



Thinking beyond borders: Management of extended business travelers - Ghana



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Contents

1	Key message	4
2	Income Tax	6
3	Social Security	10
4	Compliance obligations	12
5	Other issues	14

01

Key message

An individual's liability to income tax in Ghana is determined by their residency status. Income tax is levied at progressive rates on an individual's taxable income for the year.

1 Key message

All business travelers are likely to be taxed on their employment income relating to work done in Ghana. The taxable income could either have a source in Ghana or elsewhere. The income has a source in Ghana if the income accrues in or is derived from Ghana.

02

Income tax

2 Income Tax

2.1 Liability for income tax

An individual's assessable income that is subject to tax will be dependent on the residency status.

- In the case of a resident person, it is the income of that person from each employment, business, or investment for the year, whether the source from which the income is derived has ceased. Resident individuals who are citizens are taxed on their worldwide income. Thus, incomes from any business, investment and employment with both Ghanaian and non- Ghanaian sources are taxable. This notwithstanding, income of a resident individual from employment exercised in a foreign country/jurisdiction with a non-resident employer or with a resident employer where the individual is present in the foreign country/jurisdiction for 183 continuous days, or more is exempt from tax.
- In the case of a non-resident person, it is the income of that person from employment, business, or investment for the year, to the extent that income has a source in Ghana.

2.2 Residency Status

An individual is deemed resident for a year of assessment if that individual is:

- a citizen of Ghana (other than one with a permanent residence outside Ghana for the whole year of assessment)
- present in Ghana for a period, or periods amounting in total to 183 days or more in any 12- month period that commences or ends during the year of assessment
- an employee or official of the Ghana government on posting abroad
- a citizen who is temporarily absent from Ghana for not more than 365 continuous days (where the individual has a permanent home in Ghana).

2.3 Tax trigger points

According to the Income Tax Act 2015 (Act 896) there is no threshold/minimum number of days that exempts the employee from the requirements to file tax returns and pay tax in Ghana.

2.4 Types of taxable income

All earnings, whether in cash or in the form of a benefit-in-kind, made by an employer to an employee are taxable unless specifically exempted in accordance with the Ghana tax laws.

2.5 Tax rates

For Residential Employees (in Ghanaian cedi (GHS))

Type of income	Tax Rate
First GHS5,880	Free
Next GHS1,320	5%
Next GHS1,560	10%

Type of income	Tax Rate
Next GHS38,000	17.5%
Next GHS192,000	25%
Next GHS366,240	30%
Exceeding GHS600,000	35%

Tax rates for Non-resident Employees

The tax rate applicable to the chargeable income of Non-resident individuals is set at a flat rate of 25%.

03

Social Security

3 Social Security

3.1 Liability for social security

The National Pension Scheme is a 3-tier scheme created under the National Pensions Act 2008, Act 766 as follows:

Tier 1 – Basic National Social Security Scheme for all workers in Ghana. It is a defined contribution scheme.

Tier 2 – The Pension Tier 2 is a mandatory fully funded occupational pension scheme which by law is supposed to be managed by a private pensions fund manager (Institution)

Tier 3 – An optional contributory scheme with monthly contributions of up to 16.5% of the employee's basic salary.

Under the Act 766, every employer is required to contribute 18.5 percent of the basic salary of every employee to the mandatory Social Security schemes on or before the 14th day of the month following the month in which the deductions were made. The 18.5 percent is made up of 13 percent from the employer and 5.5 percent from the employee. These contributions are further divided into payment to Social Security and National Insurance Scheme (SSNIT) – “Tier 1” Scheme and the “Tier 2” Scheme. The 13.5 percent of the contributions is remitted to SSNIT, which ultimately retains 11 percent and remits 2.5 percent to the National Health Insurance Authority as National Health Insurance Levy. The remaining 5 percent is remitted to the Tier 2 which is privately managed by a Fund Manager.

Additionally, the law makes provision for a further voluntary contribution by either the employer or the employee alone or both up to a maximum of 16.5 percent of the basic salary of the employee to the “Tier 3” Scheme. The total of all these contributions (35 percent of the employees' base pay – both the mandatory and voluntary contributions) are allowed for tax deduction purposes in the hands of both the employees and the employers.

Failure to comply will expose the Company to a penalty of 3 percent of the contribution unpaid together with the contribution, for each month of default.

Employers are required by law to contribute to both the Tiers 1 and 2 for all employees.

Notwithstanding the above, the National Pensions Regulatory Authority (NPRA) has specified that expatriates who can demonstrate that they are already contributing to a social security scheme in another country/jurisdiction and will be on assignment for less than 36 months in Ghana could apply to the regulatory body for an exemption from contributing to the scheme in Ghana. Per practice, the documents to be attached to the application are

- The contract of employment to confirm their assignment in Ghana as well as the duration of the assignment.
- A certificate/Contribution report/Letter from the pension authority elsewhere to prove their registration with and contribution to a similar scheme.
- A notarized report/statement showing contributions made in the home country/jurisdiction and periods for which they have been made.
- A clearance report to show that all contributions have been duly made.

04

Compliance obligations

4 Compliance obligations

4.1 Employer compliance obligations

An employer shall, not later than the 30th of April following the end of every year of assessment, furnish a return on the total assessable income derived by each employee from the employment.

Where amounts withheld during the year are insufficient to meet the employee's tax liability, the employer is required to withhold and pay within 15 days after the year of assessment, that is, by 15 January of each year, the correct taxes arising from the employment of a person.

4.2 Employer reporting and withholding requirements

Employment income is subject to tax and social security withholding under the Pay-As-You-Earn (PAYE) system. If an individual is taxable on employment income, the obligation to withhold rests with either the employer or, if the employer is not operating withholding, it rests with the "host" employer.

06

Other issues

5 Other issues

5.1 Double taxation treaties

Country/Jurisdiction	Dividends	Interests	Royalties	Management Fees and Tech. Fees
United Kingdom	7.5 [^] / 15 [^]	12.5	12.5	10
France	5* / 7.5** /			France
Netherland	5 [^] / 10 [^]	8	8	8
Germany	5 [^] / 15 [^]	10	8	8
Italy	5 [^] / 15 [^]	10	10	10
South Africa	5 [^] / 15 [^]	5# / 10 [^]	10	10
Belgium	5 [^] / 10 [^]	10	10	10
Swiss Confederation	5 [^] / 15 [^]	10	8	8
Denmark	5 [^] / 5 [∞] / 5 [∞] / 15 [^]	8	8	8
Singapore	7 [^] / 7 [^]	7	7	10
Mauritius	7 [^] / 7 [^]	7	8	10
Czech Republic	6	10	8	10
Morocco	5 [^] / 10 [^]	10	10	10

* If the company paying the Dividend, Interest or Royalty is a resident of France

** If the company paying the Dividend, Interest or Royalty is a resident of Ghana

[^] If the beneficial owner is a company which holds directly at least 10 percent of the capital of the company paying the dividend

[^] In all other cases

If the Interest is derived by a Bank which is a resident of the other contracting state

[∞] If the beneficial owner is the other contracting state or the central bank of the other state or any national agency or any agency (including a financial institution owned or controlled by the government of that other state.

^α If the beneficial owner is a pension fund or other similar institution providing pension or other similar institutions where it is established and recognized for tax purposes in accordance with the law of that other state

By virtue of Act 896 and the Non-discrimination clause under the Double Taxation Treaties, where the tax rates above exceed the general tax rate under "Payments to Non-Residents" the general tax rate applies.

5.2 Permanent establishment implications

A foreign permanent establishment (PE) means a fixed place of business of a resident person situated in a foreign country/jurisdiction where the business is conducted continuously for at least 6 months, but excludes any place at which only activities of a preparatory or auxiliary nature are conducted;

A Ghanaian PE includes:

- a place in the country/jurisdiction where a non-resident person carries on business or that is at the disposal of the person for that purpose
- a place in the country/jurisdiction where a person has, is using or is installing substantial equipment or substantial machinery
- a place in the country/jurisdiction where a person is engaged in a construction, assembly or installation project for 90 days or more, including a place where a person is conducting supervisory activities in relation to that project
- the provision of services in the country/jurisdiction
- a place in the country/jurisdiction where an agent performs any function on behalf of the business of a non-resident person.
 - Including, in the case of an insurance business, the collection of premiums or the insurance of risks situated in the country/jurisdiction.
 - Excluding the case involving a general agent of independent status with its own legal personality acting in the ordinary course of business and “owner” means a person who owns a permanent establishment.

5.3 Indirect taxes

The provision of goods and services in Ghana, are liable to Value Added Tax (VAT), National Health Insurance Levy (NHIL), Ghana Education Trust Fund Levy (GETFL) and COVID-19 Health Recovery Levy (CHRL). VAT is assessed on the taxable value (with the NHIL, GETFL and CHRL) at a rate of 15 percent whereas the NHIL, GETFL and CHRL are considered as straight levies assessed on the taxable value at 2.5 percent, 2.5 percent and 1.0 percent respectively. There are situations where certain taxpayers are waived from paying the VAT. In that situation, the taxpayer who has been granted such waiver would be issued with a VAT Relief Purchase Order (VPROs), which constitutes a waiver of the VAT.

On 31 December 2021, the Value Added Tax (Amendment) Act, 2021 (Act 1072) was issued to amend the Value Added Tax Act, 2013 (Act 870) to limit the application of the Value Added Tax (VAT) flat rate mechanism to retailers with annual turnover not exceeding GH¢500,000. This implies retailers with annual turnover exceeding GH¢500,000 as well as importers and wholesalers will now be subject to VAT at a standard rate of 15%. Act 1072 also, extends the VAT zero-rate on African textile prints for local textile manufacturers to 31 December 2023.

On 29 December 2022, the Value Added Tax (Amendment) (No.2) Act, 2022 (Act 1087) provided for an increase in the Standard VAT rate from 12.5% to 15% and is calculated on the value of the taxable supply of goods or services or value of the import. However, Taxpayers which fall under the VAT Flat rate regime are to continue charging VAT at a rate of 3% together with the associated COVID-19 Health Recovery Levy of 1%. This implies that taxpayers on the standard rate will have to charge VAT at 15% starting from January 2023.

5.4 Transfer pricing

In Ghana, transfer pricing implication could arise to the extent that the employee is being paid by an entity in one jurisdiction but performing services for the benefit of an entity in another jurisdiction, in other words, a cross-border benefit is being provided. This would also be dependent on the nature and complexity of the services performed.

Transfer pricing is used to shift tax liabilities among associated persons to obtain the best overall tax outcome. The Transfer Pricing Regulations, 2020 (L.I. 2412) empowers the Commissioner to distribute, apportion, or allocate any income, deductions, or credits between associated persons so as to reflect the chargeable income the persons would have realized in an arm's length transaction.

5.5 Work Permit/Visa Requirement

The following are the requirements for work permit as per the Ghanaian laws:

- Formal Application letters addressed to the relevant bodies. Letter of Support from Ministry, Department, Agency (if any).
- Employer's Certificate of Registration, Certificate of Incorporation, Certificate to Commence Business, Regulation.
- Employer's Current Tax Clearance Certificate.
- Passport of applicant employee.
- Copy of applicant employee's Non-Citizen Identity Card. Scanned passport page bearing applicant's picture and bio data.
- Offer/Appointment Letter / Contract of Employment of applicant employee Curriculum vitae of applicant employee.
- Applicant Employee's Professional and Educational certificates.
- Medical report of applicant employee from any recognized hospital in Ghana. Professional/educational certificates of applicant employee.
- Police report from applicant employee's home country/jurisdiction.
- Compulsory COVID-19 test at the Ghana Immigration Service (GIS) at a cost of GH¢200 per assignee payable to the GIS.

To ensure Immigration Compliance – Work permits must be renewed yearly. An annual immigration return is also required to be filed with the Ghana Immigration Service by 14 January of the ensuing year.

[Back to top](#)

Disclaimer

All information contained in this publication is summarized by KPMG Tax, the Ghanaian member firm affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity, based on the Ghanaian Income Tax Act, 2015 (Act 896) as amended; the Value Added Tax Act, 2013 (Act 870) as amended, National Pensions Act, 2008 (Act766) as amended, Guidelines for the registration of Expatriate (Foreign) workers issued by the National Pensions Regulatory Authority - NPRA/GD/RGEX/01/17, Immigration Act, 2000 (Act 573) and The Transfer Pricing Regulations, 2020 (L.I. 2412).

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