

IN THE SECOND MEETING OF THE FOURTH SESSION OF THE FOURTH
PARLIAMENT OF THE FOURTH REPUBLIC OF GHANA

**REPORT OF THE FINANCE COMMITTEE ON THE
INTERNAL REVENUE (AMENDMENT) BILL, 2008**

1.0 INTRODUCTION

The Internal Revenue (Amendment) Bill, 2008 was presented and read the *first time* in the House on *Friday May 30, 2008* and referred to the Finance Committee for consideration and report in accordance with the Constitution and Standing Orders of the House.

The Committee met with the Minister of State at the Ministry of Finance and Economic Planning, Hon. Dr. Anthony Akoto Osei, an official from the Internal Revenue Service (IRS) and officials from Ministry of Finance and Economic Planning to consider the Bill and hereby submits this report.

2.0 BACKGROUND

Section 66 of the Internal Revenue Act, 2000 (Act 592) on branch profits does not provide for any express obligation on the payer of profit repatriated to non-resident shareholders to withhold tax and pay the withheld amount to the Commissioner until discoveries of the payments are made through field audits.

Again, with respect to the business of shipping, air transport and telecommunication services under section 67 of Act 592, even though a rate has been prescribed requiring the gross receipt to be subject to tax at a prescribed rate, there is no express obligation on the resident person who is a partner of the non-resident person to withhold the tax on payment of fees under contract.

The obvious intent of section 67 subsection 3 of Act 592, however is that the payer will withhold and pay the tax as a final tax to the Commissioner but this does not happen in practice. The new clause is therefore introduced to cure the anomaly.

3.0 OBJECT OF THE BILL

The object of the Bill is to amend the Internal Revenue Act, 2000 (Act 592) in two areas of business operations that affect non-resident persons carrying on business in Ghana.

It brings into focus the area of business where non-resident persons carry on business through a permanent establishment which repatriates profits. It also deals with the situation where non-resident persons carry on business operations to provide shipping, air transport and telecommunication services.

The Bill intends to make the payments in respect of income derived by non-resident persons in these two areas of business become a constituent part of withholding taxes.

4.0 CONTENTS OF THE BILL

The Bill contains a total of two (2) clauses.

Clause 1 seeks to amend section 66 of Act 592 by adding a new subsection 3 to the section to make it obligatory for any person who makes payment in respect of profit or repatriates the profit to withhold a final tax on the gross amount in accordance with the prescribed rate.

Clause 2 amends section 67 of Act 592 by adding a new subsection 4 to make it mandatory for a person who makes payment to or for a non-resident person in respect of any of the prescribed businesses to withhold a final tax on the gross amount in accordance with the prescribed rate.

5.0 OBSERVATIONS

The Committee observed that the passage of the Bill will make it obligatory for persons who are partners of non-resident persons to withhold the tax on payment of fees under contract in respect of shipping, air transport and telecommunication business.

The Bill also places an express obligation on branches of foreign companies, in respect of branch profits repatriated abroad, to withhold tax and pay the withheld amount to the Commissioner.

As to what will happen if Ghana has a Double Taxation Agreement (DTA) with the Country of the parent company, the Committee was informed that in such a circumstance, the Double Taxation Agreement (DTA) would take precedence over the Act and that the rate to be applied will depend on the terms of the DTA..

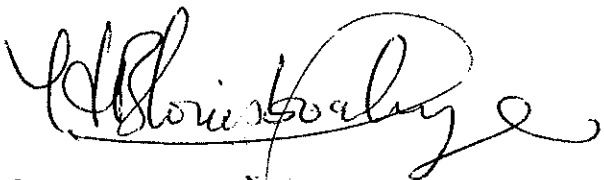
The Committee was further informed that the Bill will bring branch profit tax in harmony with the existing dividend tax which is at the rate of 8%.

6.0 CONCLUSION

The Committee has carefully considered the Bill and respectfully recommends to the House to adopt this report and pass the Internal Revenue (Amendment) Bill, 2008.

Respectfully submitted.


HON. NII ADU DAKU MANTE
CHAIRMAN


LOUIS YIADOM BOAKYE
FOR CLERK, FINANCE COMMITTEE

5TH JUNE, 2008