THE RELEVANCE OF TAX EXEMPTIONS IN GHANA: THE CASE OF THE MINING INDUSTRY

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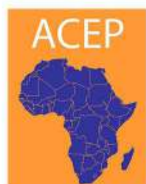

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LIST OF ABBREVATIONS

AMV	Africa Mining Vision
FDI	Foreign Direct Investment
GDP	Gross Domestic Product
GHEITI	Ghana Extractives Industry Transparency Initiative
IMF	International Monetary Fund
IISD	International Institute for Sustainable Development
MNCs	Multinational Companies
NSDP	National Suppliers Development Programme
OECD	Organization for Economic Co-operation and Development
UNDP	United Nations Development Programme
UNIDO	United Nations Industrial Development Organization
VAT	Value Added Tax

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EXECUTIVE SUMMARY

Introduction

Taxation has been identified as the most sustainable source of revenue mobilization for socio-economic development. Many low-income countries mobilize about 16 percent tax-to-GDP ratio while emerging markets and advanced economies mobilize about 18 percent and 26 percent tax-to-GDP ratio respectively (Gaspar, Amaglobeli, Garcia-Escribano, Prady, & Soto, 2019).

Resource-rich countries in Africa rely heavily on resource rents which makes the extractive sector a dominant contributor to national budget financing (UNECA, 2018). Evidence suggests that further optimization of the resource sector could generate more revenue from the sector to governments, if revenue leakages, through tax avoidance and evasion and other illicit financial flows are addressed.

In Ghana, the mining sector is a major contributor to GDP attracting significant investment in-flows of about USD 11billion between 2006 and 2017 (Minerals Commission, 2018) and contributed about GHS 2.16 billion and GHS 2.36 billion in tax revenues in 2017 and 2018 respectively (Chamber of Mines, 2019). In return, the country also granted GHS 1.422 billion in tax exemptions to the sector between 2008 and 2015 (Ministry of Finance, 2015). This brings to the fore the need to examine the trade-offs between investments and exemptions.

In recent times, the government has recognized the need to review the tax exemptions regime, to ensure that they are effective, and efficient. The objective of this study is, therefore, to explore the extent of tax exemptions and their relevance in Ghana's mining sector. The study relied on data from secondary sources. To understand the extent of relevance of tax exemptions, the study assesses the effects these exemptions have had on three indicators that are often cited as the justification for granting them: attraction of foreign direct investments; creation of direct jobs for Ghanaians in the formal sector; and development of local businesses along the mining sector's value chain.

Nature of Tax Exemptions

Stanley Surrey defined tax exemptions as preferential tax treatments for particular persons, activities, and industry and "represent government spending for favoured activities or groups, effected through the tax system rather than through direct grants, loans, or other forms of government assistance" (Lerch, 2004). Some of the specifics reasons for which tax exemptions are granted to include:

1. Increase employment creation (Lerch, 2004). The assumption is that these employment opportunities would not happen in the absence of the exemptions.

2. Commit investment to specific locations (Lerch, 2004; Ofori, 2019). In many countries, geographic location can be used to define tax rates and incentives for investments.
3. Attract capital to stimulate competition and increase efficiency in domestic markets (IMF et al, 2015).
4. Invest in specific economic sectors or activities as part of an industrial development strategy (IMF et al, 2015).

Performance of tax exemptions are starkly different depending on whether a country is developed or developing. Studies (Mintz, 1990; Shah, 1995; Easson, 2004; BolnicK, 2004; Bird & Zolt, 2008) have revealed that tax exemptions generally do not achieve the targeted economic transformation for which they were granted, particularly in developing countries. Reasons that explain the trend in developing countries include: tax exemptions matter less if investment climate is unattractive; monitoring capacities are weakened by complexities and opacity in the granting of tax exemptions; and developing countries have poorly designed tax exemptions.

Tax Exemptions in Ghana's Mining sector

Government revenue from mineral operations in Ghana is primarily derived from corporate income taxes, royalties and dividends from equity participation. Over the years there have been fiscal policy reforms in the sector including tax exemptions: application of a capital allowance of 20 percent on a straight-line basis (previously 80 percent); and duration for carried forward losses reduced from 10 to 5 years. There are also stability agreements and development agreements (for holders of a mining lease whose proposed investment exceeds USD 500million). A development agreement, for instance, offers extra tax incentives to companies.

Notwithstanding these fiscal terms, the exemptions regime is often abused due to ineffective monitoring and a lack of institutional coordination (Mensah, 2015). Analysis of mining lease agreements revealed generous tax incentives which include exemptions on withholding taxes on interest or dividend payments to affiliates and shareholders, and import duty waivers on machinery and equipment including petty items that can be sourced locally. In addition, for some companies, a ceiling of 2.25 percent of the mine's total revenue or development capital expenditure has been assumed as arm's length fee for management and technical services. Treating this as an arm's length fee exempts the companies from analysis of what the fair value of the service delivered is. Some of these exemptions, may influence beneficiary companies to alter behaviours to shift profits to lower tax jurisdictions.

Impact of Tax Exemptions

Foreign Direct Investment

There has been significant increase in FDIs into the mining sector since the commencement of reforms under the Economic Recovery Program in 1983 (Amponsah-Tawiah & Dartey-Baah, 2011). Approximately about USD 4billion in foreign direct investments was attracted into the

mining sector between 1983 and 1998 as a consequence of these reforms (ibis). The extent to which tax exemptions alone contribute to investment attraction should be analysed in conjunction with other investment attraction indicators given that they are equally important. Analysis indicate that though Ghana has a relatively higher fiscal demand, it attracted more investments than the comparator countries except South Africa, demonstrating that other indicators, which Ghana performs relatively better, such as reduced regulatory uncertainty and reduced regulatory duplication and inconsistencies, as assessed by the Frazer Institute (2019; 2020) are equally important and require deeper consideration in investment attraction.

The presence of mineral resources is also very crucial to investment decisions (Fraser Institute, 2019; IISD and OECD , 2018) constituting about 60 percent of the decision to invest (Frazer Institute, 2019). Unfortunately, many governments in Africa including Ghana invest less resources in generating geological data on resource potential. This gives investors the advantage to compensate for the risk of minimum knowledge on concessions granted. Countries also lose the advantage of giving mineral rights through competitive tendering processes.

Employment

The mining sector creates employment; increasing investment inevitably increases the number of people that will be absorbed in the sector. However, the sector is not a labour-intensive industry. A total employment of 11,899 for the 12 producing members (Chamber of Mines, 2019) was required to generate the total revenue of about USD4.6 billion of the 12 producing member companies. Moreover, there are other variables, including local technical skills, that determine the number of people that can be absorbed locally and the trade-offs for other economic activities that will be derailed by mining. There is the need, therefore, to scientifically establish the basis of the exemptions, including available technical skills that can be absorbed in the mine and sustainability of those employments in order to compensate for job losses resulting from displacement from lands and other economic activities. In Ghana, the challenge with employment-backed incentives is often that the scientific basis is not established by governments.

It may be true that tax exemptions contribute to direct employment increases through investment attraction in the industry. However, the evidence that other investment attraction parameters – deposits of the mineral resource, adequate infrastructure, regulatory certainty, geological data, and stable political climate – are more important than exemptions, a scientific balance of the extent to which employment contribute to specific investment drive is necessary. There is also the burden on government to develop the other parameters which are more important than exemptions to make a better case for investment attraction.

Development of Local Businesses

The mining sector holds higher economic promise if the value chain can be optimized to encourage local manufacturing and supply of goods and services. In Ghana, the mining sector is

largely an enclave one with minimal linkages to other sectors of the economy. As Nyarko and Anaman (2018) point out, requirements aimed at creating these linkages are designed such that they support a retail economy rather than to facilitate the growth of the manufacturing sector.

Local manufacturing and retail and creation of economic linkages are also undermined by some of the tax exemptions granted to mining companies operating in the country. The wholesale granting of import waivers on procurements that could be done domestically could be disadvantageous to the competitiveness of Ghanaian businesses. Some of these exemptions require micro-monitoring by the Ghana Revenue Authority (GRA) to ensure that not more than required is actually imported which comes with its own logistical constraints and administrative burden. It must be emphasized that, development of indigenous Ghanaian businesses through the mining sector demands that government creates the right environment by increasing access to credits, improving infrastructure etc to allow for business growth.

Findings

1. Tax exemptions granted to mining companies are not properly designed and not informed by adequate scientific analysis by government.
2. Tax exemptions are not the most important indicator in investment attraction.
3. Exemptions granted on the basis of employment tend to be less rigorous on the number of employments to be created and how those numbers can be sustained and continuously aligned to the development and operations of the mine.
4. Some exemptions undermine business development in Ghana.
5. Exemptions on petty items increase the administrative burden on tax authorities to monitor.

Recommendations

1. Granting of tax exemptions should be informed by more scientific analysis. A cost-benefit analysis approach should be adopted in order to objectively and more transparently determine the costs and the associated benefits, if any, before tax exemptions are granted.
2. Government should prioritize further improvement of the investment climate in the country to sustain strides made in investment attraction and maintain Ghana's status as a leading mining destination.
3. Exemptions granted to generate employment should be based on a rigorous assessment of long-term effects and agreed benchmarks on employment numbers in a community.
4. Government must focus on creating a conducive environment to support manufacturing and boost the competitiveness of local businesses to participate in the mining sector value chain.
5. Tax exemptions should be properly targeted with measurable outcomes and timelines. This would ensure that the complexities associated with some tax exemptions such as import duty waivers on petty items are limited and the administrative burden on the tax authorities to ensure compliance is reduced.

INTRODUCTION

1.1 Background

Taxation is one of the fundamental fiscal tools used for mobilizing revenue for the economic growth and development of nations. The design and enforcement of a tax system require very good institutional, technical and financial support (Bird R. , 2010). Although revenue for government spending could be derived from other sources such as grants, domestic and foreign borrowing, and investment incomes, taxes have been identified as the most sustainable source of revenue mobilization for socio-economic development. It reduces the reliance on external in-flows by developing economies, which are often unsustainable. The role of taxation in influencing economic growth remains a key focus of economic policy makers, tax administrators and other stakeholders as various investigations to establish the nexus between tax and economic growth have shown that the relationship could be positive, negative or neutral depending on the fiscal regime (Taha, Loganathan, Sisira, & Colombage, 2011).

Tax revenue mobilization for socio-economic development can be attained by governments through an effective and efficient tax regime (Hammad, 2018). Comparatively, many low-income countries mobilize about 16 percent tax-to-GDP ratio while emerging markets and advanced economies mobilize about 18 percent and 26 percent tax-to-GDP ratio respectively (Gaspar, Amaglobeli, Garcia-Escribano, Prady, & Soto, 2019). Resource-rich countries in Africa rely heavily on resource rents which makes the extractive sector a dominant contributor to national budget financing (UNECA, 2018)[1]. Evidence suggests that further optimization of the resource sector could generate more revenue from the sector to governments if revenue leakages through illicit financial flows (IFFs), for instance, are addressed. Oil, precious minerals and metals accounted for the bulk of illicit financial flows from the continent between 2000 and 2010 (ibis). This is attributable to existing weak governance institutions that, on account of capacity challenges or generous tax incentives, generally fail to mobilize the right amount of taxes (African Union, 2009). Across the region, this trend has to change to ensure that African countries can optimize their over 30 percent share of global mineral reserves[2] for sustainable and inclusive development outcomes.

In Ghana, the mining sector is a major contributor to GDP attracting investment in-flows of about USD 11billion between 2006 and 2017 (Minerals Commission, 2018). The sector also contributed GHS 2.16 billion and GHS 2.36 billion in tax revenues in 2017 and 2018 respectively (Chamber of Mines, 2019). According to the Ministry of Finance (2015) the country also granted GHS 1.422

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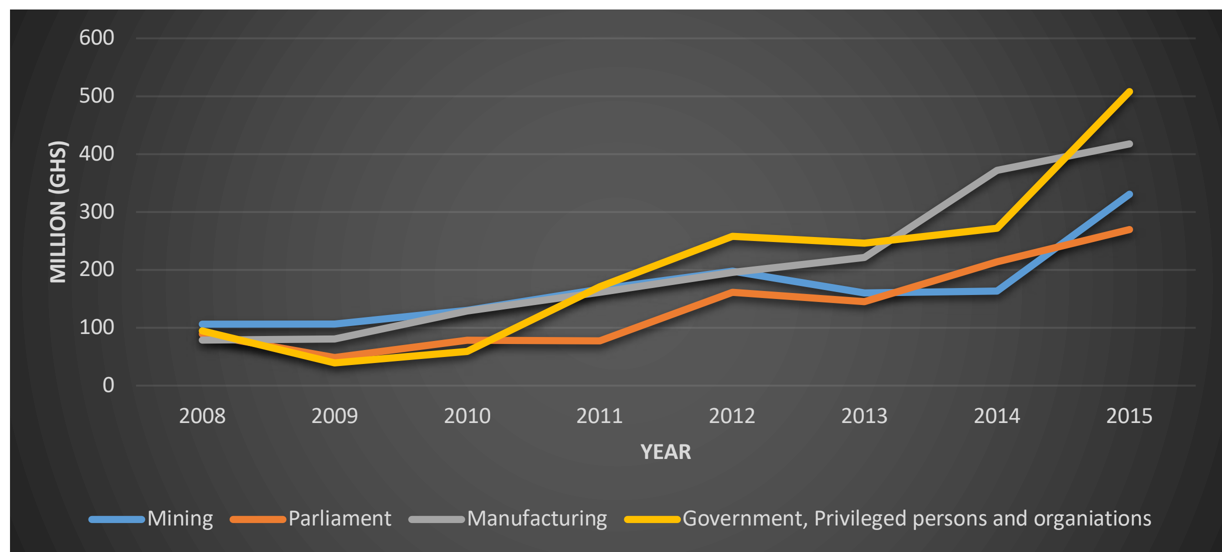
[1] Almost half of African member-countries of the EITI derive more than a quarter of government revenue from resource rents.

[2] https://www.afdb.org/fileadmin/uploads/afdb/Documents/Publications/anrc/AfDB_ANRC_BROCHURE_en.pdf; https://www.uneca.org/sites/default/files/PublicationFiles/agr-v_en.pdf

billion in tax incentives to the sector between 2008 and 2015[3]. This brings to the fore the need to examine the trade-offs between investments and exemptions.

Figure 1 highlights the significant amount of revenues foregone each year on tax exemptions and acknowledges that a broader national action is required to prioritise and eliminate unwarranted exemptions. In recent times, the government has recognized the need to review the tax exemptions regime, to ensure that they are effective, efficient and far removed from being redundant.

Figure 1: Customs Tax Expenditure to the Top 4 Beneficiaries (GHSmillion)



Source: Ministry of Finance, 2015

The objective of this study is to explore the extent of tax exemptions and their relevance in Ghana's mining sector. In the context of improving domestic revenue mobilization, this is necessary for a plethora of reasons: Ghana aims to become a self-sustaining country beyond aid; donor funds keep dwindling; Africa Union's Agenda 2063 and the Africa Mining Vision consider sustainable domestic resource mobilization as a remedy to development financing gaps; and that mineral resource rents are volatile and exhaustible.

1.2 Methodology

The study relied on data from secondary sources such as annual reports, commissioned studies and academic literature. To understand the extent of relevance of tax exemptions, the study assesses the effects of these exemptions on three indicators that are often cited as the justification for granting them: attraction of foreign direct investments; creation of direct jobs for Ghanaians in the formal sector; and development of local businesses along the mining sector's value chain.

[3] This excludes data on mining and mining services for 2012,2013,2014 and 2015.

NATURE OF TAX EXEMPTIONS

2.1 Defining Tax Exemptions

Pioneering attempts to conceptualize tax exemptions can be traced to Stanley Surrey who defined tax exemptions as preferential tax treatments for particular persons, activities, and industry and "represent government spending for favoured activities or groups, effected through the tax system rather than through direct grants, loans, or other forms of government assistance" (Lerch, 2004). Ofori (2019) notes that tax exemptions constitute special treatments, or separate schemes from the general tax system, and a deliberate deviation from accepted concepts of income tax. According to the IMF et al (2015) tax exemptions are tied to investment generation as it recognizes that exemptions are special tax provisions granted to qualified investment projects or firms that provide favourable deviation from the general tax code. This is generally termed as economic development tax exemption, distinguishing it from other forms of tax exemptions such as those granted to non-profits. Tax exemptions may assume the forms of tax holidays, tax credits or deductions for certain investment expenditure, preferential tax rates for certain sectors and tax deferrals (Ofori, 2019; IMF et al, 2015; Lerch, 2004). A tax exemption scheme can be perceived as an alternative to direct government expenditure when it is required that fiscal strategies are implemented to achieve targeted outcomes.

2.2 Purpose of Tax Exemptions

Tax exemptions are generally intended to provide special advantages to enterprises in order to increase the rate of return or reduce costs for the purpose of securing such investments and increasing or sustaining economic activities (UNCTAD, 2000).

Some of the specifics reasons for which tax exemptions are granted include:

1. Increase employment creation. The assumption is that these employment opportunities would not happen in the absence of the exemptions. Evidence of this approach to tax exemptions can be found in tax administration in the States of Nebraska, Georgia, and Ohio who had specific tax exemptions that were targeted at increasing employment creation (Lerch, 2004).
2. Commit investment to specific locations (Lerch, 2004; Ofori, 2019). In many countries, geographic location can be used to define tax rates and incentives for investments. For instance, in Ghana's Income Tax Act, 2015 (Act 896), incentives are offered on corporate income tax based on location[4]. These are done to support the industrial zones concept to spread development in the country.
3. Attract capital to stimulate competition and increase efficiency in domestic markets (IMF et al, 2015).

[4] Refer to paragraph 6 subparagraph 3 of the First Schedule of the Act.

4. Invest in specific economic sectors or activities as part of an industrial development strategy (IMF et al, 2015).

2.3 Performance of Tax Exemptions

Performance of tax exemptions are starkly different depending on whether a country is developed or developing. Studies (Mintz, 1990; Shah, 1995; Easson, 2004; BolnicK, 2004; Bird & Zolt, 2008) have revealed that tax exemptions generally do not achieve the targeted economic transformation for which they were granted, particularly in developing countries. This also holds true for investment attraction as established by James (2013) in his surveys of investors to ascertain the effectiveness of tax incentives on private investments for the period 1997-2007 in developing countries. Again, Zee et al (2002) find in their study of the effectiveness of tax exemptions in developing countries for the period 1984-2001 that a country's economic characteristics are more effective in attracting FDIs than tax exemptions. They also find that tax exemptions are generally unsustainable considering that they are not cost-effective. This assertion, however, does not apply to all developing countries as there are exceptions, particularly, high income countries as the case of Singapore, South Korea and Taiwan suggest (Tanzi & Shome, 1992; IMF et al, 2015).

Conversely, tax exemptions in developed countries are generally effective. According to Goss and Phillips (1999), tax exemptions led to an increase in overall economic activity in Nebraska. In their analysis of Nebraska's Employment and Investment Act, they found that tax exemptions positively impact employment growth, and growth in income levels and population. Again, in their analysis of the effectiveness of tax incentives to increase spending in research and development, Guceri and Liu (2017) find that tax incentives had positive impacts on research and development spending as evidenced by the fact that a pound granted through tax incentives ensured additional research and development spending of more than a pound. Hall and Reenen (2000) arrived at a similar conclusion in their study of the effectiveness of tax exemptions in OECD countries where they also conclude that a dollar in tax credit for research and development stimulates spending of an additional dollar for research and development.

The question that must be answered is what is accountable for the variations in relation to the performance of tax exemptions between developing and developed countries. A number of reasons explain this trend. Firstly, tax exemptions matter less if investment climate is unattractive. UNIDO (2011), in a study of 7,000 companies (including the mining sector) in 19 sub-Sahara African countries which ranks twelve business location factors, found businesses ranking transparency of legal frameworks, for instance ahead of tax exemptions which ranked 11th. Ofori (2019) corroborates this finding when he observed that higher transparency and security of investments, good infrastructure and the overall economic conditions of a country matter more to investors than tax exemptions. Evidently, as studies by IMF et al (2015) and Ofori (2019) have identified, developed countries have more effective tax exemptions because they have robust investment climates. The case of developing countries is starkly different because tax exemptions do not necessarily counterbalance the effects of poor investment climates (Kinda,

2014). Ironically, effective tax burdens and the subsequent tax revenue increases matter for building a robust investment climate, particularly infrastructure development and financing for research and development.

Also, monitoring capacities of developing countries are weakened by exemptions related complexities. Tax exemptions in developing countries are known to introduce further complexities in tax assessment processes which further weaken monitoring (IMF et al, 2015) and allow some multinational companies (MNCs) to avoid and evade taxes. Revenues forgone through tax exemptions are further compounded by tax revenue losses occasioned by tax evasion and avoidance schemes. Consequently, estimating the performance of tax exemptions in an economy is often blunted (IMF et al, 2015). Linked to monitoring capacities is the fact that granting of tax exemptions in developing countries often lacks transparency, and therefore independent cost-benefit analysis is often affected. Opacity in these processes are largely due to vested interests and political inertia (Goss & Phillips, 1999).

Lastly, developing countries are noted to have poorly designed tax exemptions (Biggs, 2007). Exemptions granted to multinationals and other businesses are often not targeted and measurable. This is symptomatic of poor cost-benefit analysis of tax exemptions to inform the relevance of exemptions and allow effective target setting. Often, countries engage in race-to-bottom competition with their peers.

3.1 The Fiscal Regime of Ghana's Mining Sector

The fiscal regime in the mining industry of Ghana is defined by the Minerals and Mining Act, 2006 (Act 703) and its subsequent amendments as well as the Income Tax Act, 2015 (Act 896) and its concomitant regulations and amendment. Government revenue from mineral operations is primarily derived from corporate income taxes, royalties and dividends from equity participation. Table 1 summarises the fiscal regime for the mining sector.

Table 1: Summary of the Mining Fiscal Regime

Item	Provision
Mineral Right	Annual payment
Capital Allowance	20%; straight line
Carried Forward Losses for the Purposes of Taxation	Five Years
Mineral Royalty*	5% of total mineral revenue
Corporate Income Tax**	35%
Government Equity Participation in Mining Lease	10% free carried interest, no option for acquisition of further shares
Withholding tax	Interest – 8% Dividend – 8%
Annual Ground Rent	GHS 35 per acre
***Some of the companies have a sliding scale royalty of between 3 and 5 percent.** ****Some of the companies pay CIT of 32.5 percent**	

Source: Author's Construct, 2020

Over the years there have been fiscal policy reforms in the sector which include mineral royalties at 5 percent[5] (previously 3 and 6 percent), corporate income tax at 35 percent (previously 25 percent), upward review of ground rent and changes to scheduled payments of mineral royalties and the renegotiation of stability agreements.

The reforms have also been reflected in tax exemptions in the sector: application of a capital allowance of 20 percent on a straight-line basis (previously 80 percent) in order to bring mining companies into tax-paying positions early in the mine life; and duration for carried forward losses reduced from 10 to 5 years.

[5] Old agreements that existed before the amendment of the royalty rate still pay a sliding scale royalty of 3 to 5 percent

The governance framework also considers stability agreements that relate to, inter alia, the fiscal terms of a mining operation. Stability agreements insulate a holder of a mining lease against adverse impacts occasioned by changes in enactments for 15 years or less beginning on the effective date of the agreement. It is instructive to also note that, the Minister for Lands and Natural Resources, on the advice of the Minerals Commission and upon ratification by Parliament, is allowed to enter into a development agreement with a holder of a mining lease whose proposed investment exceeds USD 500million. A development agreement offers extra tax incentives such as a reduced corporate income tax of 32.5 percent[6].

Notwithstanding these fiscal terms, the manner tax exemptions are applied has proven to be a disincentive to optimizing government revenues from the sector. According to Mensah (2015), the exemptions regime is often abused due to ineffective monitoring and a lack of institutional coordination between the tax administrator and the Minerals Commission. It is common practise in Ghana's mining sector, for companies to be granted poorly designed exemptions. Analysis of mining lease agreements[7] revealed generous tax incentives which include exemptions on withholding taxes on interest or dividend payments to affiliates and shareholders, import duty waivers on machinery and equipment, exemptions from VAT payment on both imported and locally purchased goods and services. In addition, for some companies, a ceiling of 2.25 percent of the mine's total revenue or development capital expenditure has been assumed as arm's length fee for management and technical services. Treating this as an arm's length fee exempts the companies from analysis of what the fair value of the service delivered is.

What is worrying about these poorly designed exemptions is that beneficiary companies may alter behaviours to increasingly shift profits to lower tax jurisdictions, effectively denying government of much needed revenues. For instance, companies may inflate cost of management and technical services and/or engage in excessive interest deductions in order to excessively benefit from withholding tax exemptions. Again, engaging in artificially fixed arm's length benchmarks only serves to provide investors with an opportunity to inflate cost even if the actual cost is much less resulting in reduction of tax revenues. Abuse of import duty waivers is often expressed through the extension of waivers to goods that can be produced or sourced locally as evidenced import duty lists of some companies[8].

Besides, these exemptions may not be cost-effective and sustainable considering the fact that they are not properly targeted, and no proper cost-benefit analysis informs them (UNDP, 2015). Analysis of tax exemptions in the Customs Division alone between 2008 and 2015 revealed that

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[6] AngloGold Ashanti Ghana Ltd and Newmont Golden Ridge Ltd have this rate in their development agreements.

[7] These agreements relate to mining operations of Adamus Resources Ltd, Akanko Mining Ltd, AngloGold Ashanti Ghana Ltd, Central Ashanti Gold Ltd, Gold Fields Ghana Ltd, Newmont Golden Ridge Ltd, Nsuta Gold Mine Ltd and Xtra Gold Mining Ltd. Refer to section 23 of Government's lease agreements with these companies. In the case of Newmont Golden Ridge Ltd, refer to 5.2 (c). These were accessed from http://www.acepghana.com/contract/mining/

[8] The list has items such as white boards and HD screen TV Monitors 46" which can be procured locally.

tax expenditure from the sector increased by an average of 22.16 percent with a peak of GHS330.69 million registered in 2015 (Ministry of Finance , 2015). These costly exemptions to the sector hardly come with any conditions with measurable and time-bound indicators against which benefits would be measured.

Rethinking the manner in which tax exemptions are granted in the mining sector to include cost-benefit analysis and proper targeting is necessary in order to make exemptions more cost-effective and efficient.

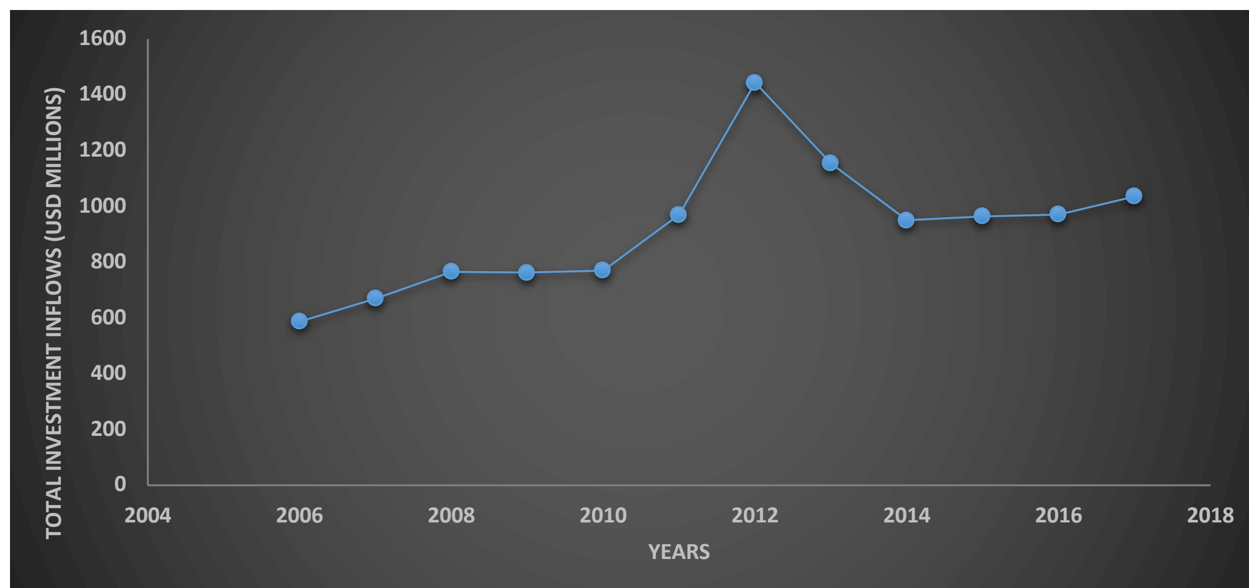
3.2 Impact of Tax Exemptions in Ghana's Mining Sector

Generally, tax exemptions are accorded mining companies on the assumptions that they motivate companies to improve their performance for increased government revenue and the promotion of other relevant macroeconomic advantages such as job creation (Akabzaa, 2009). This study assesses the relevance of tax exemptions by considering their relevance on three of these macroeconomic advantages namely: foreign direct investments, employment and business development.

3.2.1 Foreign Direct Investments

There has been significant increase in FDIs into the mining sector since the commencement of reforms under the Economic Recovery Program in 1983 (Amponsah-Tawiah & Dartey-Baah, 2011). Between the period 1983 and 1994, the country made significant legal and fiscal reforms. The legal reforms included establishment of the Minerals Commission, the Environmental Protection Agency and legal frameworks such as the minerals and mining code and the small-scale mining law. On the fiscal side, corporate income tax was reduced from 50-55 percent in 1975 to 45 percent in 1986 and then 35 percent in 1994; equipment and accessories necessary for mineral production were exempted from import duties; and 25 percent minimum of foreign exchange could be retained in an external account (ibis). Approximately about USD 4billion in foreign direct investments was attracted into the mining sector between 1983 and 1998 as a consequence of these reforms (ibis). As a continuation of this progressive trend, over USD 11billion of inflows have been invested in exploitation activities and support services in the mining sector from 2006 to 2017 (Minerals Commission, 2018).

Figure 2: Total Investment Inflows (USDmil) in the Mining Sector (2006-2017)



Source: Minerals Commission Annual Report (2017)

Cumulatively, these reforms have contributed to attraction of FDIs into the mining sector (Awudi, 2002). However, the extent to which tax exemptions alone contribute to investment attraction should be analysed in conjunction with other investment attraction indicators given that they are equally important. As seen from Table 2, Ghana ranks better in most of the investment attraction indicators. And so, though Ghana has a relatively higher fiscal demand as shown in Table 3[9], it attracted more investments than the comparator countries except South Africa as figure 3 indicates. This demonstrates that other indicators such as reduced regulatory uncertainty and reduced regulatory duplication and inconsistencies, as assessed by the Frazer Institute (2019; 2020) are equally important and require deeper consideration in investment attraction.

The presence of mineral resources, particularly when it is high-grade ore, is also very crucial to investment decisions by companies (Fraser Institute, 2019; IISD and OECD , 2018). Frazer Institute posits that, the presence of the mineral accounts for about 60 percent of the decision to invest. All other factors including the tax regime, regulatory certainty, political stability and infrastructure constitute the remaining 40 percent. This emphasizes the relevance of geological knowledge of the mineral potential of the country to investment attraction in the mineral sector. Unfortunately, many governments in Africa including Ghana invest less resources in generating geological data on resource potential. This gives investors the advantage to compensate for the risk of minimum knowledge on concessions granted. Countries also lose the advantage of giving mineral rights through competitive tendering processes.

[9] This is further underscored by Frazer Institute in their 2018 Annual Survey of Mining Companies

Table 2: Key Investment Attraction Parameters

Country	Ghana			South Africa			Tanzania			Burkina Faso			Source
	2017	2018	Average	2017	2018	Average	2017	2018	Average	2017	2018	Average	
Political Stability and Absence of Violence/Terrorism Index (%)	50.95	47.14	49.05	34.76	36.19	35.48	27.14	26.19	26.67	15.71	13.33	14.52	World Bank (2018)
Ease of Doing Business	58.82	57.24	58.03	65.20	64.89	65.05	54.48	54.04	54.26	65.20	51.54	58.37	World Bank (2017 & 2018)
Best Practices Mineral Potential Index	77.27	50.00*	63.64	75.00	65.79	70.49	47.92	53.85	50.89	45.83	**	45.85	Fraser Institute (2018 &2019)
Policy Perception Index	64.42	62.27	63.35	42.66	64.57	53.62	45.11	56.83	50.97	62.84	**	62.84	Fraser Institute (2018 & 2019)
Limited data **Data not available													

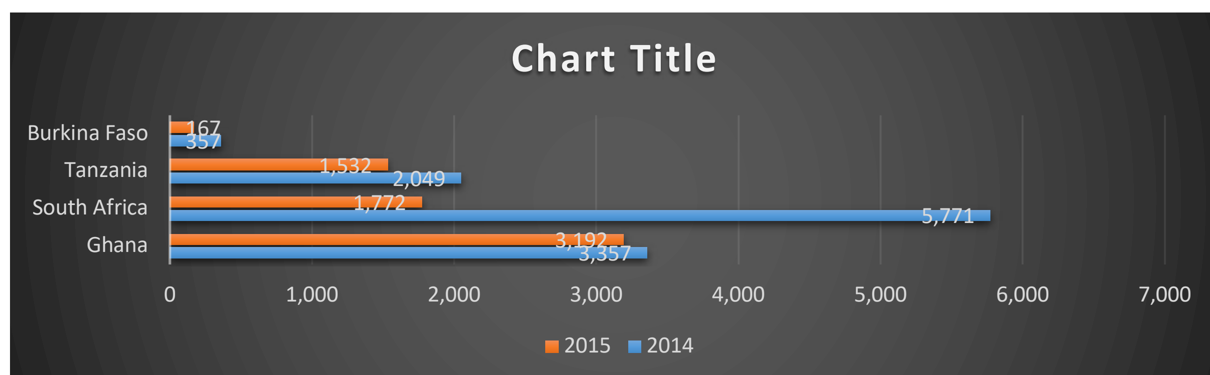
Source: Author’s Construct, 2020

Table 3: Mining Fiscal Regime of 4-Gold Producing Countries in Africa

	Ghana	South Africa	Tanzania	Burkina Faso
Royalty	5%	0.5 – 5%	4%	3%-5%
Corporate Income Tax	35%	25%	30%	27.5%
State Free Equity	10%	-	Negotiable	10%
Loss Carry Forward	5 years	30 years	30 years	5 years
Import Duty	-	19%	-	-
Windfall Tax	10% proposed	-	-	-

Source: Author's Construct, 2020

Figure 3: Foreign Direct Investment in the mining sector (USD million)



Source: Global Business Reports and African Mining Indaba, 2017

3.2.2 Employment

The mining sector creates employment; increasing investment inevitably increases the number of people that will be absorbed in the sector. However, the sector is not a labour-intensive industry. In Ghana, the Chamber of Mines (2019) reports that total in-country expenditure of its producing members in 2019 was USD3.73 billion of which 10 percent was spent as compensation for labour. The remaining 90 percent was operational expense. The total employment for the 12 producing members was 11,899 (ibis). This was the total number of employments required to generate the total revenue of about USD4.6 billion of the Chamber's 12 producing member companies.

Moreover, there are other variables, including local technical skills, that determine the number of people that can be absorbed locally and the trade-offs for other economic activities that will be derailed by mining. Review of some of the exemptions, as indicated above, shows that many

of the petty items can be procured locally to limit the cost of monitoring and administrative burden of the exemptions on tax authorities.

There is the need, therefore, to scientifically establish the basis of the exemptions, including available technical skills that can be absorbed in the mine and sustainability of those employments in order to compensate for job losses resulting from displacement from lands and other economic activities. In Ghana, the challenge with employment-backed incentives is often that the scientific basis is not established by governments. Memos to parliament for contract approval will often state the number of employments that will be generated by the mine without proof of how those employment numbers were arrived at and how they will be sustained. A more effective approach exists in other jurisdictions. In Nebraska, for instance, the wholesale granting of tax exemptions is avoided by tying the amount of tax reliefs granted under the Employment and Investment Act, to the number of new employees hired and compensation of these new employees (Lerch, 2004). Firms only qualified for tax reliefs if they met one of the new employment requirements under law (ibis). A study observed that the tax incentives granted under the Act created positive impacts on employment growth in low unemployment counties (ibis).

It may be true that tax exemptions contribute to direct employment increases through investment attraction in the industry. However, the evidence that other investment attraction parameters – deposits of the mineral resource, adequate infrastructure, regulatory certainty, geological data, and stable political climate – are more important than exemptions, a scientific balance of the extent to which employment contribute to specific investment drive is necessary. There is also the burden on government to develop the other parameters which are more important than exemptions to make a better case for investment attraction.

3.2.3 Development of Local Businesses

The mining sector holds higher economic promise if the value chain can be optimized to encourage local manufacturing and supply of goods and services. The Africa Mining Vision outlines a set of principles which seek to leverage on the sector to develop, inter alia, these economic linkages. In Ghana, the mining sector is largely an enclave one with minimal linkages to other sectors of the economy. As Nyarko and Anaman (2018) point out, requirements aimed at creating these linkages are designed such that they support a retail economy rather than to facilitate the growth of the manufacturing sector.

Local manufacturing and retail and creation of economic linkages are also undermined by some of the tax exemptions granted to mining companies operating in the country. For instance, under the Tax Concession Agreement (TCA) of some of the mining companies, import duty waivers are extended to petty items such as white boards, TV/monitor brackets and broadband routers which can be procured on the domestic market. The wholesale granting of import waivers on procurements that could be done domestically could be disadvantageous to the competitiveness of Ghanaian businesses, the State’s import substitution industrialization, taxes and employment

opportunities that such businesses would generate. Some of these exemptions require micro-monitoring by the Ghana Revenue Authority (GRA) to ensure that not more than required is actually imported for mining activities which comes with its own logistical constraints and administrative burden.

It must be emphasized that, development of indigenous Ghanaian businesses through the mining sector demands that government creates the right environment that allow for business growth. Key business growth interventions such increasing access to credits, reducing cost of borrowing and improving infrastructure and service delivery are critical pieces government must develop.

SUMMARY OF FINDINGS AND RECOMMENDATIONS

4.1 Summary of Findings

The key findings of this study include the following:

1. Tax exemptions granted to mining companies are not properly designed and not informed by adequate scientific analysis by government. These poorly designed exemptions coupled with weak institutional capacity to monitor compliance, political inertia, and a lack of institutional coordination between the tax administrator and the Minerals Commission allows companies to alter behaviours to deny governments of the right amount of tax revenues. This demands a rethinking of strategy to ensure that tax exemptions in the sector becomes more relevant and result-oriented.
2. Tax exemptions are not the most important indicator in investment attraction. There is no scientific relationship between tax exemptions and investment attraction in Ghana. However, there is evidence to suggest that Ghana does better on other investment attraction parameters such as regulatory certainty, political stability, and infrastructure.
3. Exemptions granted on the basis of employment tend to be less rigorous on the number of employments to be created and how those numbers can be sustained and continuously aligned to the development and operations of the mine. This creates a blanket assumption without scientific test of the nature and volume of employment that is possible.
4. Some exemptions undermine business development. Import duty exemptions on items that could be produced or sourced locally hurt the competitiveness and growth of local businesses.
5. Exemptions on petty items increase the administrative burden on tax authorities to monitor. In some instances, if the tax authority wanted to verify, the cost of audits could be higher than the tax incident.

4.2 RECOMMENDATIONS

1. Granting of tax exemptions should be informed by more scientific analysis. A cost-benefit analysis approach should be adopted in order to objectively and more transparently determine the costs and the associated benefits, if any, before tax exemptions are granted. Identification of the benefits requires that the necessary laws, processes and actions are also examined to assess their capacity to drive the achievement of the benefits.
2. Government should prioritize further improvement of the investment climate in the country to sustain strides made in investment attraction and maintain Ghana’s status as a leading mining destination. This is based on the fact that variables such as political stability, robust regulatory regime, excellent infrastructure etc., have proven to be more effective in attracting foreign direct investments. A more stable, affordable and reliable

power supply, for instance, is a critical piece in the equation for increased attraction of foreign direct investments.

3. Exemptions granted to generate employment should be based on a rigorous assessment of long-term effects and agreed benchmarks on employment numbers in a community. This allows for tracking compliance with the agreed benchmarks.
4. Government must focus on creating a conducive environment to support manufacturing and boost the competitiveness of local businesses to participate in the mining sector value chain. Key business growth interventions such increasing access to credits, reducing cost of borrowing and building infrastructure are critical pieces government must develop to ensure that local manufacturing and supply businesses are attractive to mining companies.
5. Tax exemptions should be properly targeted with measurable outcomes and timelines. This would ensure that the complexities associated with some tax exemptions such as import duty waivers on petty items are limited and the administrative burden on the tax authorities to ensure compliance is reduced.

4.3 CONCLUSION

The strategy of using tax exemptions as a stimulus to attract various investments into mining sectors is a global industry practise. However, the manner of granting these exemptions tend to vary; in some jurisdictions, these are informed by scientific analysis and are targeted while others do not.

In countries such as Ghana, scientific analysis and targeting of tax exemptions is largely lacking. Consequently, estimating contributions of tax exemptions to economic development remains daunting. This is compounded by specific problems such as: the abuse of the tax exemptions, poor institutional collaboration and a weakening of capacity to monitor due to complexities associated with some exemptions.

Besides, as earlier mentioned, other investment attraction parameters as equally important. Therefore, the onus lies on governments to rigorously pursue an agenda to improve on these parameters in order to realize the desired transformation for which these exemptions are granted.

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