CSCanada
International Business and Management
Vol. 5, No. 2, 2012, pp. 167-174
DOI:10.3968/j.ibm.1923842820120502.1085

ISSN 1923-841X [Print]
ISSN 1923-8428 [Online]
www.cscanada.net
www.cscanada.org

Issues of Taxation in the Oil and Gas Sector in Selected Countries: Lessons for Ghana

Emmanuel B. Amponsah[a],*; John A. Enahoro[b]; Abdallah Ali-Nakyea[c]

[a] Lecturer, Department of Accounting, Valley View University, Accra, Ghana.
[b] Senior Lecturer, Department of Accounting, Babcock University, Ilishan, Nigeria.
[c] WTS Nakyea & Adebiyi Consult, Tax Attorneys & Solicitors, Accra, Ghana.
* Corresponding author.

Received 5 October 2012; accepted 26 November 2012

Abstract

Issues of Taxation in the Oil and Gas Sector in Selected Countries: Lessons for Ghana undertakes a review of petroleum taxation in selected countries around the world and seeks to fashion a way for Ghana's infantile petroleum industry. In other words, the study seeks to facilitate a smooth tax regime and policy for Ghana. The study is based on literature arising from desk research as well as through telephone interviews. Petroleum taxation regimes of the countries under study portend to mitigate the current inconsistencies and resulting contentions from tax payers in Ghana.

Key words: Oil and gas; Petroleum; Crude oil; Hydrocarbon; Upstream petroleum operations; Taxation; Tax legislation; Royalty; Income tax

Emmanuel B. Amponsah, John A. Enahoro, Abdallah Ali-Nakyea (2012). Issues of Taxation in the Oil and Gas Sector in Selected Countries: Lessons for Ghana. *International Business and Management, 5*(2), 167-174. Available from: http://www.cscanada.net/index.php/ibm/article/view/j.ibm.1923842820120502.1085
DOI: http://dx.doi.org/10.3968/j.ibm.1923842820120502.1085

INTRODUCTION

This study takes a brief overview of general taxation practices, specifically on oil and gas taxation from around the globe, and draws some lessons on the tax issues for Ghana's young oil and gas sector. *Taxation* here includes income taxes and royalties paid by oil and gas producing companies to local authorities and national governments on whose lands and seas oil and gas are drilled. In order to ensure both regional and global representation, oil and gas taxation issues were gleaned from Nigeria in West Africa, United States, Canada, Indonesia, Ukraine, The United Arab Emirates, and Venezuela. The effects of petroleum taxation issues from these age-old "big shots" in the oil sector could assist to discuss key tax legislations impacting upstream petroleum operations and compliance obligations of petroleum taxpayers in Ghana as well as assist to discuss petroleum tax risk management issues under the various laws of Ghana and chart an appropriate way forward for her infantile oil and gas sector.

Taxation has been defined variously to mean any system that compulsorily ensures the surrender of control of an entity's private goods and or services to enable a government in the provision of public goods and services. Tax is a form of compulsory contributions or payments from households and firms or organizations to support government expenditure (Aheto, 2012). Hence, oil and gas tax is the tax petroleum companies pay to governments according to explicit statutes and regulations (Wright & Gallun, 2008). Oil and gas taxation is therefore an essential attribute of national power, making its improvement a key feature of nation-building. This concern, which emphasizes the idea of tax restructuring as an investment fundamental to extensive national development, has been outstanding in recent policy initiatives. This should especially be so considering the gargantuan amounts that are invested and derived from the oil and gas sector of an economy. What is ambiguous is what its increased recognition entails for tax advice and policy (IMF, 2011).

Mintz (2010) explains that company tax for oil and gas concerns is imposed on the incomes made from the sale of oil and gas net of the production costs which comprise current mining costs, capital cost allowances, as well as exploration and development costs. Exploration costs are expensed while development costs are capitalized and written off at the declining balance rate.

While oil and gas taxation includes royalties, according to Mintz (2010), for oil and gas taxation, it is essential to account for royalties in an exceptional way. In oil and gas taxation, royalties are payments made to a landowner by a company extracting minerals, oil, or gas from the owner's land (Microsoft Encarta, 2008).

1. METHODOLOGY

Time and again, income tax laws, and for that matter oil and gas tax laws, vary significantly from country to country (Wright & Gallun, 2008; Ley & Boccardo, 2010). Consequently, oil and gas taxation issues that arise in a particular country have differed from those of other countries though some may appear similar. The literature which reviews some of the petroleum taxation issues in various countries testifies to the variability of taxation laws and issues in different countries and, in this study, Ghana, as well.

The methodology adopted in this enterprise was basically desk research. Vast amounts of the data were obtained by reviewing literature relevant to the cause. Information on Ghana's existing legislation on oil and gas were also reviewed. In addition, a telephone interview was employed to elicit valuable information from a tax expert to complement the literature.

The countries selected include the United States of America, Canada, Indonesia Republic, Ukraine, United Arab Emirates, Venezuela, and Nigeria. These countries were selected to ensure that there is a blend of oil-producing countries from different geographical regions. Moreover, the selection was to ensure the inclusion of longstanding and big as well as young oil sectors for the best possible depiction of the issues in question. It must be emphasized that the aim was not to do an extensive study of all the petroleum taxation issues in the selected countries but to glean from them to help in the formulation of uncomplicated oil and gas tax policy for Ghana.

2. ISSUES OF PETROLEUM TAXATION IN SELECTED COUNTRIES

2.1 Petroleum Taxation Issues in the United States of America

The U.S. income statutes stipulate a computation for use in determining depreciation deductions on equipment used in U.S. domestic petroleum operations and a dissimilar computation for calculating depreciation on petroleum equipment used in locations outside the U.S. (Wright & Gallun, 2008). This implies that a U.S. petroleum company that does both domestic and international operations ought to adhere to three tax laws; namely, the foreign country's income tax laws, U.S. income tax laws on domestic operations, and U.S. income tax laws governing international operations. These, arguably, are bound to raise a lot of taxation issues for the company in question.

Another oil and gas taxation issue worth mentioning is that, a petroleum company drilling oil in the United States is liable for determining its taxable income in accordance with United States tax laws and paying any appropriate taxes to the government of United States. In the same direction, a United States petroleum company drilling oil in Ghana can conform to both the tax laws of Ghana as well as those of United States, the home country. These requirements should be recognized by applying the statutes of both the home country and the international location. There may be tax credits in the home country as well as tax treaties between the two countries to circumvent double taxation on the same profits. These statutory requirements are further made complex when a petroleum company operates locally and internationally. However, this practice requirement is not an isolated case; it virtually applies to all oil companies and oil producing countries in most countries of the world.

2.2 Petroleum Taxation Issues in Canada

In Canada, the lands are owned by the provinces, so the royalties are rental payments for the benefits received from drawing out the petroleum from the provincial lands. Thus, provincial royalty payments are a tax or cost to hydrocarbon companies for using public property. However, since the government of an oil-rich province is responsible for the royalty administration and could exercise taxes like the corporate income tax to earn revenue, there is the tendency to regard royalties as an element of the general fiscal administration to raise revenue. Technically, the oil and gas businesses' rental benefit received should be deducted from taxes and royalty payments to measure the general fiscal impact. This is impractical to do without assessing some precise rental charge for use of provincial property (Mintz, 2010).

Moreover, unlike payments based on the economic rents earned on oil and gas projects, royalty payments may misrepresent economic decisions. Alternatively, to ensure comparability across jurisdictions, one may compute the comprehensive tax and royalty effective tax rates; for instance, between Alberta and Texas. It is worthy to point out that royalties in the exploration and development stage are "negative" on condition that such expenses are deductible from the royalty base, which, in some situations, will be the case. Every province with oil and gas production makes provision for the deductibility of reserve royalties from income. Cases in point are that Ontario is the sole province that continues to make use of the resource allowance that relates to mining, capital taxes are being phased off in Saskatchewan and Nova Scotia, and sales taxes on capital acquisitions are considered for British Columbia and Saskatchewan alongside retail sales taxes (Mintz, 2010).

2.3 Petroleum Taxation Issues in Indonesia Republic

The Indonesian government was taking into account scraping import duties for equipment that are used in developing oil and gas blocks mutually operated by the government and international partners because under a current cost-recovery scheme for non-domestic investors, the equipment were owned by the government in the long run. Moreover, the government was to free oil and gas companies exploring in Indonesia from the value-added tax (Input Solutions, 2004). Obviously, increasing foreign investment in the oil and gas sector is critical to Indonesia's efforts to boost its dwindling economy, and embarking on tax reforms and policies favorable to investors appeared to be the nation's bait.

2.4 Petroleum Taxation Issues in Ukraine

One source puts it that the tax regulatory structure of Ukraine can be portrayed as quite convoluted and containing a considerable amount of ambiguous and contradictory provisions. It further states that, regrettably, there is no Tax Review Panel in the country or any other professional body to appreciate and analyze every one of the practical issues connected with a particular tax law. Consequently, tax legislation gets frequently rewritten which completely creates fresh problems instead of being just modified and improved (Alt Kiev, n.d.).

Ukrainian tax rules, like those of Ghana, are not presented in a single unvarying code but instead are assembled in no less than a dozen of separate legislation acts. Those laws then find their supplementary explanations and practical handlings in hundreds of Resolutions, Decrees, Orders and Letters. Listed below are the major sources of tax legislation in Ukraine:

Law on Value Added Tax (VAT);

Law on Corporate Tax;

Law on Tax Liabilities Settlements of Taxpayers to the Budgets and Special Funds;

Law on Personal Income Tax (PIT);

Law on System of Taxation;

Decree of the President on Eased Tax, Accounting and Reporting Regime for Small Business (Alt Kiev, n.d.).

The multiplicity of sources of oil and gas tax legislation creates conflicting statutes which make computation and compliance difficult for tax preparers and companies as well as the government.

2.5 Petroleum Taxation Issues in the United Arab Emirates

The United Arab Emirates (UAE) is an aged and a huge petroleum producer in a foremost producing region, the Arabian Gulf. As early as 1967, Abu Dhabi joined the Organization of the Petroleum Exporting Countries (OPEC) and the Federation took over this membership in 1974. The Federation has also since 1970 been a member of the Organization of Arab Petroleum Exporting Countries (OAPEC). The UAE has extensive oil and gas reserves, and enjoys a secure production capacity. Petroleum is the keystone of the Federation's economy. In 1958, oil was first found in Abu Dhabi. In 1962, extraction started from the offshore regions, followed by onshore fields in 1963. The petroleum sector was developed at an incredible speed. In 1963, the Emirate of Abu Dhabi commenced exporting crude and before long became a foremost worldwide oil exporter (Suleiman, n.d.).

With the most plentiful oil reserves (more than 90% of the Federation's petroleum reserves), Abu Dhabi is the leading oil producer out of the seven Emirates making up the Federation. Whereas Dubai, Sharjah and Ràs Al Khaymah have estimated 4.0 billion barrels, 1.5 billion, and 0.1 billion respectively, Abu Dhabi's oil is estimated at 92.26 billion barrels (Suleiman, n.d.; Webb, 2010).

The UAE has neither a fused federal petroleum legislation nor a federal petroleum policy under which the provisions governing grants for exploration and development certificates are fixed beforehand. In keeping with the UAE Constitution, some matters are left to the control of the individual member Emirates, such as oil and gas matters. Each of the petroleum producing Emirates has a Petroleum Department, the chief of which is Abu Dhabi (Suleiman, n.d.).

This source continues to report that, since 1988, the Supreme Petroleum Council of the Emirate of Abu Dhabi has replaced the Petroleum Department in Abu Dhabi. It grants exploration permits as well as petroleum concessions, concludes different oil agreements, defines the oil and gas policy of each Emirate, and exercises the other functions of public authority in the petroleum sector. Since Abu Dhabi is the biggest oil producing Emirate and most profitable, with the largest petroleum reserves and has the best ever history of relationships with multinational oil companies, it is suitable to focus on its legal taxation framework for oil and gas resources as representative of the Federation in this respect.

In 1966, the Government of Abu Dhabi and the two concessionaires, Abu Dhabi Petroleum Company (ADPC) and Abu Dhabi Marine Areas (ADMA), concurred to substitute the flat three rupees per ton royalty by a 12.5% royalty. Additionally, the two companies agreed to comply with the Income Tax Law of 1965 and to pay an income tax at the rate of 50%, which was raised to 55% in 1971. This improvement in financial conditions was maintained until, in 1974, the OPEC formula was effected (Webb, 2010).

Completed on May 3, 1981, *The Deminex Agreement* is representative of the most recent model of concession agreement Abu Dhabi has adopted. Article 3 of it, entitled Ownership of Natural Gas, instructs that "all natural gas that may be discovered or produced in the concession area in association with crude oil or independently shall be subject to the provisions of Law No. 4/1976". Law No. 4/1976 established the sole ownership of Abu Dhabi Emirate over all its associated as well as non-associated gas.

Article 10 provides for bonus payments: an initial \$2 million bonus, another \$2 million subsequent to commercial discovery, \$5 million following when regular crude oil exports reach an average of 100,000 barrels a day, and finally \$10 million after regular exports of 200,000 barrels a day is achieved (Suleiman, n.d.).

Subsequently, Article 13 talks about royalty payments and espouses a progressive or sliding scale royalty concept: each year the oil company shall pay to the Government a royalty (fully expensed) equal to 12.5% of the produced crude oil posted price. But the company shall pay a royalty of 16% if the production during the calendar year reaches an average rate of 100,000 barrels a day. Moreover, if the production gets to an average rate of 200,000 barrels a day, the royalty will go up to 20%.

Also, Article 17 concentrates on taxation which adopts a sliding scale of income tax: it provides that the oil producing company shall pay a 55% basic income tax. But, the income tax shall be paid at 65% if the crude oil production during a calendar year reaches an average of 100,000 barrels a day. Should the production reach an average of 200,000 barrels a day, the company shall pay an income tax at the rate of 85%.

For income tax assessment and subsequent payment, the oil producing company shall be subject to the requirements of the Abu Dhabi Income Tax Decree 1965, as amended, complemented by the provisions of Article 17 of the (Petroleum) Agreement. In addition, the Agreement in Article 18 states that no other or higher taxes, duties, charges or fees shall be imposed upon the company after it has determined the taxation to which the concessionaire is subject. Besides, at any time after the discovery of oil in commercial quantities by a company, Article 44 provides that Government, in all rights and obligations under this Agreement, has option to acquire a participating interest of up to sixty percent (60%) (Suleiman, n.d.).

In spite of all these very stringent provisions on taxation, hydrocarbons still provide for nearly 80 percent of total government revenues of the United Arab Emirates (UAE). Unfortunately, in 2008-2009, the country was stricken hard by falling petroleum prices (Heritage, 2012; Suleiman, n.d.), underscoring the danger of over-reliance on petroleum revenues and taxes.

2.6 Petroleum Taxation Issues in Venezuela

According to Eluniversal (2011), in 2008, Venezuela's crude oil production was the tenth-highest in the entire world at 2,394,020 barrels per day (380,619 m^3/d) and was also the eighth-largest net oil exporter. As of 2010, the country had become the fifth-largest petroleum exporting country in the world with the largest reserves of heavy crude oil then estimated at 99.4 billion barrels (1.580×10^{10} m^3). Venezuela, a founding member of the Organization of the Petroleum Exporting Countries (OPEC), had the largest reserves of both light and heavy crude oil in the whole of the western hemisphere. By 2010, Venezuelan production had in fact declined to around 2.25 Mbbl/d (358,000 m^3/d). Today, with the second-largest reserves of heavy crude oil after Canada, Venezuela has become the fifth largest oil exporting country in the world. With significant amounts of capital investment by her national oil company, Petróleos de Venezuela (PDVSA), Venezuela could potentially boost oil production capacity by 2.4 Mbbl/d (380,000 m^3/d) from 2001 level of 3.2 MMbpd to 5.6 MMbpd by 2025.

Also, Taxrates (2010) reveals that Venezuelan regulations require 50% corporate tax rate for oil companies and income from petroleum-related activities. Thirty-four percent tax is required from companies engaged in oil exploration, exploitation, refining, processing, transport, distribution, marketing, storage as well as export of non-associated natural gas. Moreover, the companies are furthermore charged a tax or royalty at 30% on the amount of crude oil produced. Of course, for heavy-oil projects or marginal fields, in special circumstances, the country's Ministry of Energy and Oil may decrease the royalty rate to 20%, and it is at liberty to re-establish the 30% royalty.

To ensure effective compliance, mining and hydrocarbon companies in Venezuela should file estimated returns within the first 45 days of each year, and must pay at that time advance payments of 96% of the tax resulting from the estimate. Within 3 months of the close of the company's financial year, final income tax returns should be filed and payment of tax liability made at that time. Late filing of returns attracts penalties from 10% to 200% of the amount due, plus flat fines. The annual interest rate on outstanding payments is equal to the maximum commercial bank rate plus 20% (Taxrates, 2010). In 2011, Venezuela declared the intention to increase a windfall tax on oil companies in consideration of rising oil prices. The Venezuelan government was to take the measure in order to adapt to the oil prices reality on a worldwide scale, which will keep on increasing (Boothroyd, 2011).

Recently, as per decree No. 8, 163, published in the *Extraordinary Gazette No. 6,022* containing the law that creates a special tax on windfall and exorbitant oil prices in international oil markets, the Venezuelan government has established an extra 20 percent tax on petroleum windfall revenues obtained by state-owned oil company, Petróleos de Venezuela (PDVSA), and its joint ventures any time petroleum prices oscillate between USD 40 and USD 70 per barrel. The Official Gazette reads:

When the monthly average of the Venezuelan basket of liquid hydrocarbons in international markets is above the price set in the Law on Budget of the corresponding fiscal year, but not higher than USD 70 per barrel, a 20 percent tax will be levied on the difference between both prices.

The Venezuelan decree also stated that petroleum export revenues attained from non-domestic "and financing agreements, which would amount to 800,000 barrels per day including oil cooperation agreement, Petrocaribe, bilateral agreements and shipments to China, will be also exempted from the tax". This is in pursuance of the President's agenda to free his Venezuela from the United States of America (Eluniversal, 2011; ETCN, 2011). On the whole, it is obvious that Venezuelan policies very much hinder the potential increase of private investment in the country's oil sector.

2.7 Petroleum Taxation Issues in Nigeria

Nigeria is a primary oil producer on the continent of Africa with the largest gas reserves. The Energy Information Service estimated that the country had an average crude oil production level of 1.94 million barrels per day in 2008; she produced a total of 2.17 million barrels of oil per day and exported 1.9 million of the daily production (Legall, n.d.). As the main hub of the economy, the oil industry provides between 90% and 95% of Nigeria's export income, over 90% of her foreign exchange revenues, and approximately 80% of government revenue (Nwete, n.d.).

The law that presently governs upstream activities in Nigeria, enacted in 1959 (NAPIMS, 2012), is the Petroleum Profit Tax Act (PPTA) 2007 (Jewell, n.d.; Osolake, 2010; Olajide & Associates, n.d.). Pursuant to the PPTA, Nigeria's Federal Inland Revenue Service (FIRS) taxes petroleum operations (Legall, n.d.) at the rate of 85% (Nigeria-law, 2012). Nonetheless, it is 65.5% for companies which have not completely amortised their capitalised preproduction expenditure (Nwete, n.d.). These apart, all companies registered in Nigeria are required to pay Education Tax at 2% of chargeable profits as contribution to the Education Tax Fund (Education Tax Act No. 7 of 1993) (Nigeria-law, 2012).

Section 2 of the PPTA defines petroleum operations (upstream) that are taxable as follows: (a) Exploration, (b) Appraisal, (c) Drilling/Mining, (d) Extraction, (e) Transportation by pipelines, (f) Sale of chargeable oil, and (g) All other operations incidental to any of the above (Osolake, 2010). Downstream operations which include marketing and refining activities are not subject to the PPTA (Jewell, n.d.) but under the Companies Income Tax Act (CITA) (Osolake, 2010).

Nigeria's existing legislations that were affected by the new PPTA include:

The Petroleum Profit Tax Act 1959;

The Petroleum Act 1969;

The Petroleum Technology Development Act 1973;

The Associated Gas Re-injection Act 1979;

The Petroleum Equalisation Fund Act 1989;

The Oil Pipelines Act 1990;

The Nigerian National Petroleum Corporation Act 1997;

The Petroleum Products Pricing Regulatory Agency Act 2003 (Legall, n.d.).

At its bill stage, Legall (n.d.) quoted Tolu Aderemi, a solicitor at Perchstone & Graeys, Lagos, as saying that the PPTA would provide a "more robust, accountable and transparent oil and gas industry" and that it would serve to "consolidate a plethora of laws, statutes and regulations which regulate the Nigerian oil and gas industry" as well as "reform, review and streamline existing legislation, in order to deliver a fair, economic return for Nigeria as well as for investors." Again, one Dr. Mgbeoji is purported to have fully agreed that Nigeria's new oil and gas legislation would include copious ideas for improving the sector, but he contended that "the bottom line is whether these ideas will be implemented with courage and honesty".

For a very successful implementation of Nigeria's new legislation on oil and gas and to maintain existing companies and attract new ones, all provisions on institutional reform, environmental concerns, and on reduction of institutional burdens should be implemented to the letter. However, a second look must be taken at the too many regulatory bodies with overlapping functions which, unavoidably, fosters clumsy bureaucracy, creates misunderstanding and impedes approval processes, in most cases.

Okwe (2012) reported that Nigeria's half-year (January to June, 2012) oil tax revenue collection by her Federal Inland Revenue Service was two-thirds of a total of N2.43 trillion; that is, N1.60 trillion. Collections of non-oil taxes for the same period amounted to N838.58 billion, most likely the first time the nation has achieved this since oil find.

In another development, Salau (2012) lamented that the implementation of the country's $10 billion (N1.5 trillion) gas monetisation scheme master plan is in danger of failing because it appears the NNPC had not spoken to any of the oil firms who have a major role of investing in the revolution agenda as well as delivering the gas needed for the projects incorporated in the programme. Specifically, the firms were conspicuously excluded from the critical planning stage of the important exercise, creating doubts in the minds of the firms of the viability of the project. The project which is to expedite the nation's industrial rebirth by constructing two world-standard petrochemical plants, two plants for fertilizer production as well as five fertilizer blending plants, one methanol plant, and one distribution plant for liquefied petroleum gas (LPG) is also to fully commercialise and salvage Nigeria's Power Holding Company whose debt is estimated to be increasing at about N1.5 billion every month. In fact, this scheme is expected to have a gargantuan impact on the Nigerian economy; it is projected that, between 2012 and 2014, the fertilizer and petrochemical projects would attract more than $10 billion (N1.5 trillion) foreign direct investment (FDI).

As decried by Austin Avuru, Managing Director of Seplat Petroleum Company Limited, one of the operators in Nigeria, both the multinational and indigenous oil and gas companies are not happy about the current pricing mechanism, the deplorable state of infrastructure, and discouraging regulatory framework. Moreover, the companies allege that where the oil and gas will come from, the practicality and the components of the project have not yet been communicated by the NNPC which appears not to be serious about the project though the project is to take off in 2012. Again, although Mr. Avuru lauded the objectives of the scheme, he disapproved of the implementation and methodology. He is further quoted as saying that (Salau, 2012) the current gas pricing would not encourage returns on investment while the tax is increasing. What we have in the new PIB is the royalty (...down to two percent) but tax has gone up to 80 percent although they might claim there was some rebate which is just 60 cent/thousand, for the first one tcf that you produced. What it means is that at $2 gas price, effectively the tax rate has gone up from 30 percent to 65 percent, even after giving you the rebate.

Obviously, the unprecedented drop in percentage of petroleum tax collections as against non-oil taxes in the first half of 2012 should send the signal that Nigeria should not virtually depend on its petroleum revenue forever. Unless there is evidence that the other sectors of the nation's economy are bucking up, this is not a healthy signal. The country should do well to streamline all contentious taxation issues to encourage and attract the much needed local and foreign investments and also invest in other potential sectors of the economy. The nation cannot afford to "wholly" rely on the petroleum sector and at the same time scare investment in the sector through outlandish and outrageous taxation statutes and sidelining of major stakeholders, as it is being speculated.

2.8 Issues on Petroleum Taxation in Ghana

Ghana recently struck oil in commercial quantities at its Jubilee Fields, offshore the country, with an initial estimated value of US $3.1 billion (Main, 2009). More of such oil-finds have since followed beside the Jubilee project in subsequent years. Long before and especially after the oil find in Ghana, different sets of laws have been passed to govern the administration of petroleum taxes. The different canons have given rise to contradictions which inadvertently have created several critical concerns that need to be addressed for a much better tax regime and policy. Ghana's petroleum industry is at its infant stage and almost all her petroleum tax issues centre on legislation. Consequently, there is need to study the provisions in the nation's petroleum tax laws to facilitate in synchronising the legislations to mitigate the confusion and contentions between tax agencies and tax payers.

The oil and gas taxation provisions of Ghana are similar to those of Ukraine and Nigeria; they are convoluted and contain a considerable amount of ambiguity and contradictions. The statutes governing petroleum taxation in Ghana are not presented in a single unvarying code but instead are assembled in several legislative acts. The laws then find their supplementary explanations and practical handlings in hundreds of other forms of resolutions or enactments.

Specific areas under Ghana's oil and gas taxation are the legal framework for taxation and revenue types, ascertainment of chargeable incomes under Petroleum Income Tax Law (PITL) – deductions, and withholding tax – sub-contractors and employees. Other areas are Internal Revenue Act (IRA) relating to upstream oil and gas operations (there are serious areas of inconsistencies between PITL & IRA), and the Petroleum Agreements. The rest are the Internal Revenue (Amendment No. 4) Bill, Value Added Tax as well as Customs, Excise and Preventive Service provisions (Ali-Nakyea, 2012).

Arising from the Nigerian experience, the local people of Ghana on whose lands and sea the oil has been found in commercial quantities are very much aware that the direct impact of oil and gas companies' activities primarily fall on them while the benefits accruing from such activities in the form of taxes and royalties are considered national. The local communities therefore vie for a right from government to suitably negotiate with both government and the oil and gas companies for bearing the brunt of the negative externalities that shall arise from the operations of the companies.

In setting rates for oil and gas taxation, it is important to differentiate between companies which have not completely amortised their capitalised preproduction expenditure and those who have. For Ghana, with a young oil industry which aims to attract the best oil and gas companies, these rates should not be initially high like those of countries with well-established oil sectors like Nigeria (85% and 65%) or the UAE and Venezuela where there are sliding scale income tax systems and high royalty payments. Proper inquiries should be made as to which tax system or a blend of which would better suit Ghana considering its peculiar circumstances.

An attempt to have an accountable and transparent oil and gas industry that would serve to consolidate a plethora of laws, statutes and regulations to regulate the Ghana oil and gas industry should be to reform, review and streamline the existing legislation, so as to deliver a fair, economic return for Ghana as well as for investors. In an attempt to formulate new legislation on petroleum and improve on existing ones with the aim to maintain existing companies and attract new ones, all provisions on institutional reform, environmental concerns, and on reduction of institutional burdens should be carefully implemented. There should be the political will to avoid or eliminate too many regulatory bodies with overlapping functions which, unavoidably, will foster clumsy bureaucracy, create misunderstanding and impede approval processes.

Oil-rich countries have depended too much on petroleum taxes, usually up to as much as 80% and above in government revenues, and this has not always augured well for such countries. An example is the unprecedented percentage drop in Nigeria's petroleum tax collections as against non-oil taxes in the first half of 2012. Another instance is UAE's experience in 2008-2009 when the country was stricken hard by falling petroleum prices, badly affecting its economy. These should send signals to Ghana which should not virtually depend on its petroleum revenue, ignoring massive investments in other sectors such as agriculture, manufacturing and processing which have been sustaining the nation over the years. Venezuela can be emulated for using her oil and gas tax revenues to revamp several of her other sectors of the economy.

Periodically, Ghana should review and study the prevailing tax and custom policy to unearth more sound petroleum policies which will enhance more investment in the coming years. The government should consider the potential benefits of scraping import duties for equipment that are used in developing oil and gas blocks mutually operated by the government and international partners as well as a cost-recovery scheme for non-domestic investors so that the equipment will be eventually owned by the government.

An incentive can be the freeing of oil and gas companies exploring in Ghana from the value-added tax (VAT) since embarking on tax reforms and policies favorable to investors are nations' bait. Such attractions could carefully be intermingled with statutory provisions such as allowing government, at any time after the discovery of oil in commercial quantities by a company, in all rights and obligations under the Petroleum Agreement, the option to acquire a participating interest of up to say fifty-one percent (51%) or more.

CONCLUSION

The lessons from the experiences of neighbouring Nigeria and other oil-rich countries should serve as an eye-opener to Ghana in formulating its petroleum tax regimes and policies. The quest for the most apposite and trouble-free legislation has led to conflicting assemblage of tax laws in different legislative instruments. Still other legislations existed decades before the actual oil and gas find that need repeals to be in harmony with the contemporary laws to ensure smooth compliance.

Ghana should do well to streamline all contentious taxation issues to encourage and attract the much needed local and foreign investments and also invest in other potential sectors of the economy. What is needed is not rewriting of tax legislation which completely creates fresh challenges. The nation should not scare investment in the sector through outlandish and outrageous taxation statutes and sideline major stakeholders; rather, it should create incentives.

Finally, it is suggested that past petroleum bills should be synchronised to eliminate all discrepancies that create contentions for tax payers. A panel for Petroleum Tax Review established to appreciate and analyze every one of the practical issues connected with a particular tax law should be in order. The Institute of Chartered Accountants, Ghana (ICAG) could be drafted into the preparation of petroleum tax bills and their subsequent discussion by Parliament to ensure that technical issues are treated appropriately.

ACKNOWLEDGEMENT

Special thanks to Mr. Abdallah Ali-Nakyea for personal communication he had with us on the topic as well as permitting us to use invaluable information from his presentation.

REFERENCES

Alt Kiev (n.d.). *Tax Consulting*. Retrieved from http://www.msiglobal.org/firms/Alt_Kiev_Ukraine_Accountants&pdf=1

Boothroyd, R. (2011). *Venezuela Increases Windfall Tax as a Result of Rising Oil Prices*. Retrieved from http://venezuelanalysis.com/news/6148.

Eluniversal (2011). *Venezuela Sets Oil Windfall Tax for Oil Price at USD 40-70.* Retrieved July 24, 2012 from http://www.eluniversal.com/2011/04/29/venezuela- sets-oil-windfall-tax-for-oil-price-at-usd-40-70.shtml

ETCN (2011). *Venezuela Imposes High Taxes on Petroleum*. Retrieved on July 24, 2012 from http://www.e-to-china.com/tariff_changes/global_tariff_changes/2011- /0429/-92731.html

Heritage (2010). *2012 Index of Economic Freedom: United Arab Emirates*. Retrieved from http://www.heritage.org/index/default

Input Solutions (2004). *Indonesia Awards 15 PSCs; Tax Regime to Be Improved*. Retrieved on June 19, 2012 from http://www.thefreelibrary.com/Indonesia+Awa-rds+15+PSCs-%3b+Tax+Regime+To+Be+Improved.a0126394009

International Monetary Fund (IMF). (2011). *Revenue Mobilization in Developing Countries.* Retrieved on June 19, 2012 from http://policyschool.ucalgary.ca/sites/default/files/research/mintztechtaxoilgas

Jewell, R. (n.d.). *The Petroleum Profit Tax Act*. Retrieved from http://www.ehow.com/facts_7285268_petroleum-profit-tax-act.html

Legall, D. (n.d.). *New Petroleum Industry Bill for Nigeria*. Retrieved from http://www.ibanet.org/Article/Detail.aspx?ArticleUid=6fa3d18b-635f-41f4-b90d-bbfb85d00649

Ley, E., & Boccardo, J. (2010). *The Taxation of Motor Fuel: International Comparison*. Washington, DC: The World Bank.

Main, P. (2009). *Oil and Gas Opportunities in Africa*. Retrieved from http://www.energyglobal.com/sectors/exploration/articles/oil_and_gas_opportunities_in_africa.aspx

Microsoft Encarta Dictionaries (2008). Microsoft Corporation.

Mintz, J. (2010). *Measuring Effective Tax Rates for Oil and Gas in Canada*. University of Calgary: School of Public Policy Technical Papers. Retrieved from http://policyschool.ucalgary.ca/sites/-default/files/research/mintztech-taxoilgas.pdf

National Petroleum Investment Management Services (NAPIMS) (2012). *Petroleum Fiscal Systems in Nigeria*. Retrieved from http://www.napims.com/fiscal.html

Nigeria-Law (2012). *Guide to Business in Nigeria*. Retrieved from http://www.nigeria-law.org/BusinessInNigeriaTaxation.htm

Nwete, B. O. N. (n.d.). *Mineral and Petroleum Taxation*. Retrieved from http://www.dundee.ac.uk/cepmlp/car/html/car8_article14.pdf

Okwe, M. (2012, July 24). Taxes Fetch N2.43tr. *The Guardian* (p. 6). Guardian Newspapers (Nigeria) Limited. Retrieved from www.ngrguardiannews.com.

Olajide & Associates (n.d.). *Homepage*. Retrieved from http://www.olajideassociates.com/olajide/serv305.htm

Osolake, V. O. (2010). *An Appraisal of Petroleum Profits Tax (Amendment) Act, 2007*. Retrieved from http://osvicom.blogspot.com/2010/09/appraisal-of- petroleum-profits-tax-act.html

Republic of Ghana (1987). *Petroleum Income Tax Act (PITA) 1987 (PNDCL 188) of the Republic of Ghana*. Accra: Government of Ghana.

Republic of Ghana (1992). *The 1992 Constitution of the Republic of Ghana*. Retrieved from http://www.ghanaweb.com/GhanaHomePage/republic/-constitution.php?id=Gschedule2.html

Republic of Ghana (1996). *Customs, Excise and Preventive Service (CEPS) Law (PNDCL 144) 1986 of the Republic of Ghana*. Tema: Ghana Publishing Corporation.

Republic of Ghana (1998). *Value Added Tax Act 546 (1998)*. Accra: Ghana Publishing Corporation Assembly Press.

Republic of Ghana (2002). *Internal Revenue Service Act 592, (2000) (as amended)*. Tema: Ghana Publishing Corporation.

Republic of Ghana (2008). *New Pensions Act (Act 766) of the Republic of Ghana* Accra: National Pension Regulatory Authority. Retrieved from http://www.ssnit.com/pdf/Pension_ACT_766.pdf

Republic of Ghana (2010). *Petroleum (Exploration and Production) Bill 2010 of the Republic of Ghana*. Accra: Government of Ghana.