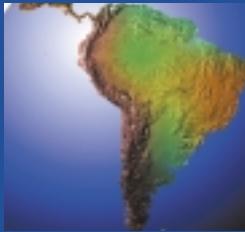
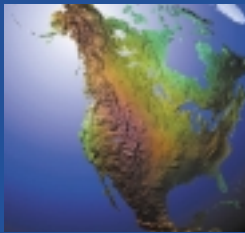
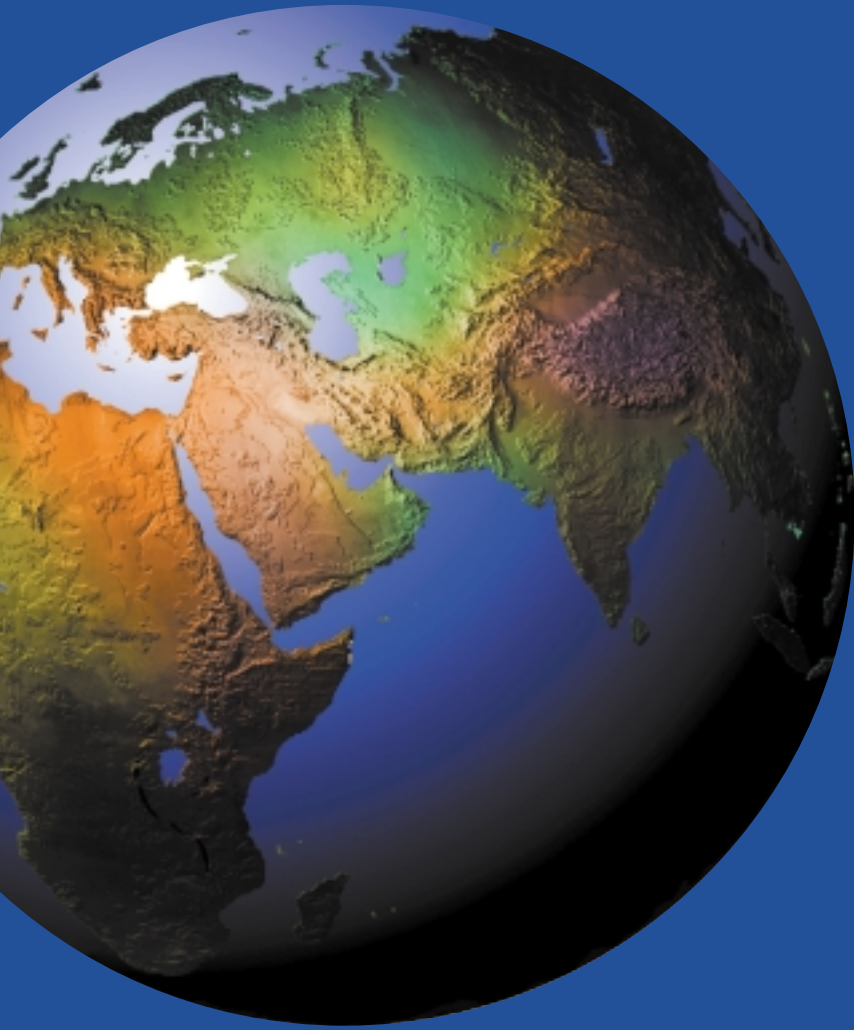




# Doing Business In Ghana



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### **3 INTRODUCTION**

- 3.1 This booklet has been prepared by Messrs Hydefynn & Osei a member of MGI for the information of clients, and members of the Group. It is intended to present a brief summary of information about Ghana for client companies and individuals intending to do business in Ghana. It also seeks to provide a general guide to investors. Only matters considered having general significance to the potential businessman have therefore been considered.
- 3.2 The booklet is not intended to be a substitute to the need for the investor to undertake a due diligence study of the business environment of the country before any serious investment is undertaken. Every effort however has been made to ensure that the information contained in this document is accurate as at the time of publication. Messrs Hydefynn & Osei are not responsible for any error or omission contained therein.
- 3.3 The information contained in this document is correct as at March 2007.

### **4 GHANA**

#### **4.1 Size, Population & Language**

Ghana was, until its independence on 6th March 1957, called Gold Coast. Before independence the country was a British colony. Ghana was the first black African country to achieve independence. The year 2007 marks its Jubilee year. Between the 15th and 19th century, various European countries struggled for the control of the country because of its numerous mineral wealth, especially gold.

Ghana is located on the West African coast of Africa. It is about 750km north of the Equator on the Gulf of Guinea. It lies between Latitudes 4 – 11.5° North and longitudes 3.11° West and 1.11° East. The Greenwich meridian runs through Tema, one of the main harbour cities of the country.

The country is bounded on the North by Burkina Faso, on the West by La Cote d'Ivoire, the East by Republic of Togo and the South by the Gulf of Guinea. The country has a total land mass of 238,537km<sup>2</sup> or 92,100sq miles and stretches 672km north-south and 536 East-West. The country has a number of rivers, the biggest of which is the Volta River. The Volta River has been dammed at Akosombo and Kpong to provide hydroelectric power to the country. The current population is estimated at 21.4million (Economist Intelligence Unit Estimates).

The official language is English.

#### **4.2 Economy**

Ghana is a predominantly primary commodity export oriented economy. It is also basically agricultural with the agricultural sector contributing about 35.8% of GDP. Cocoa is a major export commodity of the country. The agricultural sector of the economy has seen a steady growth in recent years averaging about 5% per annum. The second largest sector of the economy is the service sector contributing about 30% of GDP. The sector is projected to have grown by 6.5 % in 2006. Industrial sector was projected to contribute 25.4% GDP. Its main components are manufacturing, construction, mining and quarrying. In 2006 as at the time of reviewing this document real GDP growth was projected to be 6.2% for 2006.

Ghana's broad economic and financial objectives for 2007 will include:

- Real GDP growth of at least 6.5%
- An end period inflation rate of single digit between 7 and 9 percent.
- Average inflation rate of 8.8%
- A further accumulation of international reserves to a target of three months import cover.

- An overall budget deficit of 3.2 percent of GDP.

#### **4.2.1 Regional Economic Integration**

Ghana and Nigeria are working assiduously to speed up the process of integrating the economies of the West African sub-region through the sub regional grouping ECOWAS. ECOWAS has a population of about 250 million and it is envisaged that this will provide a major market that will further encourage economic growth.

#### **4.2.2 African Growth and Opportunities Act**

Following the promulgation of the African Growth and Opportunities Act by the United States of America, opportunity has been created for Ghanaian companies to increase exports to the USA.

#### **4.3 Currency And Banking**

The currency of Ghana is the Cedi (¢). Ghana has a floating exchange rate and the current rate of exchange to the dollar is about ¢9200 (Inter - bank Rate). Ghana has a fairly well developed banking sector that is growing rapidly. The Bank of Ghana is the Central Bank and is autonomous of direct government control. It has the responsibility of managing the country's monetary policy. It also advises on the implementation of the monetary policies of government. Bank of Ghana also regulates and supervises the banking and financial sectors of the economy. Currently the central bank rate is 12.50%.

The commercial banks in Ghana offer a full range of banking services that includes deposit taking and documentary credit facilities etc. These banks have correspondent banks in major foreign financial centres and this facilitates the conduct of their business.

Ghana also has a number of non-bank financial institutions offering different financial services. These include Leasing companies, Discount Houses and Venture fund management companies. There are also a number of Credit Unions, Savings and Loans Associations and Microfinance Institutions.

#### **Entry into the financial and Banking Sector of the economy**

The Bank of Ghana has the guidelines on the entry into the financial and banking sector.

This includes various forms of documentation as well as the relevant minimum capital requirement for the type of business. The Bank of Ghana will grant approval for the issuance of a licence if it is satisfied that the;

*Financial responsibility, experience, character and general fitness of the foreign bank and its Representative are such as to command the confidence of the community and to warrant belief that the Representative will operate honestly, fairly and efficiently within the purpose and intent of the Banking Act, 2004 (Act 673).*

Ghana has one stock exchange, the Ghana Stock Exchange (GSE) located in the capital Accra. The Ghana Stock Exchange was established under the Stock Exchange Act of 1971 (Act 384) in October 1990 and became operational in November 1990. As at February 2007 the Ghana Stock Exchange had 32 listed companies. Two classes of membership are allowed on the exchange. These are Associates and Licensed Dealing members.

Non-resident Ghanaians and foreign investors may invest on the stock exchange without prior approval since a general upfront exchange control permission has been granted them to invest on the stock exchange. Under the Ghana stock exchange regulations, the external resident portfolio investor can hold up to 10% only of any security approved for listing on the stock exchange. The regulations also specify that the total holding of all external residents in any one listed security should not exceed 74%. Ghanaians resident abroad and resident foreigners can however, invest on the exchange without limitation. Foreign investors may freely remit in full and in foreign exchange the original capital plus all capital gain, returns and related earnings.

The Stock Exchange has instituted membership and listing regulations to protect foreign investors. The Securities and Exchange Commission (SEC) also regulates the securities market and industry.

Act 592 grants a number of incentives to the Ghana Stock Exchange and its listed Companies. These include:

- Exemption from stamp duty on transfers of securities made to non Ghanaians
- Corporate taxes of companies listed as on the exchange is 25%.
- Tax exemption granted to capital gains made by companies listed on the GSE has been extended by 5 years to 31st December 2010.

#### **4.4 Political and Legal System**

Ghana is a multiparty constitutional democracy. The current constitution was enacted in 1992. The country has an executive presidency and a single chamber parliamentary system of 230 elected members. The incumbent President is Mr. John Agyekum Kuffour of the New Patriotic Party. National elections are conducted every four years to elect a president and members of Parliament. The elections are partisan, direct, secret and on the basis of universal adult suffrage. The main parties in the country are the New Patriotic Party (NPP), the National Democratic Party (NDC), the Convention Peoples Party (CPP) and the Peoples National Congress (PNC) with the first two being the most dominant.

Executive power is vested in the presidency while legislative power is vested in the legislature. There is also an independent judiciary. The President exercises executive authority through Ministers of State. The President is also the Commander in Chief of the Armed Forces of Ghana. Regions are headed by Regional Ministers and assisted by Regional Coordinating Councils. The Regional Coordinating Council is not an elected body but administrative.

### **5 FORMS OF BUSINESS ENTERPRISES IN GHANA**

In Ghana an investor can operate a business enterprise in accordance with any of the following legal instruments irrespective of nationality:

- Registration of Business Names 1962 (Act 151)
- The Incorporated Private Partnerships 1962 (Act 152)
- Limited Liability, The Companies Code, 1963 (Act 179)

#### **5.1 The Registration of Business Names Act**

Registration of enterprises under this instrument is the easiest to effect as it involves very few formalities. The law requires:

- a. Every individual having a place of business in Ghana who carries on business under business name which does not consist of his true name without any addition other than his true first names or initials.
- b. Every company carrying on business in Ghana under a business name which does not consist of its corporate name without any addition to register under the Act.

Even though registration under the Act is fairly simple, proprietors have unlimited personal liability for trading debts. Entrepreneurs registered under Act 151 are taxed as individuals. They are however allowed to offset business expenses against trading profits for tax purposes.

#### **5.2 The Incorporated Private Partnerships 1962 Act 152**

This requires associations of two or more individuals carrying on business jointly for the purposes of making profit to register under the Act in so long as the partnership does

not exceed 20 persons or include any body corporate. In Ghana, partnerships are unlimited entities. This means that every partner in the firm is jointly and severally liable with the firm for all the debts and obligations of the partnership while he remains a partner. Partners normally share profits in accordance with a partnership agreement. Where no agreement exists, the Partnership Act prescribes the mode of profit sharing.

Where a person is admitted into partnership of an existing firm he will not be liable to the creditors of the firm for any thing done before he became a partner.

Even though the partnership is legally not a legal person, it is deemed to be a body corporate under the firm's name distinct from the partners of whom it is composed. It therefore has the capacity to exercise the powers of a natural person of full capacity in so long as such powers can be exercised by a body corporate. Foreigners are allowed to enter into partnership with Ghanaians. Partners in a partnership are taxed as individuals after the distribution of partnership income.

### **5.3 INCORPORATED COMPANIES**

5.3.1 Incorporated companies may be established in Ghana by one or more persons under the Companies Code 1963, (Act 179). These may be individuals or legal entities resident or non-resident. Companies so established may either be public or private companies. In Ghana, shares of companies registered under the Companies Code are of no par value. A company may be registered in Ghana either directly or through agents such as accountants or solicitors. Application for registration is to be made to the Registrar of Companies on the prescribed form accompanied by an appropriate Company Regulation and the payment of the prescribed fees.

5.3.2 The information required to be provided on the application form include

- i The name of the company (with "Limited" as the last word);
- ii The nature of the company's business;
- iii The capacity of the company (that the company possesses the powers of a natural person of full capacity.);
- iv The names of the first directors of the company;
- v A statement that the liability of the company is limited;
- vi The share capital and its division in shares of no par value; and
- vii Limitations of the powers of the Board of Directors (Section 202 of the Companies Code) and other provisions relating to the constitution and administration of the company.

5.3.3 An incorporated company may be either:

#### **A Company Limited by Shares**

This is a company having the liability of its members limited to the amount of any unpaid shares held by them. Such a company should be registered with shares. These shares may be ordinary or preference shares. Shareholders of a company limited by shares are required to be issued with a share certificate indicating the ownership of shares. Companies may issue debentures provided appropriate rules are complied with.

A company limited by shares is required to have at least one member and two directors with a registered office and an auditor.

The company is required to hold annual general meeting at least once a year. Extraordinary General Meeting may also be held as and when necessary provided due notice is given in accordance with the Companies Code. The shareholders of the company approve the financial statements of the company, the appointment or retention of the auditors and the declaration of dividends at the annual general meeting.

Minimum Capital: The Companies Code prescribes the following minimum capital requirement for private and public companies:

	Minimum	Cash
Private	¢20 m	¢5m
Private	¢5m	¢1m

#### **A company limited by guarantee**

This is a company having the liability of its members limited to such amounts as the members may undertake to contribute to the assets of the company on the account of it being wound up. A company registered by guarantee cannot and should not be registered with shares. It must also not have the objective of carrying on business for the purposes of making profit.

#### **Unlimited Company**

This is a company not having any limit on the liability of its members. It must however be registered with shares.

5.3.4 Irrespective of the nature of the liability of its members, a company may either be a private or public company.

**A Private Company** is company which by its regulations:

- a. Restricts the right to transfer its shares;
- b. Limits the total number of its members and debenture holders to fifty; .
- c. Prohibits the company from making any invitation to the public to subscribe to its shares and debentures; and
- d. Prohibits the company from making any invitation to the public to deposit money for a fixed period or payable at call whether bearing or not bearing interest.

**A Public Company** is any company other than a private company. Public companies shares are freely transferable on the open market. There is no upper limit to the number of shareholders that a public company may have. The Companies Code prescribes stringent requirements which companies must fulfill before they can invite the public to subscribe to their shares.

**Commencement of Business:** A company is required to provide additional information before it commences business. The information required in addition to those above include

- Particulars of the directors (at least two) and a secretary;
- The name and address of the auditors of the company;
- Address at which the register of members is maintained;
- The amount of stated capital.
- The number of authorized and issued shares; amount paid (both cash and in kind), and amount due for each class.

This information is required to be furnished on Form 3 and the declaration made on Form 4. A copy of Form 3 is required to be submitted to the Internal Revenue Service along with a copy of the certificates of incorporation and commencement and company regulations.

#### **Annual Returns**

Companies registered under the Companies Code are required to file annual returns with the Registrar of Companies showing the audited financial statements not later than 18 months after incorporation. Subsequently they are required to file the returns annually.

#### **Insolvency Liquidation**

Companies that are unable to meet their obligations as and when they fall due may be said to be insolvent. Two legal instruments may be used to deal with such situations. They are: The Insolvency Act 1962; Act 193 and the Official Bodies Liquidation Act 180.

## 5.4 External Companies

It is possible for foreign companies to establish external companies in Ghana. An external company is a body formed outside Ghana but which has an established place of business in Ghana. This can take the form of a branch, management of shares, transfers, registration office, factory, mine or other fixed place of business but does not include an agency unless the agent is authorized to negotiate and conclude contracts on behalf of the foreign company.

An external company may invite the Ghanaian public to subscribe to its shares, subject to its compliance with the requirements of the Companies Code regarding invitations and the prospectus as if it were a Ghanaian company. The Registrar of Companies may waive or modify parts of these requirements. External companies are required to deliver to the Registrar of Companies for registration in the register of external companies within one month of their establishment following:

- i A certified copy of charter, statute, regulation, memorandum and articles of incorporation or any such instrument constituting or defining the constitution of the company.
- ii Particulars of the company identifying the company and its local management. These particulars include:
  - Name of Company;
  - Nature of Business and main objectives;
  - Name, address and business occupation of the local manager authorized to manage the business in Ghana.
  - The number of authorized shares as well as paid up and unpaid shares;
  - Address of its principal or registered office in its country of incorporation;
  - Address of its principal or registered place of business in Ghana;
  - Name and address of the person authorized to accept service of process: and other documents on behalf of the company.

External companies are required to submit for registration Profit and Loss accounts and Balance Sheet annually or at intervals not exceeding 15 months.

5.5 Foreign Branches are required to be registered under the laws of Ghana and for all intents and purposes are treated as Ghanaian companies. They are therefore required to meet all the legislative requirements like other Ghanaian companies.

5.5.1 An investor may also enter into a Joint Venture with Ghanaian investors or companies provided the minimum equity capital requirements as specified in the Ghana Investment Promotions Centre Act 1994; Act 478 are met. The current minimum capital requirements are:

	US \$
Trading	300,000
Other Economic Activities	10,000

Foreigners are allowed a 100% ownership of an enterprise provided the following minimum capital requirements are met.

	US \$
Import Trading	300,000
Exports	Nil
Other Economic Activities	50,000

The minimum equity capital requirement may be met either in cash or in kind (goods, plant and machinery, vehicles or other tangible assets)

### **Venture Capital Financing Companies**

The Venture Capital Fund is intended to provide capital to small and medium scale companies in the country. The Fund will provide start – up capital as well as capital for high risk ventures. Such companies will need to have staff strength of over 100. Such companies which meet the eligibility requirement in Act 680 have the following reliefs:

- a. Tax Holiday
  - Ten years tax holiday on corporate income
  - Ten years tax holidays on dividend earned
  - Ten years tax holidays on capital gains
- b. Full deduction on Investment Income

Banks and other financial institutions, corporate and individual investors who invest in Venture Capital financing can deduct the full investment from their income in a year of assessment
- c. Distributions of interest, dividends and capital gains to investors in venture capital finance shall be tax exempt.
- d. Losses from disposal of shares of a venture investment may be carried forward for a period of up to 5 years after disposal.

## **6 DIRECT TAXATION**

The principal enactments relating to direct taxes in Ghana are:

Internal Revenue Act 2000, (Act 592)

Mineral and Mining Law (Act 592)

Petroleum Income Tax Law (Act 592)

### **6.1 Income Tax**

The Government of Ghana has reviewed the legislation governing tax administration in Ghana through the enactment of the Internal Revenue Act 2000, ACT 592. The Act is structured as a Code under which all taxation laws administered by the IRS are collated together. Act 592 currently covers Income Tax, Gift Tax and Capital Gains Tax.

Act 592 to a large extent, preserves the basic principles of the existing laws. It however, provides a more detailed and precise rules than existing laws. It also introduces new rules to cater for situations not covered by the previous law. These include the introduction of self assessment, employer finalization of employee assessment and rules on thin capitalization and anti avoidance schemes.

### **6.2 Charge to Tax**

Section 17(1) SMCD 5 (as amended) and currently section 1(1) of Act 592, impose income tax by way of assessment yearly on every **person** who has a **chargeable income** for a year of assessment. **Person** includes Individual, Company and Body of persons.

**Income**, as used in the law is a net concept. It is the excess of the amount to be included in calculating the income over amounts, which are deductible in that calculation. Income from each business employment or investment is calculated separately on activity by activity basis. The tax is imposed on income of the person accruing in, derived from, brought into or received in Ghana. Act 592 identifies seven sources of income that are subject to tax.

These are:

- I. Gains or profit from trade, business, profession or vocation.
- II. Gains from employment
- III. Dividend, interest and discounts
- IV. Any charge or annuity
- V. Royalties or premium arising from properties including rent from immovable properties
- VI. Receipt including royalties affecting land or any natural resources in Ghana
- VII. Management or technical service fees

Act 592 however, groups the sources of income subject to tax into three categories. They are

- a. Income from Business
- b. Income from Employment
- c. Income from Investment.

The '**Chargeable Income**' for a year of assessment is therefore the person's assessable income from each business, employment and investment. The chargeable income thus includes the total of assessable income from all sources.

Act 592 provides for an ordering rule on the application of tax credits. These types of credits are allowed in the following order.

- a. Credit for foreign tax paid in respect of foreign source of income or dividend received by a resident person.
- b. Installments paid for a year of assessment will be allowed against the final tax for the year.
- c. Tax withheld from source

By the ordering rules, the foreign tax credit is applied first, followed by the credit for the tax installment and then credit for withholding tax.

### **6.3 Resident Person**

The residence of a person is of significant importance in ascertaining Ghana's jurisdiction to tax. Resident person must include in their assessable income both Ghana source income as well as foreign source income remitted to Ghana. Non residents however, need only to include in their assessable income, Ghanaian source income. Resident person means a resident individual, resident company or resident body of person.

#### **6.3.1 Resident Individual**

Act 592 provides test for determining whether an individual is a resident or not.

Four alternative tests are used to determine residence of individuals. An individual who satisfies any one of these tests is said to be resident for that year of assessment. These tests are:

- i A citizen of Ghana, other than a citizen who has a permanent residence outside Ghana, for the whole year of assessment.

This means that citizens who are posted overseas or who go on overseas training remain resident until they make a permanent home overseas.

- ii An individual is resident if that individual is present in Ghana for a period of, or periods amounting in aggregate to, 183 days or more in any twelve months that commences or ends in the year of assessment.
- iii An individual is resident if the individual is an employee or official of the government of Ghana posted abroad during the year, and

- iv A citizen is a resident individual for a year of assessment if he has a permanent home in Ghana and is temporarily absent from Ghana for a period not exceeding 365 continuous days.

It must be noted that Act 592 provides for **part year residence rules** for the first and the last years of an individual's residence in Ghana. An individual who is resident for a year of assessment but not in the previous year of assessment is only treated as resident from the **first day** of presence in Ghana. Similarly, an individual who is resident in a year of assessment but who is not resident in the following year is deemed to be resident in Ghana until the last day of his presence in Ghana.

### **6.3.2 Resident Company**

Two alternative tests may be used in determining the residence of Companies. Where any of these tests are valid, the company is deemed to be resident. They are:

- a. A company which is incorporated under the laws of Ghana.
- b. Where the company has its management and control exercised in Ghana during the basis period of the company ending within the year of assessment.

### **6.3.3 Resident Body Of Persons**

- a. Three alternative tests may be used to determine the residence status of a body of persons. These are:
  - b. Where the body is established in Ghana (e.g. a Trust is established in Ghana if the deed of settlement is executed in Ghana.)
  - c. Where during a basis period of the body ending within the year of assessment, a manager of the body is resident in Ghana.
  - d. If the body is controlled by a resident person or persons at any time during a basis period of the body ending within the year.

### **6.3.4 Resident Partnership**

Generally partnerships are not assessed to tax in Ghana. However, the residence of a partnership is relevant to a number of provisions of Act 592, particularly those relating to administration.

Act 592 provides one test for determining the residence status of a partnership. Where one partner is a resident person, regardless of the interest of that partner in the partnership, the partnership will be deemed to be resident.

## **6.4 Permanent Establishment also has a major bearing on Ghana's jurisdiction to tax. It identifies the place where a person carries on business or exercises management and control over a business. The following are deemed to be permanent establishment.**

- Where a principal carries on business through an agent, except where the agent is an agent of independent status.
- A place where a person has, is using or is installing substantial equipment or machinery.
- Where a person is engaged in a construction, assembly or installation for 90 days or more.

## **6.5 Self Assessment**

Act 592 introduced a system of self assessment into the tax administration of the country. Under the system, specified companies were given the responsibility to calculate their chargeable income and the tax payable thereon for a year of assessment and pay the tax due to the Commissioner of Internal Revenue.

Self assessment, therefore, puts the onus on the tax payer to determine his own tax liability. The Commissioner of Internal Revenue will by notice indicate the person or class of persons to whom self assessment will apply.

Self assessment tax payers will be required to furnish an estimate of their chargeable income for a year of assessment and the tax payable thereon. The tax payers are required to estimate their tax liability to a degree of accuracy of at least 90% by the end of the year of assessment; where they fail to do so a penalty will be imposed. Act 592 allows a person operating under the self assessment system to revise his estimates any number of times in a year of assessment.

Under the self assessment system, tax payers who are required to pay their taxes on quarterly installment basis will continue to do so based on their estimated tax liability.

## 6.6 Taxation of Individuals

The chargeable income of individuals is calculated separately for each individual. The individual is therefore the tax unit and thus each member of the family whether spouse or child is required to calculate his own chargeable income for each year of assessment.

### 6.6.1 Reliefs

In determining the chargeable income, individuals may deduct personal relief, qualifying life insurance premiums and qualifying contributions to retirement funds, which relate to the year of assessment. The reliefs are cumulative and a resident individual may claim each of them if his circumstances meet the criteria set out in the law.

Prior to the 2001 Assessment year, individuals had to file their returns before they could be granted the reliefs. Act 592 allows employees to enjoy the tax reliefs up front. This is done through employers finalising the employee's assessment on his behalf provided the employee has no other source of income.

To determine the tax payable by a person for a year of assessment, the relative tax rate is applied to the chargeable income of that person for the year. Tax credits allowed are then deducted from the resultant amount.

The income tax year for an individual is the same as the government's financial year. It runs from January 1st to December 31st. The tax rates applicable to individuals are as follows.

#### Effective January 1 2007

e. Annual Chargeable Income		f. % Rate
g.	h. Credits	i.
j. First	k. 2,400,000	l. Nil
m. Next	n. 2,400,000	o. 5
p. Next	q. 12,000,000	r. 10
s. Next	t. 79,200,000	u. 17.5
v.	w. Exceeding ¢96,000,000	x. 25

In addition:

- Tax rate for those whose incomes are marginally above the minimum wage shall be 2.5%.

Bonus not exceeding 15% of employee's annual basic salary is taxed at 5%. Bonus in excess of 15% of employee's annual basic salary is added to the employee's income and taxed at normal rate. Overtime is taxed at the following rates;

- First ₵1,200,000 @ % 2.5
- Between ₵1,200,000 – ₵4,000,000 @ % 10.0
- Excess of ₵4,000,000 will be added to the beneficiary's income and taxed at the prevailing rate
- Above ₵8,000,000 - no concessionary rates granted.

### 6.6.2 Final Tax on Income Received by Residents

Dividend

An 8% withholding tax is imposed on every resident person or partnership that is paid dividend by a resident company or is paid by a resident person for part-time teaching services.

This tax is not time related, but imposed on the happening on events. The tax is a **final withholding tax of 8%**, and as such the income is not included in the chargeable income in determining the tax liability for the year of assessment.

The final dividend tax rules do not apply to dividend paid by a non-resident company. Where a non-resident company pays dividend to a resident person, the dividend will be included in the chargeable income of the resident person for tax purposes, and allowing appropriate tax credit.

#### Part Time Teachers

A final withholding tax of 15% is imposed on any resident individual who is paid a part-time teaching fee by a resident person.

### 6.6.3 Final Tax On Income Received By Non-Resident Individuals

Tax is imposed on dividend, interest, royalty, natural resource payment, rent, management and technical service fees made **to a non-resident person** or non-resident partnership.

Act 592 imposes a final withholding tax of 20% on such income. Income attributable to a permanent establishment of a non-resident person situated in Ghana is excluded from the tax imposed. Such income will be included in ascertaining the assessable income of the non-resident person or partnership.

### 6.6.4 Returns

Prior to 2001, employees and persons whose accounting year coincided with the year of assessment were required to file their returns within 3 months after the year-end. Persons whose accounting year differed from the year of assessment were required to file within 4 months after the end of their accounting year. Companies were also required to file their returns within 6 months after the end of their accounting year. Following the promulgation of Act 592, employers are required to finalise the returns of their employees in so long as the employees are not in receipt of any income other than employment income. All other persons are required to furnish their returns within four months after the end of a year of assessment.

### 6.7 Taxation Of Entities

**Act 592** prescribes specific rules for entities made up of partnerships, companies and body of persons.

### 6.7.1 Partnerships

The Incorporated Partnership Act, 1962 Act 152, recognized a partnership as an entity different from the partners constituting the firm. It is however not regarded as a tax unit for tax purposes under Act 592. . The partnership therefore is not liable to tax on the income of the partnership.

The income of the partnership is taxed to the partners. However under Act 592 the partnership is regarded as an accounting entity and is required to calculate partnership income for each basis period and file a return.

Partnership income is used as a basis of allocating amounts to be included in the income of the partners. Any amount that is not included in the calculation of partnership income is excluded from determining the income of partners for tax purposes.

Where a partnership is a resident partnership i.e. where at least one partner is resident, the partnership will be required to file a return in respect of the partnership income. Where all the partners are non resident, the partnership is required to file a return if the partnership has a permanent establishment situated in Ghana.

Losses of a partnership for a year of assessment are not allocated to the partners of the partnership under Act 592. They are carried over and taken into account in determining the income and attributable income of that body in the subsequent period.

### 6.7.2 Taxation Of Companies

A company in Ghana is liable to tax on its chargeable income for a year of assessment separately from its shareholders. Act 592 defines companies by reference to the Companies Code 1963 Act 179 or any other foreign law in the nature of the companies' code including Unit Trusts. Unit Trusts are for all intents and purposes taxed in the same manner as companies.

#### Rate of Tax

The rate of tax applicable to companies is as follows:

2007	%
Companies quoted on stock exchange	25
Other companies	25
Companies engaged in non traditional exports/rural banks	8
Companies engaged in the hotel industry	25
Newly listed companies	25
Banks lending to leasing companies and agriculture	20
Rates have taken into consideration location incentives available to manufacturing companies as follows	
	% tax rebate
Regional capitals other than Accra and Tema	25
All other locations	50

#### National Reconstruction Levy

As from 1st January 2007, the National Reconstruction Levy ceases to exist.

#### Deemed Dividend

Where the Commissioner of Internal Revenue is satisfied that a company has not

distributed a reasonable portion of its income for a year of assessment within a reasonable time he may treat part of the income as distributed as dividend and tax it accordingly. Such a tax would be deemed to be a **final Withholding Tax**. The Commissioner in exercising this power will have to consider a number of conditions relating to the financial health of the company.

### **Carry over of Losses**

Prior year business losses incurred in carrying on business are allowed to be carried forward by all companies except mining and insurance companies for five years of assessment. Insurance companies can carry forward losses indefinitely. Mining companies can carry forward losses indefinitely except that the losses are restricted to the capital allowances granted for the year. The loss can only be offset against future income of that business. Industry concessions have been granted to specific industries. The losses are used in the order in which they are incurred. Partnership losses are deemed to accrue to the partnership and are therefore not distributable to the partners under Act 592.

### **Interest**

Interest means any

- a. Payment made under a debt obligation that is not a return of capital.
- b. Swap or other payment functionally equivalent to interest.
- c. Commitment guarantee or service fee paid in respect of a debt obligation or swap agreement.
- d. Any distribution by a building society

The treatment of interest income under Act 592 is summarized as follows:

- I. Interest paid by a resident financial institution to a resident individual in respect of an account held with the institution and interest paid on government of Ghana issued bonds to non-resident persons are exempt from tax (section 10).
- II. Otherwise, interest derived by a resident person or a Ghanaian permanent establishment of a non-resident person from sources in Ghana is included in calculating the person's assessable income under section 6. Such income is subject to withholding of tax under section 82 on the gross amount of the interest and the payee is allowed a tax credit for the tax withheld (section 89).

### **6.7.3 Capital Allowances**

The capital allowance regime in Ghana has remained basically the same until the promulgation of Act 592.

Act 592 categorizes chargeable assets into classes 1 to 6 assets. Classes 1 to 4 assets are placed in separate pools and depreciated on a declining balance basis at specified rates. Classes 5 and 6 assets are not pooled. They are depreciated on a straight-line basis at specified rates.

## Depreciable Assets

Depreciable Rates applicable to Depreciable Assets

		%
Class 1	Computer and related assets	40
Class 2	Automobiles, plant and equipment Assets in respect of long term crops	30
Class 3	Mineral and petroleum rights	80 of the cost base of assets, added to the pool during the basis period & 50% of the balance of the pool if any
Class 4	All other assets (including furniture etc., that is not included in another class	20
Class 5	Buildings, structures and works of a permanent nature	10
Class 6	Intangible assets	Useful life of asset

The written down value of a pool at the end of the basis period is determined as follows:

- a. The written down value of the pool at the end of the preceding basis period allowing the capital allowance granted with reference to that preceding period.
- b. Class 3 depreciable assets, 50% of the cost base of assets added to the pool during the proceeding period.
- c. The cost base of assets added to the pool during the period.

### 6.7.4 Taxation Of Bodies Of Persons

In Ghana the income of bodies of persons such as trusts is taxable to both the bodies of persons and its beneficiaries with double taxation being relieved through credit of any tax paid by the body to the beneficiary. It is only the attributable income of the body that may be allocated to the beneficiary.

### 6.7.5 Capital Gains Tax

A capital gains tax of 5% is charged in respect of capital goods sold. The tax is imposed on the capital gain arising as a result of the disposal of a chargeable asset in a year of assessment. The capital gain is calculated as the excess of the consideration received from the realisation over the **cost base** of the asset at the time of realisation. In Act 592 the cost base of a chargeable asset owned by a person at a particular time equals the sum of the cost(s)

- a. Including incidental costs and where relevant the cost of construction or production incurred by the person in acquiring the asset.
- b. Incurred by that person on alteration and improvement of the asset between the date of its acquisition and the date of its realisation.
- c. The costs incurred by that person in realizing the asset.

Chargeable assets under the Act include the following assets situated in Ghana:

Building of a permanent or temporary nature; Land; Shares of a resident company; Business and business assets including goodwill of a permanent establishment situated in Ghana; and any right or interest in any of the above.

### 6.8 Withholding Tax (WHT)

- 5% WHT tax on goods and services above ₵500,000; does not apply when the goods constitute stock in trade for both parties.
- 15% WHT on Management and Technical Services
- 8% WHT on Rent

## **6.9 Gift Tax**

A Gift Tax of 10% is imposed on taxable gifts the value of which exceeds ₵500,000

The following categories of gifts are exempt

Gifts made under a will or interstate

Gifts made between spouses children and specified close relatives

Gifts made to religious bodies for the benefit of the public or sections of the public.

Gifts made for charitable or educational purposes

Taxable gifts include:

Building of a permanent or temporary nature; land; shares, bonds and other securities;  
Money, including foreign money; business and business assets and any right or interest  
in any of the above.

## **7 EXCHANGE CONTROL**

Foreign Exchange operations are regulated by Exchange Control Act of 1961 (Act 71). The act regulates the transfer of money outside Ghana for all purposes. Prior approval has however, been given for the transfer of capital, profits and all other earnings in the Free Zone.

## **8 OTHER FORMS OF TAXATION**

### **8.1 Import Duty**

Plant, machinery, equipment and parts imported for investment purposes as contained in Chapters 82, 84, 85, and 98 of the customs harmonized commodity and tariff code are exempt from import duty. However, other minor handling and administrative charges may apply

### **8.2 Value Added Tax and National Health Insurance Scheme at – 15%**

Ghana introduced the Value Added Tax scheme in 1998 under the Value Added Tax Act 1998, Act 546. The Act imposes VAT on the importation or supply of all goods and services unless specifically exempt. The VAT rate is 12.5% with a minimum threshold of ₵100million. Exemptions, zero rating and relief from VAT are available for certain categories of goods and services. The National Health Insurance Scheme has been introduced at a rate of 2.5% on goods and services. From the first quarter of 2007, VAT Certificates will be issued to VAT registered companies in good standing with a six months validity period. These will be used by businesses for example as passes in activities such as competitive bidding and the clearance of goods at the port.

### **8.3 Airport Tax**

Airport Tax is \$50. This is normally included in the price of the air tickets and collected by the carrier or agent upon issuance of the ticket.

## **9 INVESTMENT INCENTIVES – The Ghana Investment Promotion Centre**

Ghana Investment Promotion Centre is a one-stop organisation responsible for all investment activities in the country, with the exception of mining, petroleum and portfolio investment. A number of investment incentives are available to investors seeking to do business in Ghana. These include:

- ✓ Tax Holidays.
- ✓ Generous Capital Allowance Regime.
- ✓ Location Incentive (Tax Rebate).
- ✓ Corporate Tax rates.
- ✓ Exemption from Income Tax payable.
- ✓ Losses carry over.
- ✓ Capital Expenditure in respect of Research and Development by an approved manufacturing company is fully deductible.

- ✓ Generous withholding tax rates.
- ✓ Duty allowances for commercial vehicles

Specific incentives are provided below:

### **9.1 Ghana Free Zones Scheme**

Ghana operates a free zones scheme which is an integrated program to promote the manufacture and processing of goods and the development of commercial and service activities. Under the free zone concept, the whole country is accessible to potential investors who seek to use the free zone as focal point to produce goods and services for foreign markets. The program is private sector driven with the government acting only as a facilitator / regulator and monitor.

The free zone scheme offers investors extensive and generous incentives. These include:

#### **Duties**

- Total exemption from the payment of direct and indirect duties and levies on all imports for production and export from the free zones

#### **Customs**

- No import licensing requirements
- Minimum customs formalities

#### **Taxation**

- Total exemption from income tax on profits for the first 10 years
- Income tax rates after 10 years shall not exceed 8%
- Total exemption from the payment of withholding taxes on dividends arising out free zone investments
- Relief from double taxation for foreign investors and employees
- Zone Ownership
- 100% ownership of shares by any investor (foreigner or national)

#### **Capital Profit Repatriation**

No condition or restrictions on

- Repatriation of dividend or net profits;
- Payments of foreign loan servicing;
- Payment of fees and charges for technology transfer agreements; and
- Remittance of proceeds from sale of any interest in a free zone investment.

#### **Management of Foreign Currency**

Free zone investors are permitted to operate foreign currency accounts with banks in Ghana.

#### **Sale on the Local Market**

Free zone operators are authorized to sell up to 30% of their free zone annual production of goods and services on the local market.

#### **Investment Guarantee**

Free zone investments are guaranteed against expropriation and nationalization.

## 9.2 Tax Holidays (from start of operation)

<b>Rural Banks</b>	10 years
<b>Real Estates</b> a. Rental income from residential premises b. Income accruing to companies engaged in construction, sale or letting of residential premises	First 5 years after construction
<b>Agriculture &amp; agro based industries</b>	
Cocoa farmers income	exempt
Cattle ranching	10 years
Tree crops	10 years after commercial production
Livestock excluding cattle and poultry	5 years
Fish farming poultry & cash crops	5 years
Manufacturing companies processing crops, fish or livestock	3 years
Air and sea transport (non resident) income	Exempt
Free zone enterprises	10 years thereafter 8%

## 10 QUALITY OF LIFE

### 10.1 Housing

Ghana enjoys a relatively good standard of living. A number of residential estates have been developed in recent years through private sector initiative with the support of the HFC Bank. Mortgage facilities are provided for the purchase of private and commercial accommodation from real estate developers. Commercial plots are also available for development through the Ghana Free Zone Scheme.

### 10.2 Education

Ghana has a long tradition of high quality formal education dating back from the 19th Century. Both first and second cycle and tertiary education are well developed. Ghana therefore abounds in high quality and relatively cheap manpower.

### 10.3 Communication and Transport

Ghana has in the last decade developed an effective communication and transport infrastructure conducive to business operations. The country now has two national telephone carriers with a total DEC of 250,000. There are also 4 mobile phone operators namely Tigo, Areeba, Kasapa and Onetouch, whose services cover most of the business centers of the economy. Further expansion is anticipated. Several international airline carriers have flights from Accra to major cities in Europe. A solid foundation therefore exists for effective business communication.

### 10.4 Social Security

Ghana has a national Social Security and National Insurance scheme. The scheme is managed by an independent Trust. Employees contribute 5% of their basic salaries to the scheme while employers contribute 12½%. Both employee and employer are relieved under the correct tax system.