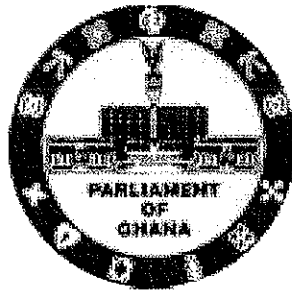


**IN THE SECOND SESSION OF THE SEVENTH PARLIAMENT OF THE  
FOURTH REPUBLIC OF GHANA**

**PARLIAMENT OF GHANA LIBRARY**



**REPORT OF THE  
FINANCE COMMITTEE**

**ON THE**

**TAXATION (USE OF FISCAL  
ELECTRONIC DEVICE) BILL,  
2017**

**14<sup>TH</sup> FEBRUARY, 2018**



## **1.0 INTRODUCTION**

The **Taxation (Use of Fiscal Electronic Device) Bill, 2017** was *presented* to Parliament and *read the first time* on Tuesday 31<sup>st</sup> October, 2017. The Bill was subsequently referred to the Finance Committee for consideration and report in accordance with the 1992 Constitution and Orders 125 and 169 of the Standing Orders of the House.

A Deputy Minister for Finance, Hon. Kwaku Kwarteng, the Commissioner-General of the Ghana Revenue Authority, Mr. Kofi Nti and officials from the Ministry of Finance, the Ghana Revenue Authority (GRA) and the Attorney General's Department attended upon and assisted the Committee in its deliberations on the Bill.

The Committee is grateful to the Hon. Deputy Minister and the officials from the Ministry of Finance, the GRA and the Attorney-General's Department for attending upon the Committee.

## **2.0 REFERENCES**

The Committee referred to the following documents *inter alia* during its deliberations on the Bill:

- a. The Constitution of the Republic of Ghana, 1992.
- b. The Standing Orders of the Parliament of Ghana.
- c. Interpretation Act, 2009 (Act 792)

- d. Ghana Revenue Authority Act, 2009 (Act 791)
- e. Public Financial Management Act, 2016 (921)
- f. Value Added Tax Act, 2013 (Act 870) as amended
- g. Revenue Administration Act, 2016 (Act 915)

### **3.0 BACKGROUND**

The Government of Ghana loses substantial revenue through unreported income and sales particularly perpetrated by taxable persons under the Value Added Tax Act, 2013 (Act 870). This revenue loss significantly affects Value Added Tax revenues as declared to the Ghana Revenue Authority.

In view of the revenue loss and as part of Government's efforts to address the phenomenon, the Ministry of Finance and the Ghana Revenue Authority have decided to introduce the use of Fiscal Electronic Device (FED).

The Fiscal Electronic Device (FED) is an invoicing system to be used by specified taxable persons under the Value Added Tax Act, 2013 (Act 870) and other taxable persons to be determined by the Minister for Finance.

### **4.0 PURPOSE OF THE BILL**

The purpose of the Bill is to provide for the mandatory use of Fiscal Electronic Device by a specified category of taxable

truncated use of the FED as well as a duty to report a change in business location.

Clauses 16 – 24 deal with the supply of Fiscal Electronic Device and requirements for such supply including qualifications to be a FED supplier and the licensing of a person to be a FED supplier.

Clauses 25 and 26 make provisions for Fiscal Electronic Device Manufacturer. A person qualifies to be selected as a manufacturer of a FED if that person satisfies the requirements stipulated in the Fourth Schedule. The GRA shall select a FED manufacturer in accordance with the Public Procurement Act, 2003 (Act 663).

Clauses 27 and 28 are on communication service provider and the obligations of that provider. The GRA is empowered for purposes of this law to enter into an agreement with a communication service provider for the provision of communication services between installed FEDs and the Fiscal Electronic Data Management System (FEDMS) or the backend system of the authority. The communication service provider is obligated to ensure that the service provided accords with the terms agreed on between that provider and the Authority and particularly to provide a dedicated and uninterrupted transmission service between each installed FED and the Fiscal Electronic Data Management System (FEDMS).

persons at each point of sale on the premises of the taxable persons.

The mandatory use of the Fiscal Electronic Device is to maximize revenue collection, minimize the incidence of revenue suppression, and obtain an accurate record of the volume of sales of each taxable person.

## **5.0 CONTENTS OF THE BILL**

The Bill is divided into a total of thirty-nine (39) clauses and six (6) schedules.

Clauses 1 and 2 deal with the purpose and application of the Bill. The purpose of the Bill is to maximize revenue collection whilst minimizing the incidence of revenue suppression. The Bill is also to help obtain an accurate record of the volume of sales of each taxable person.

The Bill applies to a taxable person under the Value Added Tax Act, 2013 (Act 870) and any other person who the Minister may, on the recommendation of the Board of GRA, by legislative instrument, prescribe.

Clauses 3 -15 provide for the obligation of applicable taxable persons to use the Fiscal Electronic Device. The clauses also provide for the conditions for the use of the Fiscal Electronic Device. Matters covered in these clauses include activation of the FED, obligation to put the FED to appropriate use, issuance of fiscal receipt, records to be kept by users of the Device, errors in issuance of fiscal receipt, return of goods sold,

Clauses 29-39 contain miscellaneous provisions. The Ghana Revenue Authority is mandated to establish a technical committee for the purpose of licensing suppliers of FEDs. This technical committee shall comprise representatives of the following institutions:

1. Ministry of Finance
2. Ghana Revenue Authority
3. National Information Technology Agency (NITA)
4. Ghana Standards Authority
5. Attorney General's Department
6. Ministry of Trade and Industry.

An obligation is also placed on a person who purchases goods or procures services from an applicable taxable person to collect a fiscal receipt for the transaction.

Under clause 31, the receipt number of each fiscal receipt issued to a customer may be used by that customer to enter a lottery draw organized by the Authority in collaboration with the National Lottery Authority.

The Commissioner-General is empowered under clause 32 to issue administrative directives for the implementation of the Act, when passed.

Per clause 33, a person commits a criminal offence when he/she tampers with or deliberately damages a FED.

The Minister responsible for finance is empowered in clause 35 to make Regulations by legislative instrument for the efficient

and effective implementation of the Act and to amend the schedules except the Sixth Schedule.

Clause 36 provides for the interpretation of the key terms used in the Bill unless the context of a particular term otherwise requires.

Clauses 37 and 38 provide for consequential amendments and transitional provisions respectively.

Under clause 39, the Minister is empowered to determine the date of commencement of the Act (when passed) by a notice published in the *Gazette* and in at least two daily newspapers of national circulation.

The Bill further contains six schedules.

**First Schedule** specifies the persons to whom the Bill applies.

**Second Schedule** provides for the contents of a fiscal receipt.

**Third Schedule** specifies the qualifications to be licensed as a Fiscal Electronic Device Supplier.

**Fourth Schedule** specifies the qualifications of a manufacturer of Fiscal Electronic Device.

**Fifth Schedule** is on the composition of the Fiscal Electronic Device Technical Committee created under clause 29.

**Sixth Schedule** provides for consequential amendments to some existing law.



## **6.0 OBSERVATIONS**

### **6.1 Fiscal Impact**

The Committee was informed that the revenue that will accrue to the state from the implementation of this policy is expected, in the first year, to range between twenty percent and thirty percent (20%-30%) of the current Value Added Tax revenue.

### **6.2 Obligation to Use Device**

The Committee observed that the Bill makes it obligatory for all persons to whom the Bill applies to use an approved Fiscal Electronic Device (FED) and to keep another as a back-up at each sales location of that person as determined by the Commissioner-General of the Ghana Revenue Authority. A person who fails to do so commits an offence and is liable on summary conviction to a fine of not less than five hundred penalty units and not more than two thousand penalty units or to a term of imprisonment of not less than two years and not more than four years, or to both the fine and the imprisonment.

### **6.3 Fiscal Receipt**

The Committee noted that a taxable person to whom the Bill applies is obligated to use a FED for all transactions from the moment the FED is activated and shall issue a fiscal receipt to each customer to whom a sale is made or a service is provided.

The Bill makes it an offence for a person to issue a fiscal receipt which displays a sum which is lesser than the sum actually paid for the goods/service.

#### **6.4 Lottery with Fiscal Receipts**

The Committee was further informed that the receipt number of each fiscal receipt issued to a customer may be used by that customer to enter a lottery draw that may be organized by the Ghana Revenue Authority in collaboration with the National Lottery Authority.

The Committee noted that this forms part of measures to ensure customer insistence on the fiscal receipt.

#### **6.5 Return of Goods Sold**

The Committee observed that where an applicable taxable person operates a policy of allowing customers to return goods purchased from that person for refund of the money paid, that person shall, on the return of the goods, issue to the customer a certified refund receipt in accordance with the instructions of the Commissioner-General .

#### **6.6 Acquisition and Proper Care for the Devices**

The Committee observed that Government would procure the approved Fiscal Electronic Device (FED) for all taxable persons within the first two years of the implementation of the Act (transitional period). A maximum of 5 Devices

would be given freely to each taxable person. Within the two year transitional period, a taxable person who requires more Devices beyond the 5 maximum would be required to purchase the additional Devices from an approved supplier.

After the expiration of the two years transitional period, taxable persons would be required to purchase the approved Devices that they may require for their business.

The Committee was informed that this measure was in part aimed at encouraging taxable persons to take proper care of the Devices to forestall breakdowns, losses or even destruction of the equipment.

### **6.7 Anti-Tax Evasion Measure**

The Committee noted that the Bill is an important step towards arresting tax evasion, under-declaration and suppression of records. The use of the Device would enable the Ghana Revenue Authority to monitor in real time the transactions undertaken by the taxable persons.

The use of the Fiscal Electronic Device would also help to move Ghana to a cash-lite and eventually cashless society where payment transactions are done electronically instead of by cash.

## **7.0 AMENDMENTS PROPOSED**

The Committee respectfully recommends the following amendments to the Bill:

- i. **Clause 1– Amendment Proposed** – paragraph (b), after “suppression” *delete* “and”
- ii. **Clause 1– Amendment Proposed** – Paragraph (c), at end, *insert* “and”
- iii. **Clause 1– Amendment Proposed** – *Insert* a new paragraph (d) as follows:  
  
“(d) promote cashless payment in sale transactions”
- iv. **Clause 3 – Amendment Proposed – Sub-clause (1)** *delete* and *insert* the following:  
“(1) A person specified in the First Schedule shall
  - (a) use an approved Fiscal Electronic Device, and
  - (b) keep another of that Device as a back-upat a location on the premises of that person determined by the Commissioner-General”
- v. **Clause 3 – Amendment Proposed – Sub-clause (2)** paragraph (b) *delete* and *insert* the following:  
“(b) Cause the Fiscal Electronic Device to be installed at a conspicuous sales location on the premises of that person determined in accordance with subsection 1”
- vi. **Clause 4– Amendment Proposed – Sub-clause (1)**, in line 1, *insert* “taxable” before “person” and in line 3, *delete* “certified”
- vii. **Clause 5 – Amendment Proposed – Sub-clause (1)**, paragraph (c), line 3, *delete* “Fiscal Electronic”

- viii. **Clause 6 – Amendment Proposed – Sub-clause (4)**, line 5, after “than” on first occurrence, *delete* all words and *insert* “two years and not more than four years, or to both.”
- ix. **Clause 6 – Amendment Proposed – Sub-clause (5)**, line 1, after “subsection” *delete* “(3)” and *insert* “(4)”
- x. **Clause 8– Amendment Proposed – Sub-clause (4)**, delete and insert the following:
  - " (4) A person who makes a report under subsection (1) shall
    - (a) where the back-up Fiscal Electronic Device is activated but fails to function;
    - and
    - (b) in the circumstance specified in paragraph (a) while awaiting the repair or replacement of the defective or malfunctioning Fiscal Electronic Device
 issue the Commissioner-General's invoice to a customer for each transaction engaged in within the period permitted by subsection (2).
- xi. **Clause 8 – Amendment Proposed – Sub-clause (5)**, line 4, *delete* “where” and *insert* “were”
- xii. **Clause 8 – Amendment Proposed – Sub-clause (6)**, after “two thousand penalty units” appearing in line 3, *delete* all words.
- xiii. **Clause 9 – Amendment Proposed – Sub-clause (2)**, paragraph (d) line 1, between “person” and “made” *insert* “who”

- xiv. **Clause 10 – Amendment Proposed** – Line 1, at end *insert* “of”
- xv. **Clause 10 – Amendment Proposed** – paragraph (b), line 1, after “receipt” *insert* “on”
- xvi. **Clause 11 – Amendment Proposed** – Line 4, *delete* “certified”
- xvii. **Clause 13 – Amendment Proposed – Sub-clause (2)**, lines 2 and 3, *delete* “one thousand” and *insert* “five hundred”
- xviii. **Clause 14 – Amendment Proposed** – *Delete* and *insert* as follows:

**“Maintenance of records extracted from Fiscal Electronic Device**

14. The Authority shall extract records maintained in the internal memory of a Fiscal Electronic Device and shall keep the records for at least six years where the Device

- (a) is de-activated by the Authority;
- (b) has reached its maximum operational capacity; or
- (c) is rendered un-operational.”

- xix. **Clause 16 – Amendment Proposed – Sub-clause (1)**, line 2, *delete* “another” and *insert* “a taxable”
- xx. **Clause 19 – Amendment Proposed** – After Sub-clause (3), *add* a new sub-clause (4) as follows:  
“(4) A supplier who is issued a license under this section shall display the license at the business premises of the supplier”

- xxi. **Clause 20 – Amendment Proposed – Headnote,** *delete* “Purchase,”
- xxii. **Clause 20 – Amendment Proposed – Sub-clause(1)** paragraph (a) line 2, *delete* “purchase,”
- xxiii. **Clause 22 – Amendment Proposed – Delete** and *insert* the following:  
“22. A licence issued under section 19 is valid for five years
- xxiv. **Clause 23 – Amendment Proposed – Insert** a new sub-clause (1) as follows:  
  
“(1) Despite section 22, a licence issued is renewable annually.”
- xxv. **Clause 23 – Amendment Proposed – Line 2,** *delete* “one month” and *insert* “three months”.
- xxvi. **Clause 24 – Amendment Proposed – Paragraph (a)** line 2, after “sections” *insert* “8,”
- xxvii. **Clause 27 – Amendment Proposed – After** “services” in line 3, *delete* the rest of the Clause
- xxviii. **Clause 27.– Amendment Proposed – Insert** a new sub-clause as follows:  
“(2) The Minister may, on the recommendations of the Board, by Legislative Instrument, make Regulations to prescribe the obligations of the communication service provider”
- xxix. **Clause 28 – Amendment Proposed – Delete**

- xxx. **Clause 29 – Amendment Proposed** – *Insert* a new sub-clause as follows:  
“(2) The Commissioner-General shall specify in the letter to a specified institution requesting for nomination to the Technical Committee, the expertise required of the nominee”
- xxxii. **Clause 30 – Amendment Proposed – Sub-clause (1)**, line 2, *delete* “taxpayer” and *insert* “taxable person”
- xxxiii. **Clause 30 – Amendment Proposed – Sub-clause (1)**, paragraph (b) line 2, after “purchase” *insert* “or service”
- xxxiiii. **Clause 33 – Amendment Proposed – Sub-clause (1)**, in line 2 insert “Fiscal Electronic” before “Device” and in line 4, after “to” *insert* “a”.
- xxxv. **Clause 35 – Amendment Proposed – Delete and insert the following:**

### **“Regulations**

35. The Minister may, on the recommendation of the Board, by legislative instrument, make Regulations to

(a) prescribe the maximum number of suppliers that may be licensed by the Authority;

(b) provide for procedures for the supply, installation, activation, repair or replacement and filing a report in relation to the procedures;

(c) prescribe the obligations of a communication service provider;



(d) amend the Schedules except the Sixth Schedule;  
and

(e) provide for any other matter for the effective and efficient implementation of this Act."

**xxxv. Clause 36 – Amendment Proposed – Insert a new definition as follows:**

““electronic communication service” includes a service providing electronic communications, a closed user group service, a private electronic communications service, a public electronic communications service, a radio communication service and a value added service;”

**xxxvi. Clause 36 – Amendment Proposed – Definition of “communication service provider”, delete and insert “communication service provider means a person permitted or authorised under the Electronic Communications Act, 2008 (Act 775) or Electronic Communication Regulations, 2011 (L.I. 1991) to provide a public electronic communication service”**

**xxxvii. Clause 36 – Amendment Proposed – Definition of “Fiscal Electronic Device”, Delete and insert the following:**

““Fiscal Electronic Device” means a machine approved by the Authority and designed by an approved manufacturer for use in business for efficient management control and includes an Electronic Printer and an Electronic Signature Device;”

**xxxviii. Clause 36 – Amendment Proposed – Definition of “good corporate citizenship”, delete and insert the following new definition:**

""location" means, in the case of a taxable person who provides services, the point of payment for the services rendered or to be rendered;"

xxxix. **Clause 36 – Amendment Proposed** – After the definition of "refund receipt", insert the following new definition:

""report" means a written account containing the requisite information and submitted to the person or authority to whom it is to be submitted;"

xl. **Clause 36 – Amendment Proposed – Definition of "Subscriber Identity Module card"**, *delete*

xli. **Clause 36 – Amendment Proposed** – After the definition of "technician", insert the following new definition:

""transaction" includes a taxable transaction under the Value Added Tax Act, 2013 (Act 870);"

xlii. **Clause 36 – Amendment Proposed – Definition of "web portal"**, line 1, after "means" *delete* "the" and *insert* "an internet"

xliii. **Clause 38 – Amendment Proposed** – *Add* a new sub-clause as follows:

"(5) Despite subsection (4), a taxable person authorised to operate a retail or other scheme shall continue to operate that retail or other scheme until the Commissioner-General applies this Act to that person in accordance with subsection (2) of section 39."

xliv. **Clause 39 – Amendment Proposed** – *Add* a new sub-clause as follows:

"(2) The Commissioner-General may apply the provisions of the Act in phases to taxable persons"

- xlv. **SECOND SCHEDULE – Amendment Proposed –**  
*Delete and insert the following:*

**“SECOND SCHEDULE**  
(Section 6(3))

**Contents of Fiscal Receipt**

**A fiscal receipt shall**

**A) have a header that specifies**

- i) the name of the taxable person,
- ii) the business address,
- iii) email address
- iv) telephone number,
- v) Tax Office
- vi) taxpayer identification number,
- vii) taxpayer FED registration ID,
- viii) fiscal Device number (2-digit Manufacturer code, 2-digit Supplier code, serial No), and
- ix) the taxpayer identification number of the customer (if known);

**B) have a body that specifies**

- i) fiscal receipt number (serial trans. no of the day followed by cumulative trans. no)
- ii) Daily Z report number
- iii) For each item**
  - ◆ item description
  - ◆ quantity,
  - ◆ price per unit,
  - ◆ amount
  - ◆ Tax code applicable
  - ◆ Tax amount (Value Added Tax and National Health Insurance Levy)
- iv) total amount in Cedis before tax,
- v) total amount of tax
- vi) total amount payable in Cedis,
- vii) payment method, and
- viii) number of items sold;

- C) have a footer that specifies
- i) the date and time,
  - ii) the Fiscal Electronic Journal Serial No,
  - iii) Electronic Journal Activation Date
  - iv) the fiscal receipt notification
  - v) the fiscal logo. (manufacturer Id)
  - vi) QR-2017code 57X57 (**encrypted code** from: TIN, Taxpayer Reg. ID, receipt number, last Z number. Code also has **signature data** TIN, Reg ID, Receipt No. Total Sale, Total Tax, Date, Time. **Receipt Signature** using SHAI made up from TIN, Reg ID, Receipt No, Total Sale, Total Tax, Date, Time – Scannable with Smart Phone.”

xlvi. **THIRD SCHEDULE – Amendment Proposed –**  
*Delete and insert the following:*

### **“THIRD SCHEDULE**

(Section 17)

#### **Qualification to be licensed as Fiscal Electronic Device Supplier**

A person qualifies to be licensed as a Fiscal Electronic Device supplier if that person

- (a) is a corporate body, with at least 60% Ghanaian ownership;
- (b) provides valid Tax Clearance Certificate;
- (c) provides evidence of agreement with all approved Manufacturers to supply their products.
- (d) has a service and maintenance network with requisite trained technicians to support the supplies;

- (e) has the ability to acquire adequate spare parts to support the operations of the Fiscal Electronic Device;
- (f) has key Technical Staff with experience in a related business of supplying similar electronic Devices;
- (g) has the financial capability to obtain from all the approved Fiscal Electronic Device manufacturers for supply, at least five thousand Fiscal Electronic Devices, spread equally among the Manufacturers;
- (h) can provide to the Authority, samples of the Fiscal Electronic Device to be supplied; and
- (i) signs an agreement to make available samples of the Fiscal Electronic Devices imported for supply, to the Technical Committee for purposes of comparing the imported Devices with the prototype Fiscal Electronic Device submitted by that supplier to the Authority under paragraph (h)."

xlvi. **FOURTH SCHEDULE – Amendment Proposed –** Paragraph 1(c), line 5, after "countries", delete "or more"

xlviii. **FOURTH SCHEDULE – Amendment Proposed –** Paragraph 1(e), *delete* "record on"

xlix. **FOURTH SCHEDULE – Amendment Proposed –** Paragraph 2(b), line 1, *delete* "assurance" and *insert* "undertaking"

i. **FIFTH SCHEDULE – Amendment Proposed – Delete** "3. National Communication Authority" and *insert*

"3. National Information Technology Agency"

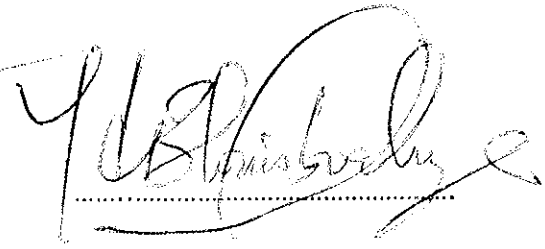
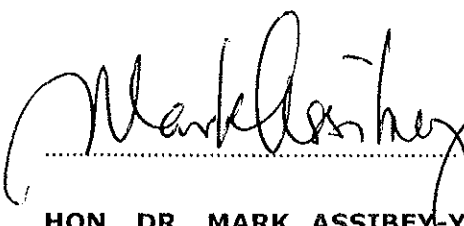
- li. **FIFTH SCHEDULE – Amendment Proposed** – Line 4, before "Standards" *insert* "Ghana"
- lii. **Long Title – Amendment Proposed** – After "persons" in line 2, *insert* "for tax compliance and promotion of cashlite sale transactions"

## **8.0 CONCLUSION**

The Committee has thoroughly examined the Bill and finds that its passage would help maximize revenue collection by GRA and minimize the incidence of revenue suppression and tax evasion.

The Committee therefore recommends to the House to adopt this report and **pass** the **Taxation (Use of Fiscal Electronic Device) Bill, 2017** into law *subject to the amendments proposed* in accordance with Article 106 of the 1992 Constitution and the Standing Orders of the House.

Respectfully Submitted.



**HON. DR. MARK ASSIBEY-YEBOAH**  
**(CHAIRMAN, FINANCE COMMITTEE)**

**MR. LOUIS YIADOM BOAKYE**  
**(ASST. CLERK, FINANCE COMMITTEE)**

**14<sup>TH</sup> FEBRUARY, 2018**