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

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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 IAgreement 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…

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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…

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3. Sectors of the Economy:

- Investment and Tourism Promotion
- Manufacturing
- Tax exemptions granted as a condition under international agreements between government and other parties eg:- dam construction; water desalination; energy/ power supplies
- Industry concessions under the Income Tax Act
- 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