

Ghana Revenue Authority Act, 2009 (Act 791)

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THE SEVEN HUNDRED AND NINETY-FIRST

ACT

OF THE PARLIAMENT OF THE REPUBLIC OF GHANA

ENTITLED

GHANA REVENUE AUTHORITY ACT, 2009

AN ACT to establish the Ghana Revenue Authority to replace the Internal Revenue Service, the Customs, Excise and Preventive Service and the Value Added Tax Service for the administration of taxes and to provide for related purposes.

DATE OF ASSENT: *31st December, 2009.*

ENACTED by the President and Parliament:

Establishment and governing body

Establishment of the Ghana Revenue Authority

1. (1) There is established by this Act a body known as the Ghana Revenue Authority.

(2) The Authority is a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name.

(3) The Authority may for the performance of its functions acquire and hold movable or immovable property and may enter into a contract or any other transaction.

(4) Where there is a hindrance to the acquisition of property, the property may be acquired for the Authority under the State Property and Contracts Act, 1960 (C.A.6) or the State Lands Act, 1962 (Act 125) and the cost shall be borne by the Authority.

Objects of the Authority

2. The objects of the Authority are to

(a) provide a holistic approach to tax and customs administration;

(b) reduce administrative and tax compliance cost and provide better service to taxpayers;

(c) promote efficient collection of revenue and the equitable distribution of tax burden and ensure greater transparency and integrity.

(d) ensure greater accountability to Government for the professional management of tax administration;

(e) improve information linkage and sharing of information among the Divisions of the Authority;

- (f)* provide a one-stop service for taxpayers for the submission of returns and payment of taxes;
- (g)* provide common tax procedures that enable tax payers to be governed by a single set of rules;
and
- (h)* provide for other matters related to the improvement of revenue administration.

Functions of the Authority

·3. To achieve the objects, the Authority shall

- (a)* assess and collect taxes, interest and penalties on taxes due to the Republic with optimum efficiency;
- (b)* pay the amounts collected into the Consolidated Fund unless otherwise provided by this Act and other Acts;
- (c)* promote tax compliance and tax education;
- (d)* combat tax fraud and evasion and co-operate to that effect with other competent law enforcement agencies and revenue agencies in other countries;
- (e)* advise District Assemblies on the assessment and collection of their revenue;
- (f)* prepare and publish reports and statistics related to its revenue collection;
- (g)* make recommendations to the Minister on revenue collection policy; and
- (h)* perform any other function in relation to revenue as directed by the Minister or assigned to it under any other enactment.

Governing body of the Authority

4. (1) The governing body of the Authority is a Board consisting of

- (a)* a chairperson,
- (b)* the Commissioner-General of the Authority,
- (c)* a representative of the Ministry not below the rank of a Director,
- (d)* a representative of the Ministry of Trade and Industry not below the rank of a Director,
- (e)* the Governor of the Bank of Ghana or a representative of the Governor not below the rank of a Deputy-Governor,
and
- (f)* four other persons from the private sector two of whom are women.

(2) The President shall appoint the chairperson and members of the Board in accordance with article 70 of the Constitution.

Functions of the Board

5. (1) The Board shall ensure the proper and effective performance of the functions of the Authority through the

(a) supervision and monitoring of the Authority in the performance of its functions;

(b) formulation of administrative policy for the smooth and efficient management of the Authority;

(c) determination of a scheme of service for the staff of the Authority; and

(d) performance of any other function incidental to the objects of the Authority.

(2) The Board shall make recommendations to the Minister on tax policy, tax reform, tax legislation, tax treaties, tax exemption and tax concessions.

Tenure of office of members of the Board

6. (1) A member of the Board, shall hold office for a period of not more than four years and is eligible for re-appointment but a member shall not be appointed for more than two terms.

(2) Subsection (1) does not apply to a person whose membership is by virtue of that person's employment.

(3) A member of the Board may at any time resign from office in writing addressed to the President through the Minister.

(4) A member of the Board who is absent from three consecutive meetings of the Board without sufficient cause ceases to be a member of the Board.

(5) The President may by a letter addressed to a member revoke the appointment of that member.

(6) Where a member of the Board is for sufficient reason, unable to act as a member, the Minister shall determine whether the inability would result in the declaration of a vacancy.

(7) Where there is a vacancy

(a) under subsection (3), (4), (5) or 8(2),

(b) as a result of a declaration under subsection (6), or

(c) by reason of the death of a member,

the Minister shall notify the President of the vacancy and the President shall appoint a person to fill the vacancy.

Meetings of the Board

7. (1) The Board shall meet at least once every three months for the despatch of business at the times and in the places determined by the chairperson.

(2) The chairperson shall at the request in writing of not less than one-third of the membership of the Board convene an extraordinary meeting of the Board at the place and time determined by the chairperson.

(3) The quorum at a meeting of the Board is five members of the Board or a greater number determined by the Board in respect of an important matter.

(4) The chairperson shall preside at meetings of the Board and in the absence of the chairperson, a member of the Board elected by the members present from among their number shall preside.

(5) Matters before the Board shall be decided by a majority of the members present and voting and in the event of an equality of votes, the person presiding shall have a casting vote.

(6) The Board may co-opt a person to attend a Board meeting but that person shall not vote on a matter for decision at the meeting.

(7) The proceedings of the Board shall not be invalidated by reason of a vacancy among the members or a defect in the appointment or qualification of a member,

(8) Subject to this section, the Board may determine the procedure for its meeting.

Disclosure of interest

8. (1) A member of the Board who has an interest in a matter for consideration by the Board shall disclose in writing the nature of that interest and is disqualified from participating in the deliberations of the Board in respect of that matter.

(2) A member who contravenes subsection (1) shall be removed from the Board.

Establishment of committees

9. (1) The Board may establish committees consisting of members of the Board or non-members or both to perform a function.

(2) A committee of the Board may be chaired by a member of the Board.

(3) Section 8 (1) applies to members of committees of the Board.

Allowances

10. Members of the Board and members of a committee of the Board shall be paid the allowances approved by the Minister responsible for Finance.

Ministerial directives

11. The Minister may give directives in writing to the Board on matters of policy and the Board shall comply.

Divisions, regional and district offices of the Authority

12. (1) The Board shall establish divisions of the Authority for the effective and efficient performance of the functions of the Authority.

(2) The Authority shall have regional and district offices that the Authority considers necessary for the performance of the functions of the Authority.

Administrative matters

Appointment of Commissioner-General

13. (1) The President shall in accordance with article 195 of the Constitution, appoint a Commissioner-General for the Authority.

(2) The Commissioner-General shall hold office on the terms and conditions specified in the letter of appointment and shall be appointed for a term of four years which may be renewed for another term of four years.

Functions of the Commissioner-General

14. (1) The Commissioner-General is responsible for the day-to-day administration of the affairs of the Authority and is answerable to the Board for the performance of the functions of that office.

(2) The Commissioner-General shall perform any other function determined by the Board.

(3) The Commissioner-General may delegate a function to an officer of the Authority but is not relieved from ultimate responsibility for the performance of the delegated function.

(4) The Commissioner-General is responsible for the direction and supervision of the employees of the Authority.

(5) One of the Commissioners of the Authority nominated by the Commissioner-General shall act in the absence of the Commissioner-General.

Suspension or removal of Commissioner-General

15. The Commissioner-General may be suspended or removed from office by the President for any of the following

- (a)* stated misbehaviour,
- (b)* inability to observe conditions specified in the contract of employment;
- (c)* if declared bankrupt or insolvent, or
- (d)* if convicted for a serious offence.

Appointment of Commissioners and other staff

16. (1) The President shall in accordance with article 195 of the Constitution appoint for the Authority Commissioners and other staff that are necessary for the proper and effective performance of its functions.

(2) Other public officers may be transferred or seconded to the Authority or may otherwise give assistance to it.

(3) The Authority may engage the services of advisers on the recommendation of the Board.

Divisions of the Authority

17. The Authority shall have the following Divisions

- (a)* Domestic Tax Revenue Division
- (b)* Customs Division
- (c)* Support Services Division, and
- (d)* Any other division determined by Parliament..

Participation of management in meetings of the Board

18. The Board may invite members of management to attend and participate in meetings of the Board without the right to vote.

Co-operation with the Authority

19. All persons shall co-operate with the Authority to ensure the assessment and optimum collection of revenue.

Sanctions for non cooperation

20. A person who fails to co-operate with the Authority to ensure the assessment and optimum collection of revenue commits an offence and

(a) is liable on summary conviction to a fine of not more than five hundred penalty units or to a term of imprisonment of not more than two years or to both, and

(b) in the case of continuing offence to a further fine of ten penalty units for each day during which the offence continues after written notice has been served on the offender by the Authority.

Finances of the Authority and Miscellaneous matters

Revenue

21. (1) Revenue collected by the Authority under this Act shall be paid into the Consolidated Fund in accordance with the Financial Administration Act, 2003 (Act 654).

(2) The Authority shall retain not more than 3 percent of the net annual revenue collected.

(3) The revenue retained under sub-section (2) shall, with the approval of the Minister, be applied for the payment of salaries, allowances, operational and administrative expenses and other expenses of the Authority.

Funds of the Authority

22. The funds of the Authority include

(a) moneys approved by Parliament,

(b) fees for services rendered by the Authority,

(c) loans, grants or subsidies approved by the Minister for Finance, and

(d) any other moneys that may be received by or made available to the Authority for the purpose of performing its functions.

Internal Auditor

23. (1) The Board shall appoint an internal auditor for the Authority.

(2) The internal auditor shall report to the Commissioner-General in the performance of functions under the Internal Audit Agency Act, 2003 (Act 658).

Annual budget of the Authority

24. The Authority shall not later than three months before the end of each financial year, cause to be prepared and submitted to the Minister for the approval of Parliament, an annual budget in respect of the following financial year comprising estimates of expected income and expenditure in that financial year.

Accounts and audit

25. (1) The Authority shall keep books of account and proper records in a form approved by the Auditor-General.

(2) The Board shall submit the accounts of the Authority to the Auditor-General for audit within three months after the end of the financial year.

(3) The Auditor-General shall not later than three months after the receipt of the accounts, audit the accounts and forward a copy of the audit report to the Minister.

(4) The financial year of the Authority shall be the same as the financial year of the Government.

Annual report and other reports

26. (1) The Board shall within one month after the receipt of the audit report, submit annual report to the Minister covering the activities and the operations of the Authority for the year to which the report relates.

(2) The annual report shall include the report of the Auditor- General.

(3) The Minister shall within one month after the receipt of the annual report, submit the report to Parliament with a statement that the Minister considers necessary.

(4) The Board shall also submit to the Minister any other report which the Minister may require in writing.

Regulations

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

(a) in respect of domestic tax in accordance with the applicable provisions of the Internal Revenue Act, 2000 (Act 592) and the Value Added Tax Act, 1998 (Act 546);

(b) in respect of customs and excise tax in accordance with the applicable provisions of the Customs, Excise and Preventive Service (Management) Act, 1993 (P.N.D.C.L. 330);

(c) on the procedure for the retention of revenue by the Authority; and

(d) for the effective implementation of this Act and in particular provide guidelines for the administration of legislation administered by the Authority.

Interpretation

28. In this Act, unless the context otherwise requires:

"Authority" means the Authority established under this Act;

"Board" means the governing body of the Authority;

"Commissioner" means head of a Division of the Authority;

"Commissioner-General" means the person appointed under section 13;

"District Assembly" includes Municipal and Metropolitan Assembly;

"Minister" means the Minister responsible for Finance;

"Ministry" means the Ministry of Finance;

"private sector" means the sector of national economy under private ownership in which allocation of productive resources is controlled by market forces rather than public authorities and other sectors of the economy not under the public sector;

"public service" includes service in any civil office of Government, the emoluments attached to which are paid directly out of moneys provided by Parliament and service with a public corporation;

"revenue agencies" means the Internal Revenue Service, the Customs, Excise and Preventive Service and the Value Added Tax Service that existed immediately before the coming into force of this Act;

"revenue" includes direct taxes, indirect taxes and non-tax revenue;

"serious offence" means an offence for which the maximum penalty is death or imprisonment for a period of not less than twelve months; and

"tax treaty" means an international agreement on tax.

Transitional and final provisions

Transfer of property of revenue agencies

29. (1) The rights, assets and liabilities accrued in respect of the properties vested in

(a) the Board established under the Revenue Agencies (Governing Board) Act, 1998 (Act 558) before the commencement of this Act and the persons employed by that Board are transferred to the Authority and accordingly proceedings taken by or against the former Board may be continued by or against the Authority;

(b) the revenue agencies established under the Internal Revenue Service Act, 1986 (P.N.D.C.L. 143) the Customs, Excise and Preventive Service (Management) Act 1993 (P.N.D.C.L. 330) and the Value Added Tax Act, 1998 (Act 546) before the commencement of this Act and the persons employed by the revenue agencies are transferred to the Authority and proceedings taken by or against the former revenue agencies may be continued by or against the Authority.

(2) A contract subsisting between

(a) the former Board established under the Revenue Agencies (Governing) Board Act 1998 (Act 558) and another person in effect before the commencement of this Act shall subsist between the Authority under this Act and that other person;

(b) the revenue agencies and any other person in effect before the commencement of this Act shall subsist between the Authority under this Act and that other person.

Repeals, consequential amendments and savings

30. (1) The following enactments are hereby repealed

(a) The Revenue Agencies (Governing) Board Act, 1998 (Act 558);

(b) The Internal Revenue Service Act, 1986 (PN.D.C.L. 143);

and

(c) The Revenue Agencies (Retention of Part of Revenue) Act 2002 (Act 628).

(2) Despite the repeal of Act 558, Regulations, bye-laws, notices, orders, directions, appointments, or any other act lawfully made or done under the repealed enactment and in force immediately before the commencement of this Act shall be considered to have been made or done under this Act and shall continue to have effect until reviewed, cancelled or terminated.

(3) A reference in any enactment to the Commissioner of Internal Revenue Service, the Customs, Excise and Preventive Service or the Value Added Tax Service shall be read as a reference to the Commissioner- General provided for under this Act.

(4) A reference to the Internal Revenue Service, the Value Added Tax Service or the Customs, Excise and Preventive Service in an enactment in existence immediately before the coming into force of this Act shall be read as a reference to the Authority.

(5) The enactments set out in the first column of the Schedule are repealed or amended to the extent specified in relation to them in the second column of the Schedule.

Transitional operational arrangements

31. Despite the repeal of the Internal Revenue Service Act, 1986 (PN.D.CL. 143) and the amendments in the Schedule to substitute "Com-missioner-General" for "Commissioner" where it appears in an enact-ment, until the Commissioner-General is appointed under section 13, the Commissioner of each revenue agency shall continue to perform the functions of a Commissioner under the relevant enactment.

SCHEDULE

CONSEQUENTIAL AMENDMENTS AND REPEALS

[SECTION 30 (5)]

NO.	ENACTMENT	EXTENT OF REPEAL AND AMENDMENT
1.	Internal Revenue Act, 2000, (Act 592)	<p>(a) by the substitution for "Commissioner" of "Commissioner -General" wherever "Commissioner" appears in the Act and the Regulations made under the Act;</p> <p>(b) by the substitution_ for "Internal Revenue Service" of "Ghana Revenue Authority" wherever "Internal Revenue Service" appears in the Act and Regulations made under the Act;</p> <p>(c) by the substitution for section 113 (1) of "For the purposes of this Act, the Commissioner-General, means the Commissioner-General appointed under the Ghana Revenue Authority Act 2009 (Act)";</p> <p>(d) by the repeal of section 113 (5) (a) and (b);</p>
2.	Taxpayers Identification Numbering System Act, 2002 (Act 632)	<p>(a) in section 2 by the deletion of paragraphs (a) (b) and (c), the relettering of paragraphs and the insertion of a-new paragraph "(a) Ghana Revenue Authority";</p>
3.	Stamp Duty Act, 2005 (Act 689)	<p>(a) in section 50 by the substitution for "Commissioner" means Commissioner of Internal Revenue appointed under section 8 of the Internal Revenue Service Act, 1986, (P.N.D.C.L. 143)" of "Commissioner-General" means Commissioner General appointed'under the Ghana Revenue Authority Act, .2009</p> <p>(Act)";</p>



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Internal Revenue
(Registration of Business) Act, 2005 (Act
684)

Petroleum Income
Tax Act, 1987
(P.N.D.C.L. 188)

Casino Revenue Tax
Act 1973, (N.R.C.D.
200)

(a) in section 10 by the substitution for
"Commissioner" means the Commissioner of Internal Revenue" of
"Commissioner-General" means the
Commissioner-General appointed under
the Ghana Revenue Authority

Act" 2009 (Act);

(b) by the substitution for "Commissioner" of "Commissioner-General" wherever "Commissioner" appears in the Act.;

(a) In section 38 by the substitution for "Commissioner means the Commissioner of Internal Revenue Service" of "Commissioner-General" means the Commissioner-General appointed under the Ghana Revenue Authority Act.

2009(Act);"

(b) by the substitution for "Commissioner" of "Commissioner-General" wherever "Commissioner" appears in the Act;

(a) in section 11 by the substitution for "Commissioner" means the Commissioner of Internal Revenue Service" of "Commissioner-General" means Commissioner-General appointed under the Ghana Revenue Authority Act 2009(Act ...);"

(b) by the substitution for "Commissioner" of "Commissioner-General" wherever "Commissioner" appears in the Act;

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Airport Tax Act, 1963
(Act 209)

National Fiscal
Stabilisation Levy Act,
2009 (Act 785)

Gambling Machines
Act, 1973, (NRCD
174)

(a) in section 8 by substitution for "Commissioner" means the Commissioner of Internal Revenue Service or any other person authorised in that behalf by the Commissioner" of "Commissioner-General" means the Commissioner-General appointed under the Ghana Revenue Authority Act 2009

(Act)";

(b) by the substitution for 'Commissioner' of Commissioner-General' wherever "Commissioner" appears in the Act;

(a) in Section 7 by the substitution for "The Levy shall be collected by the Internal Revenue Service" of "The Levy shall be collected by the Ghana Revenue Authority";

(b) by the substitution for "Commissioner" of "Commissioner-General" wherever Commissioner appears in the Act;

(a) in section 20 by the substitution for "Commissioner" means the Commissioner of the Internal Revenue Ser-

vice" of "Commissioner-General"
means Commissioner-General
appointed under the Ghana Revenue

Authority Act 2009(Act);

(b) by the substitution for "Commis-
sioner" of 'Commissioner General"
wherever "Commissioner" appears in
the Act;

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Customs, Excise and
Preventive Service
(Management) Act
(P.N.D.CL. 330)

- (a) by the repeal of sections 11,17,19,20 and 21;
- (b) by the substitution for section I of "1. The Customs, Excise and Preventive Service established under section 1 of the Customs, Excise and Preventive Service Law, 1986 (PNDCL.144) and in existence immediately before the commencement of this Act is hereby continued in existence as a Department under this Act";
- (c) by the substitution for "Commissioner" of "Commissioner-General" wherever "Commissioner" appears in the Act and Regulations made under the Act;

11 Value Added Tax act,
1998 (Act 546)

- (a) by the substitution for "Commissioner" of "Commissioner-General" wherever "Commissioner" appears in the Act and the Regulations made under the Act;
- (b) by the substitution for "Value Added Tax Service" of "Ghana Revenue Authority" wherever it appears in the Act and the Regulations made under the Act.;
- (c) by the repeal of Sections 36, 37, 38, 44, 45, 47, 48, 49, 51(1), (2), (3), (4), (5)(a)(b).;
- (d) by the repeal of Section 65 (1);

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		<p>(e) in section 76 by the substitution for the interpretation of "Commissioner" of "Commissioner-General" means the</p>
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12	<p>Communication Service</p> <p>Tax Act, 2008 (Act 754)</p>	<p>Commissioner-General of the Ghana Revenue Authority 2009(Act)";</p> <p>(f) in section 76 by the deletion of "Revenue Service" means CEPS, IRS and VATS.";</p> <p>(g) in section 76 by the deletion of "Service" means Value Added Tax Service.";</p> <p>(a) by the substitution for Section 4 of "4 (1). The Ghana Revenue Authority, established under Section 1 of the Ghana Revenue Authority Act 2009(Act) is responsible for the administration and management of the tax and shall collect and account for the tax and any interest and penalty paid under the Act; Subject to Section 5 the Commissioner-General of the Ghana Revenue Authority shall pay the tax collected together with any interest and penalty into the Consolidated Fund.";</p> <p>(b) by the substitution for "Commissioner" of "Commissioner-General" wherever "Commissioner" appears in the Act;</p> <p>(c) by the substitution "Value Added Tax Service" of "Ghana Revenue</p>
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		Authority" wherever it appears in the Act;
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13	Ghana Education trust fund Act, 2000, (Act 581).	<p>(a) in section 3 (a) by the substitution for "Value Added Tax Service" of "Ghana Revenue Authority";</p> <p>(b) in section 4 (2) by the substitution for "Value Added Tax Service" of "Ghana Revenue Authority";</p> <p>(c) in section 6 (1) (d) by the substitution for "Executive Secretary of the Revenue Agencies (Governing Board" of "Commissioner-General of the Ghana Revenue Authority";</p>
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Date of *Gazette* notification: 31 st December, 2009.