

PETROLEUM REVENUE MANAGEMENT
REGULATIONS, 2019

ARRANGEMENT OF REGULATIONS

Regulation

Estimating Revenue from Petroleum Operators

1. Determination of Benchmark Revenue

Assessment and Payment of Petroleum Revenue

2. Assessment of petroleum revenue
3. Payment of royalty, carried and participating interest and additional oil entitlement
4. Payment of royalty in cash
5. Payment of surface rentals
6. Petroleum income tax
7. Tax on income from sale of exploration and production rights

Transfers from Petroleum Funds

8. Determination of cap on the Ghana Stabilisation Fund
9. Payment to a national oil company
10. Ring-fencing of transfers for debt payments
11. Procedure for the transfer of funds into the Ghana Petroleum Funds
12. Review of qualifying instruments
13. Content of report on the performance and activities of the Ghana Petroleum Funds
14. Monitoring of performance by the Investment Advisory Committee
15. Content of Investment Policy
16. Content of quarterly report on the performance and activities of the Ghana Petroleum Funds

Management of Petroleum Revenue

17. Standards for the management and oversight of petroleum revenue
18. Responsibilities of the Minister in the management of Ghana Petroleum Funds
19. Responsibilities of the Bank of Ghana in the management of Ghana Petroleum Funds

PETROLEUM REVENUE MANAGEMENT
REGULATIONS, 2019

20. Investment of the Ghana Petroleum Funds
21. Investment Guidelines for the Ghana Petroleum Funds

Accountability Committee

22. Procedure for filling of vacancy on the Accountability Committee
23. Meetings of the Accountability Committee
24. Public meetings of Accountability Committee
25. Request for information by the Accountability Committee

Miscellaneous Provisions

26. Forms and notices
27. Application of tax administration laws
28. Request for information
29. Submission of returns
30. Interpretation

**PETROLEUM REVENUE MANAGEMENT
REGULATIONS, 2019**

IN exercise of the power conferred on the Minister responsible for Finance by section 60 of the Petroleum Revenue Management Act, 2011 (Act 815), these Regulations are made this 7th day of March, 2019.

Estimating Revenue from Petroleum Operators

Determination of Benchmark Revenue

1. (1) In determining the Benchmark Revenue in accordance with section 17 of the Act, the Minister shall use the Brent crude price and field specific gas prices across all operational fields within the year of estimation to estimate

- (a) expected revenue from crude oil;
- (b) expected revenue from gas;
- (c) expected dividends from a national oil company;
- (d) corporate income tax;
- (e) surface rentals; and
- (f) any other revenues identified under section 6 of the Act.

(2) The Minister shall review the Benchmark Revenue on the basis of trends in the price of Brent crude oil and output in

- (a) the six month period before the budget is read in Parliament;
- or
- (b) six months before the mid-year review.

(3) Where the Minister recommends a review of the Benchmark Revenue, the Minister shall provide the following information when reporting to Parliament:

- (a) certified forecast for petroleum prices, output and revenues; and
- (b) the expected impact of the revision on
 - (i) the Annual Budget Funding Amount; and
 - (ii) savings in the Ghana Petroleum Funds.

Assessment and Payment of Petroleum Revenue

Assessment of petroleum revenue

2. Subject to section 3 of the Act, petroleum revenue due the Republic from any petroleum operations in respect of royalty, carried and participating interest and additional oil entitlements shall be assessed in accordance with the provisions of the Petroleum Agreement in so far as the provisions are consistent with relevant enactments.

*Petroleum Revenue Management Regulations, 2019***Payment of royalty, carried and participating interest and additional oil entitlement**

3. (1) A national oil company, an international oil company or any other entity acting on behalf of the Republic shall

- (a) lift the petroleum due the Republic and deliver the petroleum to the buyer; and
- (b) provide the Ghana Revenue Authority, the Governor, the Minister and the Petroleum Commission with the following information:
 - (i) the number of barrels of oil and million standard cubic feet of gas lifted;
 - (ii) the price statement of petroleum lifted;
 - (iii) the gross proceeds and net proceeds;
 - (iv) the relevant petroleum revenue and the dates that the revenue will be paid into the Petroleum Holding Fund;
 - (v) the date of bill of lading; and
 - (vi) any other relevant market information that may be required.

(2) A national oil company, an international oil company or an entity acting on behalf of the Republic shall specify in the price statement of petroleum lifted

- (a) the reference market price;
- (b) the price differential;
- (c) the marketing cost; and
- (d) the delivered price.

(3) The Ghana Revenue Authority shall, in verifying the accuracy of revenue paid into the Petroleum Holding Fund, consider the following:

- (a) the production volume; and
- (b) the price and cost data.

(4) Where the amount assessed by the Ghana Revenue Authority exceeds the amount paid into the Petroleum Holding Fund by a national oil company, an international oil company or the entity acting on behalf of the Republic, the Ghana Revenue Authority shall raise an additional assessment and give notice of the additional assessment to a national oil company, an international oil company or the entity acting on behalf of the Republic.

Petroleum Revenue Management Regulations, 2019

(5) A national oil company, an international oil company or the entity acting on behalf of the Republic shall pay the additional amount assessed under subregulation (4), by direct transfer into the Petroleum Holding Fund within thirty days from the date of notice of the additional assessment.

(6) Subsequent to the instruction for the transfer of money for the payment of the additional amount assessed, a national oil company, an international oil company or the entity acting on behalf of the Republic shall give notice of the transfer to the Ghana Revenue Authority not later than five days after the transfer of the money.

(7) The Bank of Ghana shall, on receipt of the transfer in the Petroleum Holding Fund, give notice of the payment to the following:

- (a) the Ghana Revenue Authority;
- (b) the Minister;
- (c) a national oil company; and
- (d) the Petroleum Commission.

(8) The Ghana Revenue Authority shall, upon notification of payments into the Petroleum Holding Fund by the Bank of Ghana, issue receipts to the international oil company and a national oil company or the entity acting on behalf of the Republic.

(9) The Bank of Ghana shall submit monthly, quarterly and annual schedules of the Petroleum Holding Fund to Ghana Revenue Authority for purposes of reconciliation.

Payment of royalty in cash

4. (1) Where the Republic elects by a directive that royalty be paid in cash instead of petroleum, the Republic shall provide a copy of the directive to the Ghana Revenue Authority and the Bank of Ghana within fifteen days of the decision being made.

(2) The Commissioner-General shall, upon receipt of the directive, inform the international oil company and a national oil company or the entity acting on behalf of the Republic within seven days to self-assess the royalty payable.

(3) The international oil company and a national oil company or the entity acting on behalf of the Republic shall pay the amount in respect of the royalty by direct transfer to the Petroleum Holding Fund within thirty days from the date of lifting.

Petroleum Revenue Management Regulations, 2019

(4) The Commissioner-General shall audit production and lifting returns to determine the royalty payable.

(5) Where the royalty assessed in subregulation (4) exceeds the royalty assessed by the international oil company and a national oil company or the entity acting on behalf of the Republic,

(a) the Commissioner-General shall raise and demand the additional assessment, and

(b) the international oil company and a national oil company or the entity acting on behalf of the Republic shall pay the additional assessment by direct transfer into the Petroleum Holding Fund within thirty days of receipt of notice from the Commissioner-General.

Payment of surface rentals

5. (1) An operator of a contract area shall

(a) self-assess surface rental payable in respect of each year; and

(b) pay the sum payable into the Petroleum Holding Fund not later than the 28th day of February each year; or

(c) in the case of a new contract, self-assess and pay the surface rental within sixty days from the date of ratification of the Petroleum Agreement.

(2) The operator shall notify the Ghana Revenue Authority on the date of payment of the surface rentals.

(3) The Petroleum Commission shall furnish the Ghana Revenue Authority with the acreage of each contract area, phase of operation and the surface rental per square kilometre

(a) not later than the 28th of February of each year for existing contracts; or

(b) in the case of a new contract area, within thirty days from the date of ratification of the relevant Petroleum Agreement.

(4) The Ghana Revenue Authority shall determine the surface rental payable in respect of each contract area.

(5) Where the surface rental assessed by the Ghana Revenue Authority exceeds the amount assessed by the operator, the Ghana Revenue Authority shall

(a) raise an additional assessment; and

(b) serve notice on the operator to pay the assessed surface rental by direct transfer into the Petroleum Holding Fund not later than thirty days from the date of the notice.

Petroleum Revenue Management Regulations, 2019

(6) The Bank of Ghana shall, on receipt of the payments for the surface rentals into the Petroleum Holding Fund, give notice to the Ghana Revenue Authority of the amount paid.

(7) The Ghana Revenue Authority shall issue a receipt to the operator upon notification of payments into the Petroleum Holding Fund by the Bank of Ghana.

(8) An operator is liable to pay the penalty for late payment as specified in subsection (4) of section 3 of the Act.

Petroleum income tax

6. (1) In the case of petroleum income tax, the Income Tax Act, 2015 (Act 896) shall apply, or the Petroleum Income Tax Act, 1987 (P.N.D.C.L. 188) shall continue to apply in accordance with section 135 of the Income Tax Act, 2015 (Act 896).

(2) An international oil company or a national oil company shall self-assess quarterly and annual petroleum income tax payable and file the relevant returns at the offices of the Ghana Revenue Authority not later than the dates specified in

- (a) the Income Tax Act, 2015 (Act 896); or
- (b) the Petroleum Income Tax Act, 1987 (P.N.D.C.L. 188), in accordance with section 135 of the Income Tax Act, 2015 (Act 896).

(3) The international oil company or national oil company shall pay the assessed tax by direct transfer into the Petroleum Holding Fund not later than the date specified in

- (a) the Income Tax Act, 2015 (Act 896); or
- (b) the Petroleum Income Tax Act, 1987 (P.N.D.C.L. 188), in accordance with section 135 of the Income Tax Act, 2015 (Act 896).

(4) The Commissioner-General shall audit the quarterly and annual returns and determine the taxes payable.

(5) Where the assessed petroleum income tax exceeds the amount assessed by the international oil company or national oil company, the Commissioner-General shall

- (a) raise additional assessment and demand the tax in accordance with the Income Tax Act, 2015 (Act 896), or the Petroleum Income Tax Act, 1987 (P.N.D.C.L. 188) in accordance with section 135 of the Income Tax Act, 2015 (Act 896); and

Petroleum Revenue Management Regulations, 2019

- (b) the international oil company or national oil company shall pay the additional assessment by direct transfer into the Petroleum Holding Fund within thirty days of receipt of notice from the Commissioner-General.
- (6) The Commissioner-General shall, upon notification of payments into the Petroleum Holding Fund by the Bank of Ghana, issue receipts to the international oil company or national oil company.
- (7) The Commissioner-General shall impose a penalty, whichever is higher, for late payment as specified in
 - (a) subsection (4) of section 3 of the Act; or
 - (b) the Revenue Administration Act, 2016 (Act 915).

Tax on income from sale of exploration and production rights

7. (1) In the case of the tax on gain from the sale of exploration and production rights, the following shall apply:
- (a) the international oil company and a national oil company or the entity acting on behalf of the Republic shall include gains from sale of exploration and production rights in the quarterly and annual petroleum income tax payable, and file the relevant returns at the offices of the Ghana Revenue Authority not later than the dates specified in section 72 of the Income Tax Act, 2015 (Act 896); or
 - (b) where the provisions of the Petroleum Income Tax Act, 1987 (P.N.D.C L. 188) is preserved in accordance with section 135 of the Income Tax Act, 2015 (Act 896), the Commissioner-General shall assess tax on gain from the sale of exploration and production rights in accordance with the Internal Revenue Act, 2000 (Act 592).
- (2) A person who accrues or derives a gain from the direct or indirect sale of exploration and production rights shall furnish the Ghana Revenue Authority with the following, within thirty days from sale of the asset:
- (a) description and location of the chargeable asset;
 - (b) the cost base of the chargeable asset immediately prior to the sale of the asset and the derivation of the cost base;
 - (c) the consideration received from the sale of the chargeable asset;
 - (d) the amount of any capital gain and tax payable, or tax exempt in respect of that capital gain;

Petroleum Revenue Management Regulations, 2019

- (e) the full name and address of the new owner of the chargeable asset; and
- (f) any other information that the Commissioner-General may require.

(3) The Commissioner-General shall assess the tax arising from the sale of the asset, and serve notice of the assessment on the vendor of the asset.

(4) The international oil company and a national oil company or the entity acting on behalf of the Republic shall pay the assessed tax by direct transfer into the Petroleum Holding Fund not later than the date specified in the Income Tax Act, 2015 (Act 896) or the Petroleum Income Tax Act, 1987 (P.N.D.C.L.188) in accordance with section 135 of the Income Tax Act, 2015 (Act 896).

(5) The Commissioner-General shall audit the quarterly and annual returns and determine the taxes payable.

(6) Where the assessed petroleum income tax exceeds the amount assessed by the international oil company and a national oil company or the entity acting on behalf of the Republic, the Commissioner-General shall raise and demand the additional assessment in accordance with the Income Tax Act, 2015 (Act 896).

(7) The Commissioner-General shall, upon notification of payments into the Petroleum Holding Fund by the Bank of Ghana, issue receipts to the international oil company and a national oil company or the entity acting on behalf of the Republic.

(8) The Commissioner-General shall impose a penalty, whichever is higher, for late payment as specified in

- (a) subsection (4) of section 3 of the Act; or
- (b) the Revenue Administration Act, 2016 (Act 915).

Transfers from Petroleum Funds

Determination of cap on the Ghana Stabilisation Fund

8. (1) In pursuance of section 23 of the Act, the Minister shall, in recommending the maximum amount of accumulated resources of the Ghana Stabilisation Fund, ensure that the amount is not less than the average Annual Budget Funding Amount over a three year period.

(2) The three year period referred to in subregulation (1) shall comprise

Petroleum Revenue Management Regulations, 2019

- (a) the current financial year;
- (b) the year preceding immediately before the current financial year; and
- (c) the year immediately after the current financial year.

Payment to a national oil company

9. (1) In furtherance of subsection (4) of section 16 of the Act, a national oil company shall present an invoice to the Ministry for the portion of revenue due a national oil company within twelve days of the lifting of the crude oil.

(2) On the receipt of the petroleum revenue into the Petroleum Holding Fund, the Minister shall request the Controller and Accountant-General to instruct Bank of Ghana to pay the national oil company within three days.

Ring-fencing of transfers for debt payments

10. The Minister, the Bank of Ghana and the Controller and Accountant-General shall ensure that amounts earmarked for debt payments in accordance with subsection (4) of section 23 of the Act are ring-fenced.

Procedure for the transfer of funds into the Ghana Petroleum Funds

11. (1) The Minister shall, in overseeing the transfer of funds into the Ghana Petroleum Funds in accordance with section 25 of the Act, request all entities responsible for invoicing petroleum revenue due the Republic to give notice of the receipts to the Bank of Ghana.

(2) The Bank of Ghana shall, on receipt of the notice in subregulation (1), inform the Minister of the amounts deposited in the Petroleum Holding Fund within three days.

(3) The Minister shall, on receipt of the information in subregulation (2), instruct the Controller and Accountant-General to issue instructions to the Governor for the transfer of the monies into the Ghana Petroleum Funds in accordance with these Regulations.

Review of qualifying instruments

12. In furtherance of section 27 of the Act, the Minister shall review a qualifying instrument where the continuation of the existing qualifying instrument may lead to a significant loss or gain or a change in qualifying instruments will lead to significant gains.

Petroleum Revenue Management Regulations, 2019

Content of report on the performance and activities of the Ghana Petroleum Funds

13. The Bank of Ghana in presenting a report pursuant to section 28 of the Act shall include in the report

- (a) quarterly and year-to-date returns;
- (b) portfolio and risk analytics;
- (c) financial market updates and outlooks;
- (d) volumes of gas produced;
- (e) crude oil lifting and allocation data;
- (f) inflows and outflows of the Petroleum Holding Fund and Ghana Petroleum Funds;
- (g) outstanding revenue inflows if any; and
- (h) any other information that the Minister and the Investment Advisory Committee may require.

Monitoring of performance by the Investment Advisory Committee

14. The Investment Advisory Committee shall, in monitoring the performance of the Ghana Petroleum Funds,

- (a) ensure the portfolio holdings are in accordance with
 - (i) the qualifying instruments;
 - (ii) benchmark portfolios; and
 - (iii) associated risk profiles;
- (b) review the audited quarterly financial statements of the Ghana Petroleum Funds; and
- (c) ensure the proper internal control systems at the Bank of Ghana for effective management of the Ghana Petroleum Funds.

Content of Investment Policy

15. An investment policy formulated by the Investment Advisory Committee in accordance with subsection (1) of section 30 of the Act shall cover the following:

- (a) objective of the Ghana Petroleum Funds;
- (b) the role of the Bank of Ghana;
- (c) qualifying instruments;
- (d) Ghana Stabilisation Fund;

Petroleum Revenue Management Regulations, 2019

- (e) Ghana Heritage Fund;
- (f) eligible counterparties;
- (g) technical breaches of the mandate of the Bank of Ghana, if any;
- (h) review of the investment policy; and
- (i) any other information that the Minister may require.

Content of quarterly report on the performance and activities of the Ghana Petroleum Funds

16. The Investment Advisory Committee shall in submitting a report in pursuance of section 40 of the Act include in the report

- (a) quarterly and year-to-date total returns;
- (b) portfolio and risk analytics;
- (c) financial market updates and outlooks;
- (d) crude oil lifting and allocation data;
- (e) inflows to and outflows from the Ghana Petroleum Funds; and
- (f) any other information that the Minister may require.

*Management of Petroleum Revenue***Standards for the management and oversight of petroleum revenue**

17. In furtherance of section 49 of the Act, the provision and receipt of information for the management of petroleum revenue and savings shall have regard to the highest international principles and standards including the

- (a) International Monetary Fund Guide on Resource Revenue Transparency;
- (b) Santiago Principles on the Management of Sovereign Wealth Funds; and
- (c) Worldwide Governance indicators.

Responsibilities of the Minister in the management of the Ghana Petroleum Funds

18. (1) The Minister shall exercise overall responsibility for the management of the Ghana Petroleum Funds.

(2) The functions of the Minister in relation to the management of the Ghana Petroleum Funds include the following:

Petroleum Revenue Management Regulations, 2019

- (a) formulate broad policy for the overall management of the Ghana Petroleum Funds;
- (b) provide a forecast of the cash requirements of Government for each quarter, including the projected timings and amounts to be transferred to and from the applicable Ghana Petroleum Funds not less than twenty days prior to the commencement of each quarter of the year;
- (c) prescribe by Executive Instrument, the Qualifying Instruments in which the Ghana Petroleum Funds shall be invested;
- (d) ensure that requests by the Bank of Ghana for guidance on ad-hoc policy decisions to enable the Bank of Ghana implement the operational management of the Ghana Petroleum Funds are responded to clearly and in a timely manner; and
- (e) consult with the Governor and the Investment Advisory Committee, where applicable on information to be released to the public.

Responsibilities of the Bank of Ghana in the management of the Ghana Petroleum Funds

19. (1) The Bank of Ghana shall undertake the day-to-day operational management of the Ghana Petroleum Funds.

(2) The functions of the Bank of Ghana with respect to the operational management of the Ghana Petroleum Funds shall include the following:

- (a) investing the capital of the Ghana Petroleum Funds in financial instruments as set out in Qualifying Instrument including exercising all the rights and complying with all obligations associated with the ownership of the assets of the Ghana Petroleum Funds;
- (b) receiving and accounting for the investment income and other revenues of the Ghana Petroleum Funds;
- (c) maintaining a register of all payments made as receipts to the Petroleum Holding Fund without limiting the responsibilities of the proper authorities for administering tax and royalty payments;

Petroleum Revenue Management Regulations, 2019

- (d) maintaining the books of account for the Ghana Petroleum Funds on behalf of the Minister;
 - (e) appointing and dismissing banking correspondents, dealers, brokers, custodians and other financial intermediaries necessary for the proper management of the Ghana Petroleum Funds;
 - (f) acquiring and maintaining the information necessary to construct benchmark indices and notional portfolios for policy development and reporting purposes;
 - (g) supplying information to the Minister and the Investment Advisory Committee necessary for the drafting of reports and statements relevant to the management of the Ghana Petroleum Funds, including all reports relating to the management of the Petroleum Holding Fund and the Ghana Petroleum Funds required by law, with the information being available to the recipients at least fifteen days before any legislated publication date unless otherwise agreed between the parties;
 - (h) implementing systems, procedures, risk management practices and development of human resources to minimise the risk of operational loss to the Ghana Petroleum Funds;
 - (i) advising the Minister on all significant events affecting the value of the Ghana Petroleum Funds and other matters considered to be urgent or of importance relating to the management of the Ghana Petroleum Funds;
 - (j) providing the public with such information concerning the Ghana Petroleum Funds as required by law; and
 - (k) assisting the Investment Advisory Committee in the preparation of the Annual Report on the Ghana Petroleum Funds.
- (3) The Bank of Ghana shall implement the operational management of the Ghana Petroleum Funds through the adoption of the following policies:
- (a) the assets of the Ghana Petroleum Funds shall be maintained in the name of the Bank of Ghana, but shall at all times be segregated from the assets of the Bank of Ghana so as to allow the beneficial ownership of the assets and the income associated with those assets to be clearly determined at any time;

Petroleum Revenue Management Regulations, 2019

- (b) the books and records of the Ghana Petroleum Funds shall be maintained separately from the books and records of the Bank of Ghana to the maximum extent practicable;
- (c) the Bank of Ghana shall make the books and records relating to the operational management of the Ghana Petroleum Funds available at any time on request to the Minister, staff authorised in writing by the Minister, and the auditors of the Ghana Petroleum Funds; and
- (d) the Bank of Ghana shall ensure that all staff associated with the management of the Ghana Petroleum Funds are bound by a code of ethics and rules to avoid conflict of interest.

Investment of the Ghana Petroleum Funds

20. (1) The Bank of Ghana shall invest the Ghana Petroleum Funds only in the Qualifying Instruments prescribed by Executive Instrument pursuant to section 27 of the Act.

(2) On the basis of the varied investment objectives of the Ghana Heritage Fund and Ghana Stabilisation Fund, different benchmarks may be adopted for the Ghana Petroleum Funds.

Investment Guidelines for the Ghana Petroleum Funds

21. (1) The Bank of Ghana shall operate within the investment mandate developed by the Investment Advisory Committee for the Minister in the investment of the Ghana Petroleum Funds.

(2) The performance of the Ghana Petroleum Funds shall be measured periodically against the benchmark indices provided in the mandate by the Minister and is subject to periodic reports.

(3) The Minister shall give the Bank of Ghana at least one month written notice before implementing any change to the mandate or benchmarks, and the Bank of Ghana shall advise the Minister, within five days after receipt of the notice, as to the anticipated length of time it will take to effect the new requirements.

Accountability Committee

Procedure for filling of vacancy on the Accountability Committee

22. (1) Where there is a vacancy in the Accountability Committee established under section 51 of the Act, the Minister shall notify the relevant organisation of the vacancy and appoint the person nominated by the organisation to fill the vacancy.

Petroleum Revenue Management Regulations, 2019

(2) A vacancy on the Accountability Committee shall be promptly filled within thirty days of the vacancy arising, by appointment by the Minister based upon nomination pursuant to subregulation (1).

(3) A person who is appointed to fill a vacancy of an individual who has left office during their term shall serve the unexpired term for which the predecessor of that person was appointed for.

Meetings of the Accountability Committee

23. (1) The Accountability Committee shall meet at least once every three months for the despatch of business at the time and in the place determined by the chairperson.

(2) The chairperson shall at the request in writing of at least three members of the Accountability Committee convene an extraordinary meeting of the Accountability Committee at the time and in the place determined by the chairperson.

(3) The chairperson shall preside at meetings of the Accountability Committee and in the absence of the chairperson, the vice chairperson of the Accountability Committee shall preside and in the absence of the chairperson and the vice chairperson, the members shall elect one member from their number to preside.

(4) The Accountability Committee may co-opt a person to attend a meeting of the Accountability Committee in an advisory capacity provided that person has recognised competence in one or more of the various fields of the work of the Committee.

(5) A person co-opted under subregulation (4) shall not vote on any matter for decision at the meeting.

Public meetings of Accountability Committee

24. (1) The Accountability Committee shall hold public meetings at least twice in a year to report on its activities to the general public.

(2) The procedure for the conduct of a public meeting shall be determined by the Accountability Committee.

Request for information by the Accountability Committee

25. In furtherance of section 56 of the Act, where the Accountability Committee request for information from an organisation for the preparation of its annual and semi-annual reports, the organisation shall provide the information to the Accountability Committee within fifteen days of receipt of the request.

Petroleum Revenue Management Regulations, 2019

Miscellaneous Provisions

Forms and notices

26. The Commissioner-General shall specify the form of claims, notices, returns, statements and other documents required for the assessment, collection and accounting for petroleum revenue.

Application of tax administration laws

27. In the absence of express provisions under the Act and these Regulations in relation to tax administration laws, the general administration rules in the Income Tax Act, 2015 (Act 896) and the Revenue Administration Act, 2016 (Act 215) including penalties apply to the functions of the Ghana Revenue Authority under the Act and these Regulations.

Request for information

28. The Commissioner-General may, by service of a notice in writing, require a person, to

- (a) produce within the time specified in the notice, information that is described with reasonable certainty in the notice;
- (b) attend at the time and in the place specified in the notice for the purposes of being examined by the Commissioner-General or by an officer authorised by the Commissioner-General concerning the information required in the notice; or
- (c) produce at an examination of the person under paragraph (b) and for the purposes of that examination documents in the control of the person that are described in the notice.

Submission of returns

29. The general administration rules including the penalties in the Income Tax Act, 2015 (Act 896) and the Revenue Administration Act, 2016 (Act 915) on the submission of returns apply where there are no express provisions on the matter in the Act.

Interpretation

30. In these Regulations, unless the context otherwise requires, "Act" means the Petroleum Revenue Management Act, 2011 (Act 815);

Petroleum Revenue Management Regulations, 2019

- “Commissioner-General” means the person appointed as Commissioner-General under the Ghana Revenue Authority Act, 2009 (Act 791);
- “Corporation” means the Ghana National Petroleum Corporation;
- “Governor” means the Governor of the Bank of Ghana;
- “Minister” means the Minister responsible for Finance;
- “Ministry” means the Ministry responsible for Finance;
- “operator” means a company or the Corporation, carrying out petroleum activities on behalf of a contractor or the Corporation under a petroleum agreement or of the licensees under a licence, or the Corporation where it undertakes petroleum activities under subsection (1) of section 11 of the Petroleum (Exploration and Production) Act, 2016 (Act 919);
- “Petroleum Commission” means the Commission established under section 1 of the Petroleum Commission Act, 2011 (Act 821); and
- “ring-fence” means the act of ensuring that monies are strictly accounted for and protected to be used for a specific purpose.

HON. KEN OFORI-ATTA
Minister responsible for Finance

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Entry into force: 20th June, 2019.