Navigating Ghana’s Tax Incentives Regime

An impossible mission?

Tax Incentives: definition

- Concessions that fall outside a tax norm or benchmark
- In Ghana Tax Incentives classified under the following:
  - Allowances
  - Credits
  - Preferential tax rates
  - Tax deferrals
  - Tax holidays etc
 Tax incentives are:
• Recognized as government expenditure and therefore a take on government revenue
• The term: Tax incentives used interchangeably with Tax expenditure/Tax exemptions
• Tax expenditure is a major revenue issue
• Government of Ghana set up a Tax expenditure committee. (my presentation draws from the report of the committee from 2008-2013)

Legal framework

• The tax incentive regime is governed by the following legal framework:
  ☑ The 1992 Ghana Constitution:
  • Article 174 gives parliament power to impose all taxation in Ghana
  • Power to grant tax incentives and waivers
  • Any agreement with a taxation provision must have parliamentary approval to have legal effective
  • Questions have been raised over Parliament’s oversight responsibility in the granting of tax exemptions
Principal enactments

- Other legal sources for tax incentives in Ghana are:
  - Customs, Excise and Preventive Service (management) law
  - Customs and Excise (Duties and other) taxes Act
  - Internal Revenue Act
  - Value Added Tax Act
  - Ghana Investment Promotion Centre Act
  - Free Zones Act

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- Minerals and Mining Act
- Regional and International Treaties:
  - Ecowas trade liberalization scheme
  - Interim Economic Partnership Agreement (EPA) (with the European Union)
- Double Taxation Agreements
- Other international agreements and protocols
Scope of Exemptions

• These Cover three broad areas:
  1. Beneficiaries (Privileged persons, organizations and Institutions):
     ◆ The President
     ◆ Diplomatic missions
     ◆ Technical Assistance Schemes
     ◆ Churches and religious bodies
     ◆ Persons (Individuals and Corporate)
     ◆ Etc...

..../Scope of Exemptions

2. Specific Goods
   ➢ Advertising materials
   ➢ Aircraft parts
   ➢ Educational materials
   ➢ West African Foodstuffs and Fish
   ➢ Infant foods
   ➢ Fishing gear
   ➢ Agro chemicals, drugs and feed ingredients
   ➢ Machinery, Plant, Apparatus and spare parts for Agricultural purposes etc...
..../Scope of Exemptions

3. Sectors of the Economy:
   o Investment and Tourism Promotion
   o Manufacturing
   o Tax exemptions granted as a condition under international agreements between government and other parties eg:- dam construction; water desalination; energy/ power supplies
   o Industry concessions under the Income Tax Act
   o Enterprises registered with the Ghana Investment Promotion Centre for strategic investments

Rationale for Tax Incentives

• In Ghana Tax Incentives aim to:
  ✓ Encourage manufacturing by reducing cost of production through carry forward of losses, import duty exemptions etc..
  ✓ To honour conditions for aid funded projects governed by international treaties and agreements(defer payment of import duties)
  ✓ Honour diplomatic privileges
  ✓ Granting special import privileges as part of an investment promotion drive
  ✓ Promote international competitiveness of non-traditional exports
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- Equitable spread of industries across the country
- Make capital easily available
- Promote agricultural sector
- Boost employment
- Encourage investment in real estate
- Reduce regressive effect of VAT

Institutions granting/administering Tax incentives

- Office of the President
- Parliament of Ghana
- Ministry of Finance
- Ghana Investment Promotion Centre
- Ministry of Agriculture
- Ministry of Foreign Affairs
- Ministry of Trade
- Ghana Revenue Authority
Processes for granting incentives

- Two ways:
  - Exemption on application: process begins with an application for approval to the appropriate authority for tax exemption
  - Automatic Exemption: does not require approval from granting authority, reference is made to the relevant statutory provisions entitling taxpayer to the tax incentives

Effect of Tax Incentives

- Analysis of Ghana’s Tax Incentive regime between 2008 and 2013 revealed the following:
- Tax Expenditure to Tax Revenue ranges between 14.18% to 41.20% (41.20% was an aberration that occurred in 2010 due to special circumstances)
- Total tax expenditure(incentive) represents 24.54% of the Total revenue collected for the period(2010 figures adjusted)
- Tax expenditure to GDP ranges between 1.80% and 5.31% for the period
Weaknesses in Tax Incentive regime

- Subject to abuse
- Lack of effective control, monitoring of reliefs, concessions and exemptions
- Uncoordinated granting of exemptions by different governmental agencies leading to duplication
- No system for sharing information on companies/individuals enjoying exemptions and incentives by the various stakeholders
- Inability to determine numbers enjoying tax incentives under the various institutions/laws

Conclusion:
Proposals for Review

- Develop a Tax Incentives Act to streamline the tax incentive and governance structure
- Renegotiate all agreements on incentives
- Review legislation on incentives to minimize revenue leakages
- One central body to monitor administration and use of tax incentives
- Tax Administration must undertake impact analysis of the various tax incentive legislations with a view to repealing those that are retrogressive
- Develop a system for withdrawal of incentives for non-compliance with conditions
THANK YOU

ERIC MENSAH
GHANA REVENUE AUTHORITY
ACCRA