JULY 2018

TAX ADMINISTRATION AND TAX EVASION IN GHANA: THE CHALLENGES, CAUSES, AND CURES.

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EXECUTIVE SUMMARY

Ghana's fiscal data between 2008 and November 2017 show that generally, the GRA has consistently missed its tax revenue targets and has been unable to increase and sustain the momentum of tax revenue growth rate although, at prima facie, tax revenue generation increased year on year. The trends in direct tax, indirect tax, and trade tax are worrying. That direct taxes in particular have generally declined since 2012 with minimum contribution coming from the informal sector is evidence that all things being equal, tax evasion remains a nightmare for the Ghana Revenue Authority (GRA) in raising tax revenues for the country. While the problem of tax evasion may be behavioral, existing literature shows that challenges within tax administration systems and tax enforcement policies create the breeding grounds for tax evasion to flourish. This paper therefore sought to identify inherent gaps in Ghana's tax administration system that allow tax evasion schemes to prevail generally, and to identify the sources of tax evasion in the small scale mining sub-sector as well as downstream petroleum sub-sector. The essence is to proffer some practical steps the GRA can take to enhance tax revenue mobilization in Ghana.

Inherent gaps in Ghana's tax administration system: Key findings

The gap analysis was done within the framework of GRA's processes and procedures, human resources, and tools. These are summarized as follows:

a. **Processes and procedures**

- The GRA is bemoaned with procedural inefficiencies that hamper tax revenue mobilization in the short term. While late tax filing is behavioral on the part of taxpayers, the GRA contributes to the challenge due to its inability to provide timely and adequate guidance to taxpayers.
- GRA fails to aggressively pursue filed but unpaid tax returns which are not in dispute, as well as outstanding conceded tax returns that are in dispute. Consequently, penalties and interests on late payment cannot be enforced against the tax payer.
- Poor coordination and communication among GRA's segm ented office structures also affect tax enforcement.
- Another serious challenge is poor monitoring and weak field audits (due to low staff capacity and skills) that leaves illicit financial flows undetected, especially in the extractive sector, while the large informal sector remains under-taxed.

b. **Human resources**

- Weak coordination, poor knowledge sharing, and poor information flow remains a challenge of the GRA because the Domestic Tax Revenue Division and the Customs Division still see themselves as separate bodies and thus operate in silos. This has led to wide knowledge and capacity gaps among the agencies of the GRA.
- GRA does not have adequate staff who have strong background in taxation. Yet the GRA has faced challenges recruiting and retaining qualified and trained staff due to political interferences and unsuccessful recruitment strategies.
- The problem of limited staff numbers is compounded by frequent

out-of-office trainings to the detriment of allotted time for daily operations.

- The Domestic Tax Revenue Division (DTRD) lacks the requisite technology to effectively ascertain tax obligations of tax payers, particularly those in Ghana's large informal sector. In practice, some GRA officials negotiate with some tax payers to fix tax returns, leading to unequitable tax imposition and tax evasion.

c. Tools

- Tax payers find tax laws and guidelines quite complex to comprehend. In the absence of adequate support from GRA, tax payers have little incentives to return taxes on time or be compliant.
- Tax dispute resolution processes are also not clear.

Recommendations to address the inherent gaps in Ghana's tax administration system

a. Processes and procedures

To address the challenge of late filing and non-payment of tax returns,

- The GRA should work with the telecommunication companies to generate a contact database of taxpayers to whom automatic reminders about tax due dates will be frequently sent well ahead of time. The reminders should also relay information about sanctions for late payment or non-payment. This must be done concurrently with aggressive media campaign.
- The GRA may also encourage tax compliance through a reward mechanism for tax compliance. GRA should re-adapt reporting lines to the challenges on the ground to address the coordination problems that accompany the segmentation of its structures.

To improve on compliance checks and ensure effective audits,

- High profile audits should be done at the headquarters. Transfer pricing experts must be part of auditing teams, and on the job peer-training must be encouraged.
- The GRA should also collaborate with other state agencies to get better records and knowledge sharing for better management of tax evasion in Ghana.
- More field visits should be conducted by deploying more revenue officers.

b. Human resources

In the short term,

- GRA may implement home-grown capacity building strategies such as on-the-job/service training and in-house peer reviews.
- It may also consult top-notch experts from various fields including telecoms, oil and gas, finance, etc into GRA.
- GRA's strong collaboration with State agencies such as SSNIT, DVLA, and the Registrar General's Department is necessary to get information to support its work.
- On recruitment, GRA has the option to recruit more permanent staff who are qualified, or continue to retain trained national service persons on contract, or export its skills and curriculum to institutions that provide training in GRA's core mandate as a means of building capacities well ahead of recruitment of targeted graduates.

In the long-term,

- Technology must be incorporated into the taxation process to avoid unfair imposition of taxes that arise from human inefficiencies.

- GRA must also have a portal that stores and shares institutional knowledge. This will complement the effort of units within GRA responsible for knowledge management.

c. Tools

In the short term

- The GRA should produce a simplified and user-friendly version of tax laws and guidelines.
- It may also conduct massive periodic tax education for citizens in collaboration with civil society organizations and the National Commission for Civic Education (NCCE).

In the medium to long term,

- GRA should raise enough revenue to fund its own tax education initiatives through partnership with the media and private entities.
- On the issue of dispute resolution, GRA must provide its staff with the requisite support and skills to address some disputes in-house.

Small Scale Mining and tax evasion: Key findings

1. Tax policy inconsistencies and associated implementation challenges

- The GRA introduced a 3% withholding tax without consulting small-scale miners with whom it signed an MoU to collect a GHC500 quarterly postage stamp system instead of an initial 10% withholding tax.

Consequently, implementing the 3% withholding tax has been unsuccessful.

- Ninety-five percent (95%) of the small scale-miners ACEP interacted with never received tax certificate for the 3% withholdings payments to the gold buyers. Others did not even appreciate the significance of the tax certificate as a proof of payment to GRA.

- There is also little incentive for small scale miners to have taxes withheld because gold buyers present higher prices if they do not withhold taxes. The opposite is true.

2. Money laundering

- Some gold buyers and exporters have created a link to importers and foreign traders of general goods. In this relationship, merchandise dealers use their revenue from sale of goods (Cedis) to finance licensed gold purchases for export in exchange for Dollars abroad to ship goods to Ghana. Through this practice they avoid compliance with regulations to repatriate cash proceeds from their trade.
- This practice persists because there is weak coordination and interface among the Minerals Commission, Precious Minerals Marketing Company (PMMC) and the Bank of Ghana (BoG) to track the quantity of gold produced, purchased, and how capital revolves within the gold export business.

3. Weak export borders of neighboring countries

- Though the risk of smuggling gold across the borders is high (including potential seizure of the gold when caught) some traders have systems and networks established to facilitate easy transit of the gold. These systems include bribing custom officers and using unapproved routes along the borders.

4. Favorable taxation in neighboring countries

- Mali operates a tax regime that targets the first 50kg of 200kg gold exported for the application of the 3% tax. This leaves 150kg outside the tax brackets for those who export through their borders. ACEP's interaction with small scale miners in the Western

Region of Ghana points to some gold traders operating along the Ivory Coast border with Ghana. These traders offer more competitive prices than local gold buyers. These purchases likely feed into the arrangement to mobilize artisanal gold for export through Mali.

Small Scale Mining and tax evasion: Recommendations

1. The GRA should link taxes to participation rather than output by imposing a flat rate tax on small scale miners. This will invariably lead to accurate production data reporting and ensure effective taxation at the export level.
2. The BoG, Minerals Commission, and PMMC should strengthen their collaboration and share data to facilitate proper tracking and regulatory compliance.
3. Citizens must be encouraged to be involved in the fight against smuggling of gold. If the incentives are right, citizens' whistleblower activities will become a deterrent to, and raise the risk for, illegal buyers and exporters to operate. We propose that 20% of value of gold seized through whistle blower action be awarded to the whistleblower while the remaining 80% goes to the State through GRA. Involving citizens in the fight against gold smuggling can reduce the cost of administering the tax.
4. The GRA should audit the activities of major foreign traders to trace foreign exchange activities. This process could make use of imports data trends on value of goods imported against bank transfers for the import of the goods. The Financial Intelligence Centre (FIC) could be an important collaborator in this exercise.

Downstream petroleum sector and tax evasion: Key findings

1. Fuel smuggling is a driver of tax evasion in downstream petroleum industry in Ghana

- ACEP's analysis shows that in both 2016 and 2017, there was 10% decline in the consumption of the two major petroleum products sold at the pump; the worse ever in the history of domestic petroleum products (premium and gas oil) consumption since year 1999.
- In 2016, premium and gas oil consumption levels declined by about 330 million liters from projections for that year. By the end of 2017, the total decline in the consumption growth trajectory prior to 2015 reached 1 billion liters.
- ACEP estimates that the deviation represents a revenue shortfall of GHC1.5 billion in potential revenue to the state for 2017 alone for the two products sold at the pump.

2. Deficit in GRA's data analytics has implications for revenue losses to the State

- GRA has data on all imported equipment with their consumption capacities. This is a valuable data that can help make critical inferences on annual capacity growth based on engines imported annually to make projections for fuel demand.
- In the absence of this analysis, the use of fuel consumption trends may not give accurate statistics in the face of increased smuggling of products. This also points to the fact that GRA may not know exactly how much tax is out there to collect from the petroleum sector.

Downstream petroleum sector and tax evasion: Recommendations

1. Activate public monitoring of fuel smuggling activities through whistleblowing

The collaboration to deal with the canker should extend beyond State agencies to activate public participation through whistle blower actions with incentives that encourage people to report fuel smuggling to the NPA, GRA, and other relevant authorities. The Whistle Blower Act prescribes 10% compensation for individuals who assist the State to recover revenue. Government should set up a streamlined system that allows compensation to be paid in full and on time.

2. Involve the media in the open and speedy trial of fuel smugglers

When people are arrested, the GRA should be interested in open and speedy trial of the cases to send the right signals to other offenders. This will require frequent media update on those cases. The current situation where offenders are dealt with on the quiet is not deterrent enough.

3. Improve inter-agency collaboration among GRA, Standards Authority, and the NPA.

GRA should work with Standards Authority to procure mobile equipment to test products on the spot, at pump stations. This will allow them to compare the results instantly with the test result of imported products at the depots.

NPA should open its tracking system to GRA to allow cross monitoring of export trucks to prevent dumping on the local market.

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ACRONYMS AND ABBREVIATIONS

BDCs	Bulk Oil Distribution Companies
BoG	Bank of Ghana
CBOD	Bulk Oil Distributors
CST	Communications Service Tax
FIC	Financial Intelligence Centre
GNASSM	Ghana National Association of Small Scale Miners
GRA	Ghana Revenue Authority
LTO	Large Taxpayer Office
MC	Minerals Commission
NHIL	National Health Insurance Levy
NPA	National Petroleum Authority
OMCs	Oil Marketing Companies
PPMC	Precious Minerals Marketing Company
SPT	Special Petroleum Tax
STO	Small Taxpayer Office

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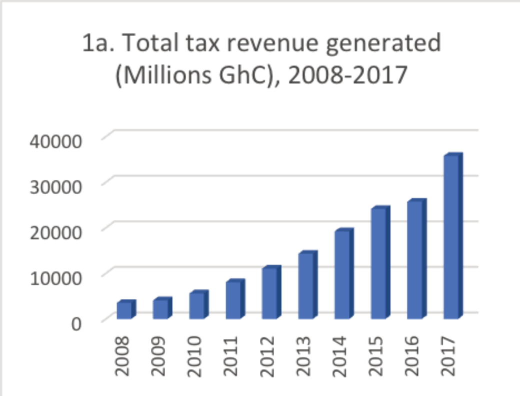
PART ONE

Tax revenue mobilization efforts in Ghana and the problem of tax evasion

The Ghana Revenue Authority (GRA) is an important institution to Ghana's development financing agenda. The GRA has undergone series of reforms over the past years to boost its efficiency and effectiveness in tax revenue mobilization. Ghana's fiscal data shows that the country has seen improvement in tax revenue generation year on year since 2008 (figure 1a). Total tax revenue generated in 2017 was GHC35.76 billion compared to GHC 3.51 billion in 2008 (figure 1a). Despite the consistent rise in total tax revenue generated over the years, the fiscal data shows that GRA has not only consistently missed its total revenue targets, but also that there has been a declining trend in total tax revenue growth rate between 2012 and 2016 (figure 1b).



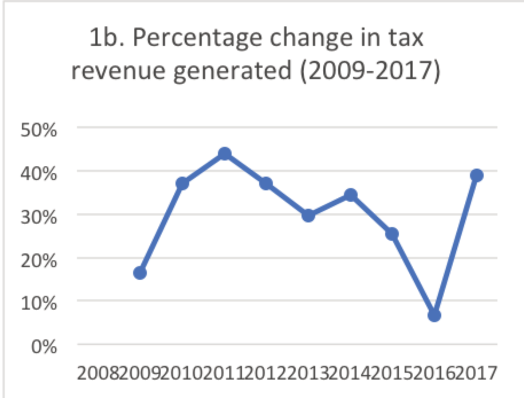


Figure 1(a) & (b): Total tax revenue generated versus total tax revenue growth rate (2008 -2017)

Source: Ministry of Finance Fiscal Database [1]

Total tax revenue in Ghana comprises of indirect tax, direct tax, and trade tax. Indirect tax is broad based, easy to collect, and difficult to evade as it is sourced from domestic VAT, excise tax, National Health Insurance Levy (NHIL), Communications Service Tax (CST), and Special Petroleum Tax (SPT). Direct taxes on the other hand are charged on income of employees, people in self-employment, companies, and other sources such as royalties from resource extraction, airport tax, NRL and NFSL. Direct tax is easily evadable in the absence of effective tax enforcement mechanisms. So is duty on imports and exports (trade tax).

The fiscal data (figure 2) show that between 2008 and 2012, indirect tax fell as direct tax

[1] Available at https://www.mofep.gov.gh/fiscal-data?page=1. The sum of some data (e.g. 2017 data) were miscomputed by government. These have been corrected in this analysis.

rose. But the pattern changed from 2013 onwards when direct tax contribution to total tax revenue declined relative to indirect tax, except for 2017. Trade tax also followed an irregular pattern and contributed the least to Ghana's total tax revenue.

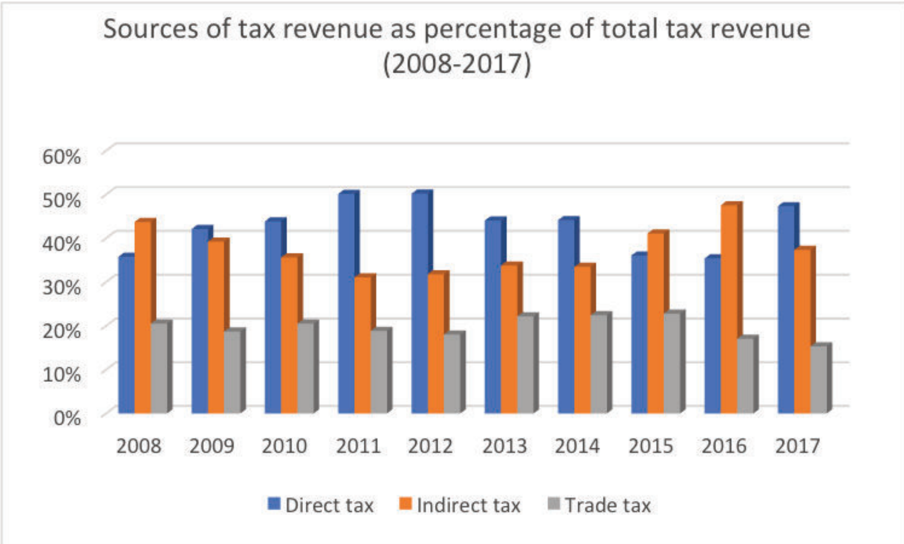


Figure 2: Sources of tax revenue as percentage of total tax revenue (2008-2017)

Source: Ministry of Finance Fiscal Database [2]

The declining and irregular trend in the sources of tax revenue, particularly direct tax and trade tax, presents a worrying indication that there exist breeding ground for tax evasion among the Ghanaian populace.

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[2] Ibid

1.1 The nature and cost of tax evasion

Most Ghanaians believe that in order for Ghana to develop, citizens must pay taxes to the government (Isbell, Africans affirm civic duty but lack trust in tax department, 2017). But as Slemrod (2007) clearly put it, through their own inventiveness some tax payers will always evade taxes, even when taxes are made a legal obligation with penalties attached to noncompliance. Tax evasion can be understood as failure of the tax payer to pay legally due taxes. It is a situation where individuals or business entities decide not to fully honor their tax obligations through non-declaration or under declaration of taxable economic activities (Annan, Bekoe , & Nketiah-Amponsah , 2014). Unlike tax avoidance where tax payer makes use of the available loopholes and ambiguities in the tax system to lower his tax burden, but does not violate the tax law (ibid), the conscious illegal effort to evade taxes manifests in various forms including overstatement of tax deductions and exemptions, willfully underreporting income, engaging in barter trade, and accounting irregularities such as inadequate records, and discrepancies between returns and financial statements.

In Ghana, it is estimated that some $2.1 billion is lost annually through tax evasion by corporate entities, multinationals, individuals, and other organizations operating in the country (GNA, 2017).[3] Tax evasion can be a major component of illicit financial flows (High Level Panel on Illicit Financial Flow, 2015).

[3] Ghana News Agency. (2016). Ghana loses US$2.1 billion to tax evasion annually. Business News of Wednesday 31st August, 2017. Available at http://www.ghananewsagency.org/economics/ghana-loses-2-1-billion-dollars-to-tax-evasion-annually-107395 Accessed on 10/05/2017 at 11:30 AM

The cost of tax evasion to Ghana's development is obviously damaging. In addition to depriving the state of resources to finance programs that will increase social and economic progress, tax evasion shrinks the tax base and unfairly distributes tax burden to a few honest tax payers. According to the Commissioner General of the Ghana Revenue Authority (GRA), about 1.2 million people paid taxes in Ghana in 2017. [4] This figure is lower than the 2 million people who were reported to be the number of tax payers in Ghana in 2014. [5] This shows that if unabated, loyal tax payers are at the risk of finding tax evasion attractive. Tax evasion is also costly to tax evaders and the tax authority: the former expends resources to camouflage non-compliance, and the latter does same in combating non-compliance (Slemrod, 2007). There is therefore the need to address the causes of tax evasion within and outside of the GRA to improve tax revenue mobilization in Ghana.

1.2 Objectives of the paper

The objectives of this paper are to

1. Identify inherent gaps in Ghana's tax administration system that allow tax evasion schemes to prevail generally,
2. Identify the sources of tax evasion in the entire value chain of the small scale mining sector,
3. Identify the sources of tax evasion in Ghana's downstream petroleum sector, and
4. Make recommendations that address the challenges of tax evasion in Ghana

[4] See https://www.ghanaweb.com/GhanaHomePage/business/1-2-million-Pay-taxes-to-cater-for-27-million-Ghanaians-597147
[5] See https://www.myjoyonline.com/business/2014/February-12th/only-2million-pay-tax.php

1.3 Methodology

The paper adopted a qualitative method of data collection. To achieve the first objective, a focus group discussion, in the form of expert forum, was conducted under Chatham House rule. Participants were carefully drawn from the GRA, law firms, tax consultancy/audit firms, and civil society organizations. Discussions centered on the following three themes within GRA's operations: processes and procedures, human resources, and tools (laws and policies). The second and third objectives were achieved through primary data collection in the form of interviews with key players in small-scale mining and downstream petroleum sectors. Data collected were cleaned, sorted in themes and analyzed using a descriptive approach. Secondary data/information were also collected to support the analysis.

1.4 Organization of the paper

The next part of the paper speaks to what drives tax payers to evade tax, based on existing literature. The part that follows the literature review discusses the challenges, causes and cures of tax evasion in Ghana, particularly from a GRA perspective. This section is based on data collected at the expert forum on tax evasion. The fourth part provides insight into tax evasion and avoidance in small scale mining and proposes ways to address the challenge, while part five discusses same in the downstream petroleum sector.

PART TWO

Why do people evade taxes? – A brief literature review

There are positive and normative theories to explain the decision of tax payers to evade tax.

2.1 The positive theory of deterrence and behavior

The deterrence model of tax evasion by (Allingham & Agnar , 1972) posits that the decision and extent of tax evasion by the tax payer is influenced by the chance of getting caught and penalized, the size of the penalty for evasion, and the individual's degree of risk aversion. There is a direct correlation between tax compliance and detection rates to suggest that detection creates deterrence which is a powerful factor in tax evasion decisions (Slemrod, 2007).

In jurisdictions like the USA, most tax evaders are low income earners (Christian, 1994). But Slemrod, Blumenthal, & Christian (2001) show that this low income category of tax payers tends to be tax compliant if served a formal letter promising an audit. Similarly, employees in formal employment are less likely to evade tax because there is the high likelihood that they would be flagged for audits by the tax authority if their employers submit their taxable income and Social Security number electronically to the tax authority, but they (the employees) fail to self-report incomes on their own personal return (Slemrod, 2007). This means that humans respond positively to institutional effectiveness in the fight against tax evasion.

There are also studies that suggest that the decision to evade tax is dependent on the tax payer's perception of the behaviors, motivations and incentives of the government itself. Tax payers may evade tax if they find unfairness in what the government uses tax revenues for, or trust government less, or feel government expenditure is inefficient, or believe that services provided by the government are sub-standard (Torgler, 2003; Slemrod, 2003; Hanousek & Palda, 2004). The 2017 Afrobarometer survey on tax compliance among citizens of 36 African countries disclosed that although citizens believed it was their civic duty to pay taxes for their countries' development, they also mistrusted tax authorities because they believed tax officials were corrupt. This was true among 51% of Ghanaians surveyed. Also, less than 60% of Ghanaians surveyed said it was difficult for them to evade income or property taxes owed government (Isbell, 2017). This implies that the tendency of tax evasion among a good number of Ghanaians (represented by more than 40% of Ghanaians surveyed) is real and can be traced to mistrust for state institutions like the tax authority. In Ghana where corruption is quite widespread the likelihood of tax evasion among the citizenry cannot be underestimated.

2.2 The normative theory of tax systems and tax enforcement policy

Closely linked to the deterrence model is the normative framework which considers the influence of the optimality or otherwise of tax systems and tax enforcement policy on the tax payer's decision to evade taxes. Studies show that tax rates and enforcement intensity affect tax evasion by individuals and firms. Pakistan's economy is largely informal with low tax enforcement systems (Waseem, 2018).

Waseem (2018) finds that prior to the 2009 tax reform which substantially increased taxation of partnerships compared to firms of other legal forms, the number of partnerships increased by 9% in 2007 and 28% in 2008. Within three years of the tax reform, the baseline partnership tax base had shrunk to 36% because the number of partnerships decreased by 41% in 2009, 27% in 2010, and 15% in 2011. The number of sole proprietorship increased within that same period, indicating that quite a number of partnerships had camouflaged into the informal economy that is unreported and untaxed by the Government of Pakistan. The tax reform also led to significant decrease in earnings reported by partnerships that did not migrate into the informal economy. Like Pakistan, Ghana's economy is also largely informal. Waseem's (2018) finding about the link between higher tax rate and tax evasion confirms the findings of Annan, Bekoe and Nketiah-Amponsah (2010) within the Ghanaian context. According to Annan, Bekoe and Nketiah-Amponsah (2010), a one per cent rise in the average tax rate caused tax evasion to rise by 0.02 per cent, all other things being the same. They explained that this result could be due to the fact that, at constant income, increases in tax rates reduced the disposable income of taxpayers, motivating them to secure other jobs in the shadow economy in order not to report earned income and evade tax liabilities.

On the issue of tax enforcement, the normative framework proposes that a good tax enforcement policy should have the realities of tax evasion in mind and ask the question of how much of a particular or combination of policy instruments should be implemented to limit the opportunities of tax evasion to tax payers (Selmrod, 2007). Unreported net income will likely to be least detected if audit coverage rate by tax authorities is low (ibid). If a tax authority is unable to trace and detect the obligations of the tax payer, the latter will have incentives to evade taxes.

In Ghana, tax payers whose liabilities are easily trackable contribute the highest to direct taxes.

As shown in figure 3, taxes on incomes of companies and persons in formal employment contribute the highest to direct tax revenue as compared to taxes on incomes of people in self-employment which largely fall within the informal sector.

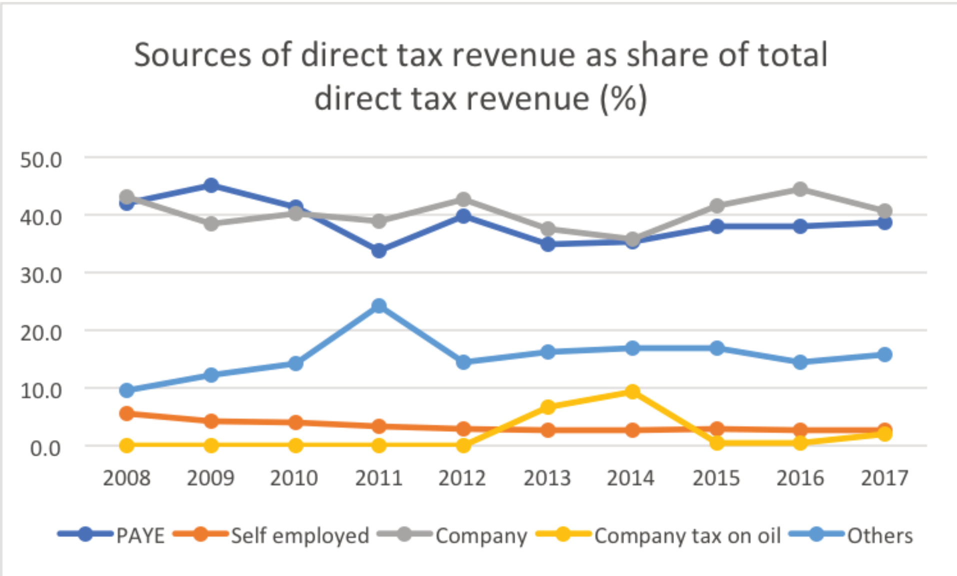

Figure 3: Sources of direct tax revenue as share of total direct tax revenue

Source: Ministry of Finance Fiscal Database

This trend could be an indication that tax evasion abounds among persons in informal occupations (self-employed) due to inability of the GRA to track and trace such tax payers. Meanwhile, Ghana's economy is largely informal. Annan, Bekoe and Nketiah-Amponsah (2010) posit that improving domestic revenue mobilization institutions leads to higher capacity to collect taxes, resulting in a fall in the level of tax evasion. An improvement in the revenue mobilization institutions in Ghana will increase their ability to detect potential tax evaders and reduce future tax evasion.

2.3 Summary

In summary, the positive and normative theories of tax evasion show that very few tax payers are altruistic. Generally, tax payers will voluntarily comply with their tax obligations if tax policies, tax systems, and tax institutions like the Ghana Revenue Authority are effective.

PART THREE

Tax administration and tax evasion in Ghana: The challenges, causes, and cures.

In this section, the root causes of tax administration challenges in Ghana that fuel tax evasion behavior of tax payers have been discussed. The institution of focus is the Ghana Revenue Authority (GRA). Solutions have been proffered to help GRA overcome its challenges and address the tax evasion problem.

3.1 The causes of pro tax evasion challenges within the GRA

3.1.1 The challenges and causes of tax evasion avenues within GRA's operational processes and procedures.

Tax evasion occurs in Ghana due to challenges relating to the procedures and processes of GRA's operations. Three key issues arise: audits are ineffectively conducted, there are procedural inefficiencies, and enforcement of penalties are weak.

a. Procedural inefficiencies

Tax payers are required to self-assess their tax obligations and make payments to GRA periodically. The trend has however been that most tax payers fail to honor their tax obligations on time until the end of the year when they have another opportunity to review their returns. This leads to undue delay in revenue mobilization in the short term. While the root cause of late filing of tax returns is partially behavioral on the part of the tax payer, the GRA is equally to blame. The GRA provides little or no guidance and timely support to tax payers. Also, the GRA delays in pursuing filed but unpaid tax returns which are not in dispute, as well as outstanding conceded tax returns that are in dispute. Segmentation procedures (the STO and LTO structures) are not effective because they limit effective coordination and communication, which in turn lead to delays in tax enforcement. The tax payer is eventually required to bear the consequences of GRA's procedural inefficiencies in the form of penalties.

b. Weak enforcement of penalties and interest

Penalties and interest on late filing are not enforced. GRA is unable to punish the defaulting tax payer because it contributes to tax payers' delay in paying tax returns and non-compliance with tax obligations.

c. Ineffective field audits and poor monitoring

Field audits are very important to encouraging tax compliance. But weak compliance checks by GRA officials negatively impacts on the effectiveness of field audits. Weak compliance checks make it difficult to reconcile quarterly expected tax with actual annual returns. Field audits are also ineffective due to limited staff numbers, and audit documentations are not well prepared due to low staff capacity/skills. Transfer pricing and illicit financial flows by multinationals, particularly in the mining and oil and gas sectors, remain a challenge because of GRA lacks experts in these areas to trace and detect. GRA's challenge are further complicated by Ghana's large informal sector. There exist replica sales location in unknown places which are larger than those visible to the GRA. Poor monitoring on the part of GRA have fueled this illegality.

3.1.2 Human resources challenges in GRA as a contributory factor to the problem of tax evasion

a. Knowledge and capacity gaps

Despite institutional reforms, the three divisions of the GRA particularly the Domestic Tax Revenue Division and the Customs Division operate in silos as they continue to see themselves as separate bodies. As a case in point, some senior CEPS officials lack the requisite knowledge on direct taxation, yet they will not collaborate with other agencies for support. Consequently, there is weak coordination, poor knowledge sharing, and information flow among the agencies of the GRA. This widens the knowledge gap and capacity of these agencies, leading to inefficiencies in revenue mobilization and higher transaction cost for both tax payers and the state.

b. Limited staff numbers

In addition to capacity challenges among existing staff members is GRA's consistent lack of adequate staff numbers to support its operations. The Authority has faced challenges recruiting and retaining qualified staff due to political interferences and unsuccessful recruitment strategies. There are very few people with strong background in taxation in Ghana. To fill in the expertise gap, the GRA has over the years experimented with training national service persons to handle tasks at the compliance desk. Unfortunately, by the end of the training, national service persons have few months to leave and are unable to contribute much to GRA's work. The solution to this cyclical problem has been to retain some of these national service persons on contractual basis. However, this became ineffective because politicians also present their candidates who have limited or no skills to work effectively. The problem of limited staff numbers to handle daily operations is compounded by excessive out-of-office training for GRA staff at the detriment of time allocated for GRA staff to undertake their core functions in tax regulation and revenue collection.

c. Opaque appraisal of tax returns

The Domestic Tax Revenue Division (DTRD) has responsibility of assessing and imposing taxes and levies on tax payers. But the DTRD lacks the requisite technology to effectively ascertain tax obligations of tax payers, particularly those in Ghana's large informal sector. In practice, some GRA officials negotiate with some tax payers to fix tax returns. This has led to unequitable imposition of taxes by the GRA which unfairly affects the bottom lines of innocent businesses. To circumvent losses, some of these 'unlucky' businesses resort to evading to pay taxes which they deem unfairly imposed.

3.1.3 Challenges with institutional tools (laws and logistics)

a. Complex tax laws

Tax laws and practice notes are quite complex for the ordinary citizen to understand. This does not awaken citizenry consciousness to voluntarily assess and fulfill tax obligations. This challenge feeds into the issue of failure and/or delay of tax payers to self-assess and file tax returns.

b. Dispute resolution challenges

There exist dispute resolution challenges as units within the GRA lack lawyers to help with the ruling and appeals system. Although existing, tax dispute resolution process remains unclear for taxpayers to pursue.

3.2 Cures to challenges and causes of tax evasion opportunities within GRA

3.2.1 Addressing challenges with operational procedures and processes

1. To address the issue of late and/or nonpayment of tax returns as well as enforcement of penalties and interests, the GRA may do the following:

a. Issue automatic reminders

The GRA may send automatic reminders to taxpayers well ahead of payment due dates and concurrently conduct aggressive media campaign. The reminders should also contain information about sanctions for late payment or non-payment. Receipt of reminders through letters to tax payers' homes and work places, emails, and text-messaging will increase tax payers' awareness that they can be tracked. This approach will increase the propensity to be tax compliant and enable the GRA to effectively follow up and retrieve filed but unpaid returns, as well as pursue unaccounted windfall gains.

Automatic reminders will however work if there is a reliable database of all registered tax payers. This, GRA can achieve through collaboration with telecommunication companies, the Lands Commission, and the National Identification Authority.

Also, the GRA may enforce automated penalties as a means to deter late filing of taxes and raise additional revenues in the short term. Imposing a percentage charge on the next tax returns for failure to return taxes and on time can discourage tax evasion.

b. Institute a reward mechanism for tax compliance

Behavioral changes can be influenced not only through punishment but by reward. To encourage timely filing of tax returns and achieve high tax compliance the GRA may reward good tax paying behavior and corporate citizenship by creating and publicizing a list of companies that have paid their taxes voluntarily and on time.

2. To improve on compliance checks and ensure effective audits, the GRA should

a. Have a strong Audit Unit at the headquarters to deal with high profile audits rather than leaving it to the offices which do not have the requisite skills to handle all audits.

b. Attach a transfer pricing expert to every auditing team

c. Encourage on the job peer-training to avoid risking the quality of audits by pairing both experienced and under-experienced staff to undertake compliance checks and field audits.

d. Pursue inter-agency collaboration (i.e. between GRA and SSNIT) to get better records and knowledge sharing for better management of tax evasion in Ghana.

e. Conduct more field visits by deploying more revenue officers. This will involve recruiting (which is itself a challenge).

f. GRA should re-adapt reporting lines to the challenges on the ground to address the coordination problems that accompany the segmentation of its structures.

3.2.2 Addressing human resources challenges

There are short and long-term approaches to addressing the human resources challenge at GRA. In the short term, the GRA should

1. Conduct on-the-job/service training, as well as in-house peer review as alternative capacity building efforts.

2. Encourage inter-agency data sharing within GRA's setting. GRA should also collaborate with SSNIT, DVLA, the Registrar General's Department, etc to get information to support its work.

3. GRA may consult and contract the services top-notch experts from various fields including telecoms, oil and gas, finance, etc as and when needed.

4. On recruitment, GRA has three options to

   a. Recruit more permanent staff who are qualified
   b. Continue to retain trained national service persons on contract. This requires that GRA is firm enough to refuse political interference, and
   c. Export its skills and curriculum to institutions that provide training in GRA's core mandate as a means of building capacities well ahead of recruitment of targeted graduates.

In the long-term, the GRA must

1. Technology must be incorporated into the taxation process to avoid unfair imposition of taxes that arise from human inefficiencies.

2. Have a portal that stores and shares institutional knowledge. This will complement the effort of units within GRA responsible for knowledge management.

3.2.3 Addressing challenges with institutional tools

In the short term, the GRA should

1. Produce and widely disseminate simplified version of tax laws. An example is information about how VAT works and an interpretation guide to taxpayers. The document must not only be accessible; it must also be user friendly by taking into consideration demographic differences of the consumers of the information.

2. Conduct massive periodic tax education for citizens in collaboration with civil society organizations and the National Commission for Civic Education (NCCE). The GRA must involve the private sector to sponsor tax education through jingles on traditional and modern social media as part

of their Corporate Social Responsibility. Ideally in the medium to long term, GRA should raise enough revenue to fund its own tax education initiatives through partnership.

3. Provide its staff with the requisite support and skills to address some disputes in-house.

PART FOUR

The challenges of taxing the small scale mining sub-sector in Ghana and the way forward

The small-scale mining sector has been progressively important for the export earnings of Ghana over the past two decades. Accounting for only about 3.22% in 1990 the sector accounted for about 30.22% of total gold output of the country in 2016 (Ministry of Lands and Natural Resources, 2017). ACEP's recent engagement of small scale miners and some actors in the sector shows that the output from small scale mining is probably underestimated.

This is largely attributed to structural defects in assessing the output of the sector and illegal trade which occurs at the blind side of regulation. This position has been noted since 2015 by the Bank of Ghana, for which reason the Bank intervened to limit exports of gold to countries such as India. About $6 billion dollars of gold exports from Ghana to India, Dubai and Switzerland between 2013 and 2016 were not accounted for in national data (Sarpong, 2018). [6]

[6] See also https://thebftonline.com/2018/headlines/missing-goldhow-ghana-lost-over-us6bn-in-gold-export-revenue-to-major-trading-partners/

4.1 Factors influencing tax evasion in the small scale mining sector in Ghana

Government data only account for the gold reported for export through official channels. However, ACEP's engagement with players reveal that there is a flourishing illegal trade of gold outside the regulatory regime, from the production gate to the export market. Significant output of gold sales is not captured both for data on productions and tax purposes. The problem is influenced by the following factors:

1. Tax policy inconsistencies
2. Money laundering
3. Weak export borders in neighboring countries
4. Favorable taxation in neighboring countries

4.1.1 Tax policy inconsistencies and associated implementation challenges

The policy positions on small scale mining has been rather fluid in recent times. The Income Tax Act 2015, imposes 10% withholding tax on artisanal and small-scale gold production. This, the GRA has struggled to implement because of resistance from the miners. The miners protested and started an engagement with GRA to adopt a tax system that encourages local investment in the sector. The GRA and the Ghana National Association of Small Scale Miners (GNASSM) drafted a Memorandum of Understanding (MoU) to adopt a postage stamp system for mobilizing tax from the members of the association. In the MoU, the parties agreed to a GHS500 quarterly payments by all small-scale miners.

This MoU was however abandoned by GRA for a reduction in the withholding tax to 3% to harmonize with the neighboring countries' tax regime; Ivory Coast Burkina Faso and Togo. According to small-scale miners, GRA arrived at this decision without consulting them. This arrangement however hasn't worked as expected by the GRA. There are fundamental challenges hampering the implementation of the 3% withholding tax.

Firstly, the gold buyers who are supposed to withhold the 3% tax on their purchases and pay the tax to GRA may not be paying the withheld taxes to GRA. **Ninety-five percent (95%) of the small scale-miners ACEP interacted with never received tax certificate for the withholdings payments to the gold buyers.** Some small-scale miners said they often demand receipt for the tax payment but the buyers do not issue the receipts. Others did not even appreciate the significance of the tax certificate as a proof of payment to GRA. This means that though the buyers withhold the tax, they may not be paying to GRA to collect the certificate for the miners.

Secondly, some of the buyers also present two prices for the gold to the miners to aid avoidance of the tax. There is a price for not withholding and a price for withholding the tax. If a miner wants the tax withheld in that instance, he receives a lower price for the gold and if the miner doesn't want the tax to be withheld, the miner gets a higher price for the gold. There is therefore little incentive for the miners to pay withholding tax as they prefer the option offered by the buyers not to pay withholding tax.

4.1.2 Money Laundering

Regulating the trade regime for the small-scale mining output for tax purposes is challenging for GRA. Both internal and external factors account for the inability of the GRA to block leakages through money laundering. The Ministry of mines and Natural Resource, for example, regulates the licensing of small scale mining sector through its agencies; the Minerals Commission and the Precious Minerals Marketing Company (PMMC) for the production and trading of gold respectively. **These agencies do not have a robust system to be able to track exactly how much gold is produced and purchased by those they license to produce or buy gold.**

The Bank of Ghana also has responsibility to ensure the repatriation of proceeds of gold exports by licensed exporters. However, there is weak compliance with this regulation to ensure that exporters' capital revolves within the gold export business. This also speaks to weak coordination and interface among the BoG, Minerals Commission and PMMC.

The results have been that some of the gold buyers and exporters have created a link to importers and foreign traders of general goods who use their revenue from sale of goods to finance licensed gold purchases for export. These traders of general good have an arrangement with the gold exporter, often from the same country, to take Cedis locally for dollars offshore. Through this practice they avoid compliance with regulations to repatriate cash proceeds from their trade.

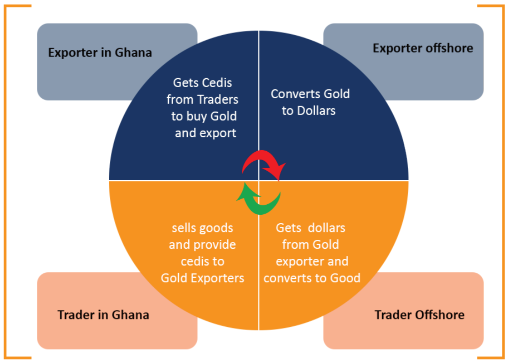

Figure 4: The nature of money laundering in Ghana's small-scale mining sector

Source: ACEP, 2018

Some gold exporters in Ghana use their networks within the approved ports of Ghana while others use neighboring countries to avoid the tracing of the gold trade on the back of the illegitimate dealings with general merchandise traders. According to the miners engaged, the exporters in Ghana who get gold directly from small scale miners or through an agent-buyer are able to pay more cedis than other legitimate gold exporters who buy the commodity at rates lower than the international market price to account for taxes.

4.1.3 Weak export borders of the neighboring countries

The export borders of the West African countries are generally porous for the trade of precious minerals. However, the miners believe Ghana's export boarders are stronger compared to neighboring countries. Therefore, smuggling of gold output across the inland borders occur, particularly the Togo border with Ghana, to allow the export of the gold. Though the risk of smuggling gold across the borders is high (including potential seizure of the gold when caught) the traders have systems and networks established to facilitate easy transit of the gold. These systems include bribing custom officers and using unapproved routes along the borders.

4.1.4 Favorable taxation in neighboring countries

Efforts to harmonize tax rate in the sub-region for gold exports has yielded significant convergence in the past few years with Ghana, Ivory Coast and Burkina unifying at 3%. However, the sub-region still has Mali as the magnet for artisanal gold. Mali operates a tax regime that targets the first 50kg of 200kg gold exported for the application of the 3% tax. This leaves 150kg outside the tax brackets for those who export through their borders.

In a study conducted by Partnership Africa Canada (PAC), gold exports in Mali has consistently surpassed domestic production. This shows movement of artisanal gold from neighboring countries such as Ivory Coast and Burkina Faso.

ACEP's interaction with small scale Miners in the Western Region of Ghana also points to some gold traders operating along the Ivory Coast border with Ghana. These traders offer more competitive prices than local gold buyers. These purchases likely feed into the arrangement to mobilize artisanal gold for export through Mali.

4.2 Conclusion

The small-scale sector has the potential to generate revenue to support development efforts. However, the challenges that prevent effective tax administration are equally significant. The illegalities are very entrenched with compromises to evade the regulatory regime.

This requires tactful but firm approach to defeat the many and powerful beneficiaries of the illegalities along the value chain which prevent effective tax administration. The approach, going forward, should therefore consider reducing pressure on the already strained capacity of GRA. There must be a cost-effective way of generating tax revenue. Optimal revenue can only be achieved in the medium to long term given, the data challenges and disorganization along the chain. GRA can focus on the minimum tax possible in the short term while taking steps to engage the relevant state agencies to strengthen governance of the sector to make tax administration easier.

4.3 The way forward in addressing tax evasion in Ghana's small-scale mining sector

In the light of the challenges of the small-scale mining sector the following recommendations can ensure that the tax administration improves:

1. A flat rate tax should be applied to small-scale miners.

This will ensure that taxes are linked to participation in the sector rather than output. The GRA can use this approach to get accurate data reporting on production which has the potential to enable effective taxation at the export level.

2. The BoG, Minerals Commission and PMMC must strengthen their collaboration.

These State agencies need to work together to triangulate data on production, export and repatriation of export revenues. This will help trace the gaps in reporting and leakages, and feed into the new monitoring regime for gold production and assaying by the PMMC. BoG needs to intensify compliance with mineral export rules to ensure that revenues are repatriated to bring in foreign exchange.

3. Institute whistle blower incentives to encourage citizens' participation in the fight against gold smuggling.

Involving citizens in the fight against gold smuggling can reduce the cost of administering the tax. Handsome incentives should be given to the public to attract public policing of activities of smugglers. When the incentive is right, citizens' whistleblower activities will become a deterrent to, and raise the risk for, illegal buyers and exporters to operate. We propose that 20% of value of gold seized through whistle blower action should be awarded to the whistleblower while the remaining 80% goes to the State through GRA.

4. The GRA should audit the activities of major foreign traders to trace foreign exchange activities.

This process could make use of imports data trends on value of goods imported against bank transfers for the import of the goods. The Financial Intelligence Centre (FIC) could be an important collaborator in this exercise.

PART FIVE

Tax Revenue from Downstream Petroleum Sub-Sector: Challenges and Way Forward

Downstream petroleum sector contributes significantly to government revenue through taxes and levies. In 2017 government revenue from the sector reached GHC4.7billion. This comprised road fund levy, Energy Sector Levies (ESLA), Energy Fund Levy, and the Special Petroleum Tax (SPT). The outturn for 2017 represents 5% decline in the projections for the year even though oil prices were more favorable to have influenced the SPT to bring in more than the expected revenue. Government projects to receive GHS 5.2 Billion revenue from the sector in 2018. This could also be missed if government is unable to deal with the challenge of fuel smuggling which is growing at an alarming rate.

5.1 Causes of tax evasion in downstream petroleum sector

5.1.1 Fuel smuggling as driver of tax evasion in downstream petroleum sector

The subject of fuel smuggling has been discussed and highlighted by industry players for the past two years as hurting the bottom-line of businesses and government revenue. The Bulk Oil Distribution Companies (BDCs) and Oil Marketing Companies (OMCs) have been at the forefront of this discussion to push State agencies to stop the illegal practice. ACEP's analysis shows that in both 2016 and 2017, there was 10% decline in the consumption of the two major petroleum products sold at the pump; the worse ever in the history of domestic petroleum products (premium and gas oil) consumption since year 1999 (Figure 5).

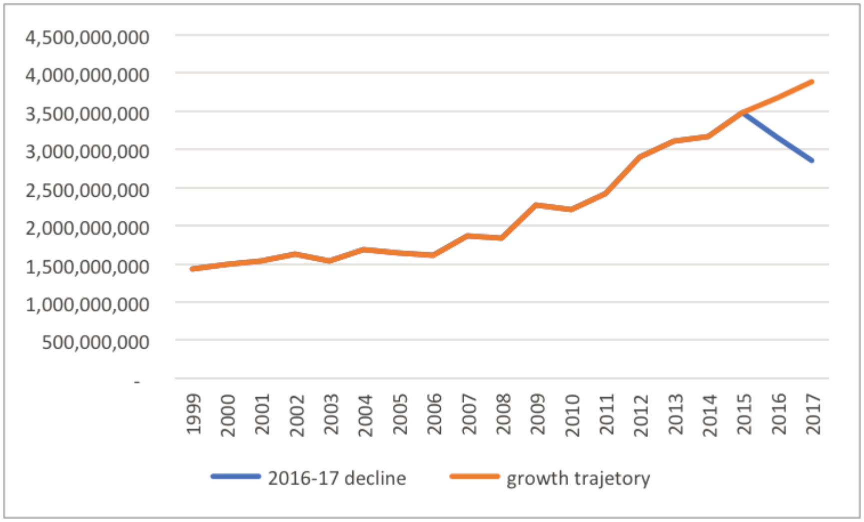

Figure 5: Premium and gas oil consumption trend in Ghana (1999 - 2017)
Source: NPA and ACEP Analysis

In 2016, premium and gas oil consumption levels declined by about 330 million liters from projections for that year. By the end of 2017, the total decline in the consumption growth trajectory prior to 2015 reached 1 billion liters.

ACEP estimates that the deviation represents a revenue shortfall of GHC1.5 billion in potential revenue to the state for 2017 alone for the two products sold at the pump.

The scale of the revenue loss requires immediate governmental intervention to plug the leakages through the borders. In recent times actions by the National Petroleum Authority (NPA) and the Security Agencies resulted in the arrest of some smugglers on the high seas. However, ACEP is reliably informed that smuggling is still happening; what is even alarming being that fact that the illegal trade is spreading along the entire coastline of the country.

The consequence of fuel smuggling goes beyond indirect tax revenue loss to the state. Licensed industry players who have made investment decisions based on market information may miss expected outturns due to market distortions. Consequently, corporate taxes to the State will be impacted negatively as businesses struggle to sustain profitability. The risk to the banks cannot also be understated. Again, fuel smuggling inevitably compromises monitoring of product standards to protect consumers from off-spec products.

5.1.2 Deficit in GRA's data analystics and its implications for revenue losses to the state

There are wide discrepancies between the data provided by ACEP and Chamber for Bulk Oil Distributors (CBOD) against that of NPA, which is a national agency that looks at the trend of petroleum products consumption. However, ACEP believes that GRA is better placed to settle any controversy on consumption trends if they made use of the data available to them to estimate demand growth. GRA has data on all imported equipment with their consumption capacities. This is a valuable data that can help make critical inferences on annual capacity growth based on engines imported annually to make projections for fuel demand.

In the absence of this analysis, the use of fuel consumption trends may not give accurate statistics in the face of increased smuggling of products. This also points to the fact that GRA may not know exactly how much tax is out there to collect from the petroleum sector.

5.2 Conclusion

The downstream leakages present significant windfall in a revenue constraint times the nation finds herself. There has been some arrest in recent times of people smuggling products on the high seas into the local market. This hasn't effectively dealt with the challenge as people still engage in the practice. A simple visit to Tema, around the Tema Oil refinery, there are many people trading illegal product which they are able to sell below the market price. There are similar situations at pumps outside Accra where prices are below the market range which the NPA is aware of. These are hints of product which evades the tax components on them. The collaboration ongoing is important but that should not absorb the independence of the various institution to uphold their interest. GRA needs its own monitoring system that compliments what NPA is doing to ensure that they get their taxes. This will also allow the state agencies to compare notes and findings on the gaps.

5.3 Recommendations

The following recommendations are prescribed to support effort currently underway

1. Activate public monitoring of fuel smuggling activities through whistleblowing

The collaboration to deal with the canker should extend beyond State agencies to activate public participation through whistle blower actions with incentives that encourage people to report fuel smuggling to the NPA, GRA, and other relevant authorities. The Whistle Blower Act prescribes 10% compensation for individuals who assist the State to recover revenue. Government should set up a streamlined system that allows compensation to be paid in full and on time.

2. Involve the media in the open and speedy trial of fuel smugglers

When people are arrested, the GRA should be interested in open and speedy trial of the cases to send the right signals to other offenders. This will require frequent media update on those cases. The current situation where offenders are dealt with on the quiet is not deterrent enough.

3. Improve inter-agency collaboration among GRA, Standards Authority, and the NPA

GRA should work with Standards Authority to procure mobile equipment to test products on the spot, at pump stations. This will allow them to compare the results instantly with the test result of imported products at the depots.

NPA should open its tracking system to GRA to allow cross monitoring of export trucks to prevent dumping on the local market.

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