

FOREIGN EXCHANGE ACT, 2006 (ACT 723)

Ghana has a new Foreign Exchange Act, 2006 (Act 723) which became effective on December 29, 2006. Bank of Ghana, the central Bank of Ghana, has since issued notices providing guidelines on the new Foreign Exchange Act. These were notices BG/GOV/SEC/2007/3 and BG/GOV/SEC/2007/4 both dated March 15, 2007.

Under the new Foreign Exchange Act of 2006 (Act 723):-

1. The ten percent (10%) limit placed on non-resident foreign investors' holdings in securities listed on the Ghana Stock Exchange has been lifted. The 74% limit on the holdings of all non-resident foreign investors in any listed security has also been lifted.
2. Investors both local and foreign are however to note that the acquisition of a ten percent (10%) stake in any listed banking stock requires prior approval by Bank of Ghana under the Banking Act, 2004 (Act 673).
3. Non-resident foreigners are now permitted to invest in money market instruments of a tenor of three years or above. For the avoidance of doubt, the Government of Ghana's 5-Year Bond due December 2011 and listed on the market is available to non-resident foreigners.
4. Non-resident companies wishing to issue securities on the local stock market will require prior approval from both the Securities and Exchange Commission and the Bank of Ghana. The transfer or repatriation of proceeds from the sales must be reported to the Bank of Ghana.
5. The following may be issued with listed securities and may deal in the same through the Exchange:
 - i) externally resident Ghanaians; and
 - ii) non-Ghanaians resident in Ghana.
6. In relation to investments made by external residents in listed securities, the following shall qualify for full and free foreign exchange remittability:
 - i) the original capital or principal amounts;
 - ii) any capital gains;
 - iii) dividends or interest payments; and
 - iv) related earnings and refunds.
7. For the purposes of this Notice:
 - (a) "Securities listed on the Ghana Stock Exchange" shall mean securities which, at all material times and approved to be quoted on the exchange (even if such quotations

have not yet begun); or securities which are actually listed on any of the Exchange's Official Lists.

- (b) The following shall constitute dealings in listed securities:
- i) purchase or sales of securities on the Exchange's secondary market; or
 - ii) purchases, on the primary market, of securities approved by the Exchange.
- (c) In case of doubts, the written certification by the Exchange's Managing Director for the time being as to whether or not:-
- i) any securities are approved by or listed on the Exchange; or
 - ii) any transaction constitutes dealing in securities within the meanings of sub-sections (a) and (b) above, shall be conclusive.
- (d) The obligations and prohibitions imposed on securities registration officers (i.e. company registrars) under section 17 of the Exchange Control Act, 1961 (Act 71) are hereby waived in relation to securities listed on the Ghana Stock Exchange.
- (e) Transferors and transferees of listed securities shall indicate on the relevant Instruments of Transfer:-
- i) whether they are Ghanaians or not; and
 - ii) whether they are Ghana resident or externally resident, as the case may be.
- (f) Securities registration officers shall, in respect of each listed security for which they act as registrar, make returns on or before the 15th of every month to the Bank of Ghana, Treasury Department, as at the end of the preceding month indicating:-
- (i) the number of transfers lodged;
 - (ii) the percentage of securities in volume and value to, as well as from;
 - Ghanaian individuals externally resident; and
 - Non-Ghanaian externally resident.

GHANAIAN TAX REGIME AS IT AFFECTS LISTED COMPANIES

1. CORPORATE TAX

Companies are generally liable to pay income tax on their profits at the current rate of 25%. Payment of the tax is based on Internal Revenue Service assessed value. Companies listing on the Exchange enjoy a 3% rebate on their corporate tax rate for the first three years of formal listing.

2. TAX ON DIVIDENDS AND INTEREST

Dividend or interest payment by listed companies shall be made less a with-holding tax of 8%.

(a) Interest on Ghana Government bonds held by individuals; and

(b) Interest payable by local financial institutions to individuals.

3. STAMP DUTY

In March 1996, stamp duty in respect of transfers of listed securities was abolished. Citizens and non-citizens of Ghana can make transfers in listed securities without having to pay stamp duty.

4. CAPITAL GAINS TAX

Capital gains made on disposal of listed securities is tax exempt from November 1990 (the commencement of trading on the Exchange) to November 2010.

5. GIFT TAX

Liability to gift tax may arise on the transfer by gift of listed securities if the open market value of the securities at the time of the gift exceeds five hundred thousand cedis (GH¢50), subject to certain exemptions. The tax is payable by the person receiving the gift. The applicable rate of tax is ten (10) percent.

6. REGISTRATION OF NOTICE OF INCREASE IN STATED CAPITAL

For registering notice of any increase in stated capital, a registration fee of 0.05% of the value of the increase.