

## Regulatory Alert

.....

### Ghana establishes an Independent Tax Appeals Board

Ghana passes the Revenue Administration (Amendment) Act, 2020, Act 1029 to amend the Revenue Administration Act, 2016, Act 915. The primary focus of the amendment is to provide for the establishment of an Independent Tax Appeals Board and other related matters. The Revenue Administration (Amendment) Act, 2020, Act 1029 was given assent by the President of the Republic of Ghana on 6 October 2020 and it came into force on the same day.

In this Alert, we will focus on Independent Tax Appeals Board as set out below:

#### **Function of the Appeals Board**

The Appeals Board is to hear and determine appeals against the 'tax decisions' of the Commissioner-General of the Ghana Revenue Authority (GRA) with respect to objections to tax decisions and assessments.

#### **Composition of the Appeals Board**

- The Appeals Board will be made up of:
  - a) A chairperson, who must be a Ghanaian lawyer of 10 years at the Bar with 10 years' experience in tax practice or a retired Superior Court Judge.
  - b) Two retired officers of the Ghana Revenue Authority who had a rank of not below the Chief Revenue Officer or who qualify for appointment as tax consultants.
  - c) Two other persons with the same qualification as the chairperson.
  - d) Two representatives nominated by the Chartered Institute of Taxation, Ghana who have 10 years or more tax practice.
  - e) Two representatives nominated by the Institute of Chartered Accountants, Ghana who have 10 years or more practice.
  - f) Two representatives from the private sector who are women.
- The Appeals Board members shall be appointed by the Minister of Finance.
- The Appeal Board members shall have a tenure of four years and may be reappointed for another four years only.

### **Panel**

- The Chairman can constitute more than one panel to hear various appeals at a given time.
- A panel of three (3) members shall be deemed as a duly constituted Appeals Board.
- If a panel that does not have the Chairman as part of it, the Chairman shall appoint one of the members to preside as chairperson. The appointed chairperson must have similar qualifications as the Chairman.

### **Mode of Business**

- Appeals shall be heard in camera (only the parties and the appeal commissioners excluding the press and public).
- Parties can appear in person for a hearing or be represented by either a lawyer, registered tax consultant, accountant, or auditor.
- The Commissioner of the GRA may be represented by any duly authorised person.
- Evidence before the Appeals Board shall be given orally or by affidavit or as may be determined by the Appeals Board.
- Burden of proof lies on the Appellant (taxpayer).

### **Procedures of the Appeals Board**

- A tax appeal against a decision of the Commissioner-General shall be filed with the Executive Secretary of the Appeals Board.
- The appeal against the Commissioner-General must be brought within thirty (30) days of the decision.
- The parties shall be invited to appear before the panel.
- The Appeals Board are not bound by rules of evidence.
- Experts may be invited by the Appeals Board to assist the panel in adjudicating a matter before it.

### **Decision of the Appeals Board**

- Decision of the Appeals Board shall be delivered in writing.
- The decision shall be served on the parties within fourteen (14) days of the decision by the Executive Secretary of the Appeals Board.
- A party aggrieved by the decision of the Appeals Board shall mount an appeal at the High Court within thirty (30) days upon receipt of the decision.

## Takeaway

- The Appeals Board is not yet operationalised.
- Taxpayers shall benefit from panel members who have tax speciality.
- A taxpayer may mount an appeal without a lawyer.
- A taxpayer challenging the decision of the Commissioner-General of the GRA may be assisted by a lawyer or registered tax consultant, accountant, or auditor.
- An appeal against the decision of the Commissioner-General of the GRA must now be initiated at the Appeals Board, and not at the High Court.
- An appeal of the decision of the Commissioner-General of the GRA at first instance at the High Court will be deemed as incompetent (save where the matter does not relate to tax decisions and/or assessment)
- Appeals Boards will offer the benefits of informal, inexpensive and speedy adjudication.
- The Appeals Board would not operate as a court and therefore there would be a certain level of flexibility in the application of rules of evidence.
- It is our considered opinion that the mandatory 30% deposit (of the disputed tax) required to be paid before an appeal can be entertained by the Commissioner-General if it is not abolished or varied. This will render the Appeals Board a mere creation of statute and as a consequence, redundant.
- The introduction of the Appeals Board, although laudable, has now increased the levels of appeals for taxpayer. The Appeals Board should be tiered to allow a wing of seven to rehear an appeal from the panel of three. Subsequent appeals should lie at the Court of Appeal, rather than the High Court.
- It is quite unclear whether an 11-member panel could handle appeals from the 16 regions of Ghana. The Appeals Board should be set up on a zonal basis to cover many tax disputes flowing from other regions.
- A paper application option should also be considered and limit in-person hearings to contentious matters unless the taxpayer indicates a preference for to be heard in person.

If you have any questions on the matters referred to in this Alert, please do not hesitate to contact the authors below.

The information provided in this alert, is not intended to be, and shall not be construed to be, either the provision of legal or tax advice or an offer to provide legal or tax services, nor does it necessarily reflect the opinions of the firm, our lawyers/consultants or our clients. No client- lawyer/consultants relationship between you and our lawyers/consultants is or may be created by your use of this information. Rather, the content is intended as a general overview of the subject matter covered. WTS Nobisfields is not obligated to provide updates on the information presented herein. Those reading this alert are encouraged to seek direct counsel on this issue

## Contacts

### **Theophilus Tawiah**

Managing Partner

T:+233508646424

E: theophilus.tawiah@wtsnobisfields.com

### **Peggy Addo**

Partner

T: +233302500107

E: peggy.addo@wtsnobisfields.com

### **Richard Amo-Hene**

Tax Partner/Director

T:+233302500107

E: richard.amo-hene@wtsnobisfields.com

### **Stephanie Senyah**

Associate

T: +233302500107

E: stephanie.senyah@wtsnobisfields.com

November 2020

#5.2020

### About WTS Global

With representation in over 100 countries, WTS Global has already grown to a leadership position as a global tax practice offering the full range of tax services and aspires to become the preeminent non-audit tax practice worldwide. WTS Global deliberately refrains from conducting annual audits in order to avoid any conflicts of interest and to be the long-term trusted advisor for its international clients. Clients of WTS Global include multinational companies, international mid-size companies as well as private clients and family offices.

The member firms of WTS Global are carefully selected through stringent quality reviews. They are strong local players in their home market who are united by the ambition of building a truly global practice that develops the tax leaders of the future and anticipates the new digital tax world.

WTS Global effectively combines senior tax expertise from different cultures and backgrounds and offers world-class skills in advisory, in-house, regulatory and digital, coupled with the ability to think like experienced business people in a constantly changing world.

For more information please visit [www.wts.com](http://www.wts.com).

### WTS Nobisfields

1 Pawpaw Street

East Legon


P. O. Box DT 1210

Accra, Ghana

T: +233 302500107/+233508646424 E: [info@wtsnobisfields.com](mailto:info@wtsnobisfields.com)

[www.wtsnobisfields.com](http://www.wtsnobisfields.com)

© 2020 WTS Nobisfields. All Rights Reserved.

Follow us 

**wts global**