ARRANGEMENT OF SECTIONS

Section
1. Section 11 of Act 592 amended
2. Section 39 of Act 592 amended
3. Section 52 of Act 592 amended
4. Section 66 of Act 592 amended
5. Section 67 of Act 592 amended
6. Section 94 of Act 592 amended
7. Section 97 of Act 592 amended
8. Section 122 of Act 592 amended
9. Section 122A of Act 592 inserted
10. Section 142 of Act 592 amended
11. First Schedule to Act 592 amended
12. Third Schedule to Act 592 amended
Section 39 of Act 592 amended
2. The principal enactment is amended in subsection (1) of section 39 as follows:

(a) by the substitution for “hundred” in paragraph (a) of “two hundred”;
(b) by the substitution for “hundred” in paragraph (c) of “two hundred”;
(c) by the substitution for “hundred” in paragraph (d) of “two hundred”;
(d) by the substitution for “fifty” in paragraph (e) of “two hundred”;
(e) by the substitution for “four hundred” in paragraph (f) of “two hundred”.

Section 52 of Act 592 amended
3. The principal enactment is amended in section 52

(a) by the substitution for subsection (1) of
“(4A) The income of the ARB Apex Bank from the business of banking is exempt from tax for the period of ten years of assessment commencing from and including the year in which the basis period of the bank ends, being the period in which operations commenced.”

Section 39 of Act 592 amended
2. The principal enactment is amended in subsection (1) of section 39 as follows:
   (a) by the substitution for “hundred” in paragraph (a) of “two hundred”;
   (b) by the substitution for “hundred” in paragraph (c) of “two hundred”;
   (c) by the substitution for “hundred” in paragraph (d) of “two hundred”;
   (d) by the substitution for “fifty” in paragraph (e) of “hundred”; and
   (e) by the substitution for “two hundred” in paragraph (f) of “four hundred”.

Section 52 of Act 592 amended
3. The principal enactment is amended in section 52
   (a) by the substitution for subsection (1) of
        “(1) Subject to subsection (3), the transfer by a person of a business asset, other than a class 1, 2 or 4 depreciable asset, to an associate is treated as a disposal for a consideration equal to
        (a) the cost of the assets to the person or, in the case of a class 3, 5, or 6 depreciable asset, the asset’s written down value, pursuant to paragraph 4 of the Third Schedule, where all the following conditions are satisfied:
            (i) the asset is a business asset of the associate or, in the case of a class 3, 5, or 6 depreciable asset, a depreciable asset of the associate;
            (ii) at the time of the transfer, that person
and the associate are resident and the associate is or, in the case of an associate partnership; its partners are not exempt from tax;
(iii) there is continuity of underlying ownership in the asset of at least twenty-five percent; and
(iv) an election for this paragraph to apply is made by both the person and the associate; or
(b) in any other case, the market value of the asset at the date the transfer is made.”; and
(b) by the deletion of “class 3” in subsection (2).

Section 66 of Act 592 amended
4. The principal enactment is amended in section 66
(a) by the substitution for subsection (1) of
“(1) A tax is hereby imposed, for each year of assessment, on a non-resident person carrying on business in the Republic through a permanent establishment which has earned repatriated profits for a basis period ending within the year.”; and
(b) by the substitution for subsection (3) of
“(3) A person who has earned repatriated profits under subsection (1), shall pay a final tax on the gross amount of the earned repatriated profits to the Commissioner-General in accordance with the prescribed rate within thirty days after the basis period of that person.”

Section 67 of Act 592 amended
5. The principal enactment is amended in section 67
(a) by the substitution for subsection (4) of
“(4) A person who has gross receipts for a non-resident person in respect of a business referred to in this section shall withhold tax at the prescribed rate from the gross receipts and pay the tax withheld to the Commissioner-General.”; and
(b) by the insertion of a new subsection (5)
“(5) The withholding tax is a final tax and shall be paid within thirty days after receipt of the gross amount.”

Section 94 of Act 592 amended

6. The principal enactment is amended in section 94 by the substitution for the definition of “exempt organisation” of

“exempt organisation” includes a person

(a) that functions as

(i) a religious or charitable institution of a public character;
(ii) a state-owned or state-sponsored educational institution;
(iii) a body of persons formed for the purpose of promoting social or sporting activities;
(iv) a registered trade union;
(v) an institution or trust of a public character established by an enactment solely for the purposes of scientific research; or
(vi) a registered sporting club;

(b) that has been issued by the Commissioner-General with a written ruling currently in force stating that it is an exempt organisation; and

(c) none of whose income or assets confers or may confer, a private benefit, or other than in pursuit of the organisation's function referred to in paragraph (a).”

Section 97 of Act 592 amended

7. The principal enactment is amended in subsection (3) of section 97 by the deletion of Class “3” appearing in paragraph (c).

Section 122 of Act 592 amended

8. The principal enactment is amended in section 122

(a) by the substitution for subsection (1) of

“(1) Unless otherwise authorised by the Commissioner-General, a person required to register with the Commissioner-General under this Act other than an employee with respect to the employment income of that person shall
maintain in Ghana the necessary records to explain the information to be provided in a return or in any other document to be furnished to the Commissioner-General under this Act or to enable an accurate determination of the tax payable or income earned by that person.”; and

(b) by the insertion of a new subsection (1A)

“(1A) The necessary records required to be maintained by a person includes all underlying documents however described in the nature of receipts, invoices, vouchers, contracts or any electronic data from which information can be extracted.”

Section 122A of Act 592 inserted

9. The principal enactment is amended by the insertion after section 122 of a new subsection 122A

“Record of shareholders of company

122A. A company which is incorporated under the laws of Ghana or has its management and control exercised in Ghana at any time during a year of assessment, shall

(a) maintain available in Ghana a register of members reflecting the names and addresses of the members; and

(b) in the case of a company having shares, maintain

(i) a statement of the shares held by each member distinguishing each share by a number where the share has a number and the amount paid or agreed to be considered as paid on the shares of each member and the amount remaining payable on the shares;

(ii) the date on which the person was entered in the register as a member; and

(iii) the date on which that person ceased to be a member.”

Section 142 of Act 592 amended
10. The principal enactment is amended in section 142 by the substitution for “two currency units” and “one currency unit” for “four currency points” and “two currency points” respectively.

First Schedule to Act 592 amended

11. The principal enactment is amended in the First Schedule by the substitution for paragraph 1 of Part 1 of the following new paragraph:

“1. The income tax rates applicable to resident individuals are:

<table>
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<tr>
<th>CHARGEABLE INCOME</th>
<th>RATE OF TAX</th>
</tr>
</thead>
<tbody>
<tr>
<td>First</td>
<td>Gh¢ 1,584.00</td>
</tr>
<tr>
<td>Next</td>
<td>Gh¢ 792.00</td>
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<tr>
<td>Next</td>
<td>Gh¢ 1,104.00</td>
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<td>Next</td>
<td>Gh¢ 28,200.00</td>
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<tr>
<td>Exceeding</td>
<td>Gh¢ 31,680.00</td>
</tr>
</tbody>
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Third Schedule to Act 592 amended

12. The principal enactment is amended in the Third Schedule by the substitution for the figure “GH¢25,000.00” appearing in subparagraph (8) of paragraph (3) of the figure “GH¢75,000.00”.

Date of *Gazette* notification: 23rd May, 2013.
MEMORANDUM

The object of the Bill is to amend the Internal Revenue Act, 2000 (Act 592) to exempt the ARB Apex Bank from tax for a period of ten years of assessment, to increase the personal reliefs for certain categories of taxpayers as well as to amend the annual income tax thresholds and brackets amongst others.

Clause 1 of the Bill amends section 11 of Act 592 to exempt the ARB Apex Bank from tax for a period of ten years of assessment. The period commences from and includes the year in which the basis period of the Bank ends, which is the period in which the Bank commenced its operations.

Clause 2 amends section 39 of Act 592 to increase the personal reliefs to certain categories of taxpayers. This is in order to reduce the tax burden on those categories of taxpayers.

The Bill, in clause 3 amends section 52 of Act 592 to give effect to the 2012 amendment of the Capital Allowance regime of the mining companies. The amendment is ancillary to the straight line method of calculating the capital allowance of the mining industry and does not affect the calculation of allowable capital allowance.

Clauses 4 and 5 amend sections 66 and 67 of the Act respectively. The amendments provide for a specified period for the payment of final tax on earned repatriated profits of non-resident persons carrying on business in the country through a permanent establishment and gross receipts of non-resident persons carrying on business in shipping, air transport and telecommunications services.

Clause 6 amends section 94 of the Act to redefine ‘exempt organisation’ in the Interpretation section. This is to resolve the ambiguity in the definition of ‘exempt organisation’.

Clause 7 amends section 97 by repealing class 3 depreciable assets from the list of chargeable assets in subsection (3) of section 97.
Clause 8 amends section 122 of the Act to expressly require all persons required to register with the Commissioner-General to maintain underlying documentation in the nature of invoices, contracts, receipts, vouchers or electronic data as part of the obligation to keep accounting records under the Act.

The Bill, in clause 9, introduces a new section 122A. This clause makes it obligatory for companies operating in Ghana, whether domestic or external, to maintain ownership information in Ghana. The information required includes the register of shareholders reflecting their names and addresses. In the case of a company with shares, the company shall maintain a statement of the shares held by each member, the date that that person was entered in the register as a member and the date on which that person ceased to be a member.

Clause 10 amends section 142 of the Act whilst clause 11 amends section 165 by repealing subsection (1) of section 165.

Clause 12 amends the First Schedule to the Act by modifying the annual income tax thresholds and brackets. This is in order to compensate taxpayers for the loss in purchasing power arising from inflationary trends in the country and the impact of real increases in Gross Domestic Product on personal incomes.

Clause 13 amends the Third Schedule to the Act by introducing a new maximum cost base for road vehicles other than commercial vehicles for capital allowance purposes.

These amendments are necessary to enable Ghana fulfill its international obligations of exchanging information and adhering to the standards of transparency in tax matters.

HON. SETH E. TERKPER
Minister responsible for Finance