tax of 17.5% on all sales of Real Estate Developers. The new policy reverses the provision to a flat rate of 5%. This is a welcome provision to those in the Real estate sector, particularly to GREDA and potential house owners as it will reduce the cost of houses and also increase demand and the housing stock. However, as a consumer-based tax, it does not have much bearing on the real estate developers except that a higher cost will reduce the demand. This tax should, therefore, be considered alongside the income tax rates of the real estate developers, which will impact the profits of these developers. Moreover, Parliament should conduct a cost/benefits analysis of the new policy before approving this initiative. In other words, Parliament need to examine the tax expenditures involved (loss of tax revenues) as against the benefits that will accrue to Ghanaians and which class of Ghanaians will benefit. Parliament should also note that there are potential taxable areas in this sector such as capital gains tax that are not being tapped.

Tax on Fee –based Financial Services

Act 870 which introduced this tax did not provide clarity on the types of financial services that will attract this VAT and because of that the law could not be implemented as there was a wide outcry against it by implementers and taxpayers. However, part of the reason why the tax was not implemented was the public outcry against the tax and the burden it will bring onto the citizens. Another reason is the lack of consultation and public education on the tax before its introduction. This is another consumer-based tax that will negatively impact the salaried workers who are compelled to own and to take their salaries through bank accounts. However, if government is bent on implementing this tax, then the proposed amendment should clarify the type of fees to be subjected to the tax to make for acceptance. Moreover, the banks have continued to make huge profits and they should be the target of additional and higher taxes rather than the consumers of their services.

Special Petroleum Tax of 17.5%

The 2015 Budget introduces a Special Tax, a value-Added Tax, of 17.5% on all petroleum products at the ex-depot price as part of a rationalization of the VAT regime and a change in the petroleum pricing scheme. Many Ghanaians had thought that the era in which the presentation of budgets to Parliament meant increases in petroleum prices has passed but to their utmost surprise government has gone back to this era, unfortunately. The way in which the Bill was introduced in Parliament and passed the same day also raises concerns about the interests of Parliament as against that of their constituents.

Moreover, the petroleum pricing formula is shrouded in secrecy and the items that go into it are not made public. One is therefore at a loss as to what constitutes ex-depot price. The automatic price adjustment system has been thrown overboard and Ghanaians who have suffered from price hikes as a result of that policy have been deprived of the benefits of the falls in crude oil prices. A VAT of 17.5% of \$100.00 is obviously higher than the same percentage of the current price of \$65.00 per barrel. So apart from being deprived of the benefits of the automatic price adjustment, Ghanaians have been slapped with a new “Special tax” in a surreptitious way.

Moreover, this tax will surely increase the price of fuel leading to a corresponding increase in traveling costs and doing business in general. The vulnerable will continue to bear the brunt of these increases if no major initiatives are introduced to ameliorate the hardships on them. Costs of bringing foodstuffs from the interior will rise and have a cyclic effect on general prices.

As if this is not enough, the 2015 budget has also reintroduced a specific tax on Petroleum products to replace the ad valorem tax which was introduced in 2013 with the aim of raking in high tax revenues. This policy is in bad faith as the price of crude oil is falling and government arguably for the fear of losing taxes targeted to be cultivated from the ad valorem tax, has reintroduced the Specific tax. This bad faith is reinforced by the fallacy of a government’s subsidy which it keeps hammering on each time people complain of high petroleum prices.

Extension of the duration of the National Fiscal Stabilization Levy (NFSL)

The National Fiscal Stabilization Levy (NFSL) was introduced by government in the 2009 budget to stabilize the economy and was to have expired in 2011. It was subsequently extended to 2013 and has been extended again to 2017. Thus, it is subtly becoming a feature of the country’s tax system. This is a progressive tax as the levy is on the net profit before tax, after which the company will still pay income tax. GII welcomes this policy initiative but believes that it should be mainstreamed into the tax system so that its impacts and benefits can be assessed. The effects of this levy on the category of businesses which pay this levy cannot be over emphasized. In the first place, it reduces the company’s disposable income and its ability to expand and thereby employ more people but if it is mainstreamed into the general tax system, the necessary measures to reduce its negative impact can be put in place.

The Special Import Levy

The Special Import Levy introduced in the 2015 Budget is another indication of government’s continued reliance on indirect (regressive) taxes. As a country that depends on many imported consumer goods as well as capital assets, this levy can rake in a lot of tax revenues but the effect on the ordinary consumers is going to be too much to bear. It is,

therefore, important that the tax system considers the negative impact of consumer-based taxes on ordinary Ghanaians.

Increase in Tax Rate on Directors' Remuneration

The 2015 Budget proposes an increase in the tax rate on company directors' remuneration from 10% to 20%. This is a welcome initiative as it is a tax on income and especially as some directors earn monthly directors fees that are far above the salaries of full time workers. GII proposes that this tax is not a final tax but added to the directors' other incomes for tax purposes. As the marginal tax rate is currently 25%, adding the directors' fees to their other incomes will rake in additional tax revenues as most of these directors are in the higher income tax brackets. It is also a welcome initiative because many directors' expenses were captured under this account to avoid tax.

Increase in Excise Tax on Cigarettes

The budget proposes an increase in the excise rate on cigarettes from the current 150% to 175%. The excise rate of 150% is already too high and increasing it to 175% is going to harm those that smoke. There is guarantee that it will discourage new smokers but it will even be most harmful to those who smoke because smoking is addictive and once one gets addicted he/she cannot stop no matter the price. In fact, it will harm them more as they will divert funds from more important expenditures to smoking. The rich will continue to smoke because the price cannot discourage them from smoking but the poor will suffer because they will continue to pay more for the cigarettes as they cannot pay for measures to get out of the addiction. At the end of the day, the policy would have failed in its efforts to reduce smoking and hence reduce the health hazards that accompany smoking. There has to be a limit as to how high taxes on cigarettes and alcohol can go.

Extension of TIN registration of all Businesses

The Tax Identification Number project, initially handled by the revenue agencies, was introduced a few years ago on a pilot basis and limited to mostly large taxpayers. This helped to identify tax payers who transacted businesses at the port but failed to disclose their operations to other revenue agencies and pay the appropriate taxes.

It is therefore a good policy since every taxpaying person is expected to register only one TIN and to use this number to transact all businesses. However, there is a need for collaboration among all the revenue institutions, the Registrar General's Department, Controller and Accountant General's Department, National Health Insurance, DVLA, Land Registry, Land Valuation, SSNIT, etc in order to achieve total success in revenue mobilization. Moreover, the GRA should follow up with the tax payers who do not have tax files but do business for which they have obtained (from Registrar-General) the TIN to ensure that they can be caught by the tax net.

Removal of VAT on selected Pharmaceutical and Manufacturing Inputs

The budget proposes the removal of VAT on selected pharmaceutical inputs to help reduce cost and also make their prices competitive in the sector but affordable to the citizens. It also provides for the removal of VAT on some specified raw materials for the Printing Industry for the manufacturing of books and machetes. These measures may go a long way to reduce cost of manufacturing in these industries, reduce their prices and thereby increase demand and profit. It could lead to the expansion of the sectors and employment generation. However this calls for effective monitoring mechanisms to prevent abuse of the system.

Removal of Import Duty on Smart Phones

This duty was reintroduced in the 2013 budget ostensibly to rake in more revenue. The government has not indicated whether the desired results were achieved or not. Yet two years down the line, the tax on the smart phones has been removed. If the argument is to allow maximum penetration of mobile phones, then the government should have completely removed all taxes on ordinary phones. This is because the smart phones are used by the more affluent in society while the ordinary person on the street uses the ordinary phones. Unfortunately, the Budget did not make it clear whether taxes on ordinary phones are still in place or not as the budget is silent on this.

Review of the Free Zone Act

The budget provides for a review of the Free Zones Act in order to place emphasis on manufacturing and value addition and to increase the tax rate after the expiration of the tax holiday from 8% to 15%. Indeed this is long overdue as there are lots of abuses identified in the current dispensation. For instance, GII and its partner, Christian Aid – Ghana, commissioned a paper on Ghana's Free Zones Policy, which among others, showed that there were abuses of the regime. A recommendation to ameliorate the situation is to review the policy to clarify certain provisions of the law to eliminate the abuses such as the alleged sales of businesses by just mere changes of names. Another recommendation is to intensify monitoring and supervision of businesses operating in the free zones enclave. GII and its partner, Christian Aid – Ghana as well as the Tax Justice Coalition have raised this at several forums and even made presentations to the Finance Minister for consideration.

The Abolition of the VAT Relief Purchase Order (VRPO)

The Vat Relief Purchase Order which was used by companies dealing in Relief supplies is to be scrapped according to the 2015 budget. It will be replaced with an enhanced refund system. This decision is welcome. The beneficiaries of the VRPO including the mining companies who are usually having huge overpayments and who complain of delay in claiming their overpayments will heave a sigh of relief if only this will be applied without the

usual bottlenecks. Government must ensure that a special refund account is maintained for this purpose and a percentage of tax revenue paid into it to avoid the current situation in which many mining companies working capital is locked up in overpayments. Delays in making tax refunds deprive tax payers of much needed funds for business.

Reduction in use of Special Permits

The use of Special Permits and Exemptions granted to some companies and persons have been abused in various ways. Reducing it is, therefore, a good idea. However, a clear and transparent procedure for granting these permits and exemptions must be made to avoid any misuse. Discretionary processes for granting these permits should be avoided as much as possible.

Replacement in Upfront Exemptions

The budget proposes to replace the current situation whereby there is an upfront exemption from payment of taxes, but which does not reflect in taxes that should have been collected, with a tax credit system whereby GRA will be credited against future tax revenue. This is a laudable policy as it will show amounts lost through such exemptions and possibly regulate its reckless application.

Continuation of the Review of Tax Laws

This is not a new thing. Taxes, since the introduction of income taxation in the then Gold Coast, have seen many reviews, amendments, etc from the Income Tax Ordinance of 1943 to the current laws such as the Internal Revenue Act (IRA) 2000, (Act 592), the Value-Added Tax (VAT) (Act 2013), Act 870, and the Customs Excise and Preventive Service (CEPS) Management Law 1993, (PNDCL 330).

It is important that these are reviewed on regular basis to meet changing economic situations and in line with current trends in the global tax systems. However, there must be good bases for reviews of laws and not just to satisfy business interests. Also, the amendment of one law after just one year or failure to implement a law after it has been enacted tends to demonstrate uncertainty and lack of consultation in the policy making process. It could even be attributed to political corruption. There is a need for broader consultation with key stakeholders, including businesses, civil society, etc. to ensure that the laws are harmonized and simplified for increased voluntary compliance.

Conclusion

This write up is hereby submitted to Parliament through you with the hope that the issues will be considered during its deliberations and approval of the 2015 Budget and for future tax policy design and administration.

Thank you,

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