

Taxation (Use of Fiscal Electronic Device) Bill, 2017

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TAXATION (USE OF FISCAL ELECTRONIC DEVICE) ACT, 2017

AN ACT to provide for the use of an approved Fiscal Electronic Device by specified taxable persons at each point of sale on the premises of the taxable persons and for related matters.

Passed by Parliament and assented to by the President:

Purpose and Application

Purpose

1. The purpose of this Act is to
 - (a) maximise revenue collection,
 - (b) minimise the incidence of revenue suppression, and
 - (c) obtain an accurate record of the volume of sales of each taxable person

by obliging specified taxable persons to use a Fiscal Electronic Device approved by the Ghana Revenue Authority.

Application

2. (1) This Act applies to a person specified in the First Schedule.
(2) The Minister may, on the recommendation of the Board, by legislative instrument, amend the First Schedule.

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Obligation to Use Fiscal Electronic Device and Conditions for Use

Obligation to use Fiscal Electronic Device

3. (1) A person specified in the First Schedule shall
- (a) use, and
 - (b) keep as a back-up,
- an approved Fiscal Electronic Device at each sales location on the premises of that person.
- (2) Subject to section 38, a person referred to in subsection (1) shall,
- (a) purchase for use the approved Fiscal Electronic Device from a supplier licensed by the Authority; and
 - (b) install the Fiscal Electronic Device at a conspicuous location on the premises of that person.
- (3) The supplier shall before the activation of the Fiscal Electronic Device, train the person in the appropriate use of the Device.
- (4) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of not less than five hundred penalty units and not more than two thousand penalty units or to a term of imprisonment of not less than two years and not more than four years, or to both.

Activation of Fiscal Electronic Device

4. (1) Where a Fiscal Electronic Device assigned to a person is installed by the supplier, that person shall, for purposes of verification, registration and activation of the Device, submit to the supplier, a certified copy of the Value Added Tax certificate issued by the Authority to that person together with a completed Fiscal Electronic Device registration form.
- (2) The supplier shall, on receipt of the certified copy of the Value Added Tax certificate and the completed Fiscal Electronic Device registration form, key in the particulars of that person as specified on that certificate on the web portal set up for that purpose by the Authority.
- (3) The Fiscal Electronic Device shall be activated if the name of the person, the Taxpayer Identification Number of that person and the serial number of that Device is authenticated on the web portal of the Authority.

Obligation to put Fiscal Electronic Device to appropriate use

5. (1) Where a Fiscal Electronic Device has been activated under section 4 for use by a person, that person shall

- (a) exercise care in the use of the Fiscal Electronic Device;
- (b) obtain a user manual for the Fiscal Electronic Device from the supplier and keep that manual;
- (c) use the Fiscal Electronic Device in accordance with the user manual and other instructions given for the use of the Fiscal Electronic Device;
- (d) display at a conspicuous place on the premises from where the person undertakes business, a decal issued by the Authority; and
- (e) make the Fiscal Electronic Device available for inspection by an authorised officer of the Authority.

(2) A person who, with intent to defraud, takes steps to use a Fiscal Electronic Device in a manner that is misleading or deceptive or is aimed at manipulating information sent to the Fiscal Electronic Data Management system or back-end system of the Authority, commits an offence and is liable on summary conviction to a fine of not less than twenty thousand penalty units and not more than thirty thousand penalty units or to a term of imprisonment of not less than five years and not more than ten years, or to both.

Issue of fiscal receipt

6. (1) A person shall use a Fiscal Electronic Device for subsequent transactions from the moment the Fiscal Electronic Device is activated and shall issue a fiscal receipt to each customer to whom a sale is made or a service is provided.

(2) A person who is required to issue a fiscal receipt under subsection (1), shall not issue a fiscal receipt which displays a sum which is lesser than the sum actually paid for the purchase.

(3) The person shall ensure that the content of the fiscal receipt contains the information specified in the Second Schedule.

(4) Subject to subsection (2) of section 8, a person who contravenes subsections (1) and (2) commits an offence and is liable on summary conviction to a fine of not less than five hundred penalty units and not more than two thousand penalty units or to a term of imprisonment of not less than fifteen months and not more than two years, or to both.

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(5) Without limiting subsection (3), the Authority may for the tax loss occasioned by the contravention of subsection (1), impose a penalty on a person who contravenes subsection (1) as follows:

- (a) where the person is assigned to a Small Taxpayer Office of the Authority for purposes of management of the tax related issues of that person, an amount of not more than the Cedi equivalent of six thousand currency points;
- (b) where the person is assigned to a Medium Taxpayer Office of the Authority for purposes of management of the tax related issues of that person, an amount of not more than the Cedi equivalent of thirty thousand currency points; and
- (c) where the person is assigned to a Large Taxpayer Office of the Authority for purposes of management of the tax related issues of that person, an amount of not more than the Cedi equivalent of One Hundred and Fifty Thousand currency points.

(6) For purposes of this section, “fiscal receipt” means a fiscal document bearing the content specified in the Second Schedule, printed by a Fiscal Electronic Device for the customer for the supply of goods or services supplied to the customer.

Records to be kept by Fiscal Electronic Device user

7. A person who is assigned the use of a Fiscal Electronic Device shall keep the following for at least six years:

- (a) the medium for storage of sales transaction details which allows easier fiscal data inside that medium in a read-only mode; and
- (b) a print out of a summary sales report generated by the Fiscal Electronic Device.

Defective or malfunctioning Fiscal Electronic Device

8. (1) A person for whom a Fiscal Electronic Device has been installed for use shall report any malfunction of or defect in the Device to the supplier and the Commissioner-General concurrently within one hour after becoming aware of the malfunction or defect.

(2) The supplier shall rectify the defect or replace the malfunctioning Fiscal Electronic Device within twenty-four hours after the supplier has received the report mentioned in subsection (1).

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(3) Where a Fiscal Electronic Device becomes defective or malfunctioning, the person for whom the device has been installed shall immediately activate a back-up Fiscal Electronic Device.

(4) A person who makes a report under subsection (1) shall

(a) where the back-up Fiscal Electronic Device is activated but fails to function; and

(b) in the circumstance specified in paragraph (a) while awaiting the repair or replacement of the defective or malfunctioning Fiscal Electronic Device issue the Commissioner-General's invoice to a customer for each transaction engaged in within the period permitted by subsection (2).

(5) A person who issues the Commissioner General's invoice under subsection (4), shall, upon the rectification of the defective Fiscal Electronic Device or repair of the malfunctioning of that Device, transfer the transactions for which the Commissioner General's invoice where issued to the Fiscal Electronic Device.

(6) A supplier who contravenes subsection (2) commits an offence, and is liable on summary conviction to a fine of not less than five hundred penalty units and not more than two thousand penalty units or to a term of imprisonment of not less than two years and not more than four years, or to both.

Records

9. (1) A person specified in the First Schedule shall keep an Inspection Booklet in respect of the Fiscal Electronic Device.

(2) An Inspection Booklet shall contain

(a) the time of malfunction of the Device;

(b) the time at which the person made a report of the malfunction to the supplier and the Commissioner-General;

(c) the description of the malfunction;

(d) the name and designation of the person made a report of the malfunction of the Device;

(e) findings made by a supplier or an approved technician upon inspection of the Device; and

(f) the status of the Device including whether the Device was repaired or replaced.

Error in issuing fiscal receipt

10. Where a person specified in the First Schedule or an employee that person makes an error in the course of issuing a fiscal receipt for a transaction, that person shall

- (a) rectify the error in accordance with administrative directives issued by the Commissioner-General; and
- (b) when filing monthly returns, print the receipt which the error is made or cause that receipt to be printed for reconciliation by the Commissioner-General.

Return of goods sold

11. Where a person specified in the First Schedule operates a policy of allowing customers to return goods purchased from that person for refund of the money paid, that person shall, on the return of the goods, issue to the customer, a certified refund receipt in accordance with the instructions of the Commissioner-General.

De-registered person

12. (1) A person who has been de-registered by the Authority for stated reasons shall, within five days from the date of deregistration, submit the Fiscal Electronic Device to the supplier for de-activation and reconfiguration of the Device.

(2) A supplier to whom an activated Fiscal Electronic Device is returned for deactivation shall, revalue the Fiscal Electronic Device and advise the Authority on the status of the Device before reassigning that Fiscal Electronic Device to another person.

Truncated use of Fiscal Electronic Device

13. (1) Where the use of a Fiscal Electronic Device is truncated as a result of it being stolen or being disabled through any other means, the person to whom the Device is assigned shall make a report of that fact within two working days to

- (a) the Authority; and
- (b) the Police.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of not less than one thousand penalty units and not more than two thousand and five hundred penalty units or to a term of imprisonment of not less than two years and not more than five years, or to both.

Maintenance of records extracted from Fiscal Electronic Device

14. The Authority shall extract records maintained in the internal memory of a Fiscal Electronic Device in the following circumstances and shall keep the records for at least six years:

- (a) where the Fiscal Electronic Device is de-activated by the Authority;
- (b) where the Fiscal Electronic Device has reached its maximum operational capacity; or
- (c) where the Fiscal Electronic Device is rendered un-operational.

Duty to report change in business location

15. A person to whom a Fiscal Electronic Device is assigned shall, in accordance with section 18 of the Value Added Tax Act, 2013 (Act 870), report a change in the location of the business and in other particulars of that person to the Commissioner-General.

Supply of Fiscal Electronic Device and Requirements for Supply

Supply of Fiscal Electronic Device

16. (1) A person shall not supply a Fiscal Electronic Device to another person for use, unless that person is licensed by the Authority for that purpose.

(2) A person who contravenes subsection (1) commits an offence, and is liable on summary conviction to a fine of not less than one thousand penalty units and not more than two thousand five hundred penalty units or to a term of imprisonment of not less than three years and not more than five years or to both.

Qualification for licensing as Fiscal Electronic Device supplier

17. A person qualifies to be licensed as a supplier of a Fiscal Electronic Device if that person satisfies the criteria set out in the Third Schedule.

Application for licence as Fiscal Electronic Device supplier

18. (1) A person who intends to be licensed as a supplier of a Fiscal Electronic Device may apply to the Authority for a licence in the manner determined by the Authority and the application shall be submitted with the prescribed fee.

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(2) The application shall be submitted to the Commissioner-General.

(3) The Commissioner-General shall acknowledge receipt of an application not later than fourteen days after receipt of the application.

(4) The Authority shall consider the application and may grant or refuse the licence within sixty days from the date of acknowledging receipt of the application.

(5) The Authority shall, where an application made under subsection (2) is refused, state the reasons for the refusal.

(6) The Authority may request the applicant to provide further information and may for that purpose extend the period for the grant of the licence.

Issue of licence

19. (1) Where an applicant satisfies the qualification and conditions required for the issue of a licence, the Authority shall approve the application and issue a licence to the applicant to purchase, supply, install and repair Fiscal Electronic Devices.

(2) Despite subsection (1), the Authority may, for reasons of public interest or public safety and order decide not to issue a licence to an applicant and shall inform the applicant of its decision and the reasons for the decision.

(3) The Minister may, on the recommendation of the Board, by legislative instrument, make Regulations to prescribe the maximum number of suppliers that may be licensed by the Authority.

Purchase, supply and activation of Fiscal Electronic Device

20. (1) A licensed supplier shall

(a) comply with procedure prescribed by the Authority for the purchase, supply, installation, activation and repair or replacement of a Fiscal Electronic Device and file a report in relation to that procedure in a manner prescribed by the Authority; and

(b) keep record of all distributor companies the supplier deals with in respect of the Fiscal Electronic Device and notify the Authority of the distributor network.

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(2) The supplier shall specify in the report mentioned in paragraph (a) of subsection (1) among other things,

- (a) the date of supply of the Device;
- (b) the serial number of the Device;
- (c) the manufacturer of the Device;
- (d) the person to whom the Device is assigned; and
- (e) the location of the Device.

(3) The obligations of a distributor company under this Act is the same as that of the supplier, where a supplier works through a network of distributors.

Technical inspection

21. (1) The Authority shall ensure that a technical inspection of a Fiscal Electronic Device is conducted half yearly by each supplier.

(2) The supplier shall submit a monthly report on technical inspections conducted in the month to which the report relates, to the Authority.

- (3) The supplier shall, among other things, specify in the report,
- (a) cases of malfunction of a Fiscal Electronic Device; and
 - (b) routine maintenance, repairs and replacements related to each Fiscal Electronic Device.

Validity of licence

22. A licence issued under section 19 is valid for three years and may be renewed annually.

Renewal of licence

23. A supplier who requires the licence to be renewed shall apply for the renewal, at least one month before the expiration of the licence.

Revocation of licence

24. The Authority may,

- (a) revoke the licence of a supplier if that supplier fails to comply with any of the obligations specified in sections 20 and 21; and
- (b) in addition to any penalty that may be imposed under this Act for the offence of tampering with a Fiscal Electronic Device by a supplier, revoke the licence of the supplier.

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Fiscal Electronic Device Manufacturer

Qualification of manufacturer of Fiscal Electronic Device

25. A person qualifies to be selected as a manufacturer of Fiscal Electronic Device if that person satisfies the criteria specified in the Fourth Schedule.

Selection of manufacturer of Fiscal Electronic Device

26. (1) The Authority shall select a manufacturer of a Fiscal Electronic Device in accordance with the Public Procurement Act, 2003 (Act 663).

(2) The Authority shall enter into an agreement with a selected manufacturer of a Fiscal Electronic Device.

Communication Service Provider and Obligations of Communication Service Provider

Communication service provider

27. The Authority may, for purposes of this Act, enter into an agreement with a communication service provider for the provision of communication services between

- (a) installed Fiscal Electronic Devices; and
- (b) the Fiscal Electronic Data Management System or the backend system of the Authority.

Obligations of communication service provider

28. (1) A communication service provider shall

- (a) ensure that the service provided by that communication service provider accords with the terms agreed on between that communication service provider and the Authority;
- (b) provide a dedicated and uninterrupted transmission service between each installed Fiscal Electronic Device and the Fiscal Electronic Data Management System or backend system of the Authority;
- (c) notify the Authority of planned maintenance at least, forty-eight hours before commencing that maintenance;
- (a) immediately notify the Authority of any disruption in the transmission network; and

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(e) submit a monthly report of active Fiscal Electronic Devices on the network of the communication service provider within the period, to the Authority.

(2) Where there is a break in transmission between a Device and the Fiscal Electronic Data Management System or backend system of the Authority, and that break is attributable to a failure on the part of a communication service provider, that communication service provider shall restore the service within twenty-four hours after the break in transmission.

(3) Where a Fiscal Electronic Device requires the use of a Subscriber Identity Module card, the communication service provider shall restrict the use of that Subscriber Identity Module card to the Device only.

Miscellaneous Provisions

Technical Committee

29. For purposes of licensing suppliers of Fiscal Electronic Devices, the Board shall constitute a Technical Committee which shall include one representative each from each of the institutions specified in the Fifth Schedule.

Obligation of purchaser to collect receipt

30. (1) A person who purchases goods or procures a service from a taxpayer under this Act shall

- (a) collect a fiscal receipt for the transaction;
- (b) ensure that the fiscal receipt issued reflects the exact payment for the purchase; and
- (c) keep the fiscal receipt and make the fiscal receipt available for inspection by a person authorised by the Ghana Revenue Authority.

(2) A purchaser of goods or services under subsection (1) who accepts a receipt which displays a sum lesser than the sum actually paid for the purchase commits an offence and is liable on summary conviction to a fine of not more than five hundred penalty units or to a term of imprisonment of not less than one year and not more than two years, or to both.

Lottery with receipts

31. (1) The receipt number of each fiscal receipt issued to a customer may be used by that customer to enter a lottery draw organised by the Authority in collaboration with the National Lottery Authority.

(2) The modalities for organising the lottery shall be specified by the Authority by Notice published in the *Gazette* and in two daily newspapers of national circulation.

Administrative directives

32. The Commissioner-General may give administrative directives for the implementation of this Act and Regulations made under this Act, but in particular, to determine other obligations of a person to whom a Device is assigned.

Offences

33. (1) A person who
(a) tampers with a Device; or
(b) deliberately causes damage to a Device;
commits an offence and is liable on summary conviction to fine of not less than five hundred penalty units and not more than two thousand penalty units or to a term of imprisonment of not less than two years and not more than four years, or to both.

(2) Without limiting subsection (1), the Authority may, for the tax losses occasioned by a contravention of subsection (1) impose an administrative penalty on the person who contravenes subsection (1).

(3) The administrative penalty mentioned in subsection (2) shall be computed by the Authority in accordance with section 74 of the Revenue Administration Act, 2016 (Act 915).

Compounding of offences

34. The Authority may, in accordance with section 86 of the Revenue Administration Act, 2016 (Act 915), compound an offence committed by a person under this Act.

Regulations

35. The Minister may, on the recommendation of the Board, by legislative instrument, make Regulations for the efficient and effective implementation of this Act, and in particular to amend the Schedules except the Sixth Schedule.

Interpretation

36. In this Act, unless the context otherwise require,

“Authority” means the Ghana Revenue Authority established under section 1 of the Ghana Revenue Authority Act, 2009 (Act 791);

“Board” means the governing body of the Ghana Revenue Authority constituted under section 4 of the Ghana Revenue Authority Act, 2009 (Act 791);

“Commissioner-General” means the person appointed as Commissioner-General of the Ghana Revenue Authority under section 13 of the Ghana Revenue Authority Act, 2009 (Act 791);

“communication service provider” means a mobile telephony network provider that uses a Global System for Mobile communication, appointed by the Authority to provide data communication services between a user of a Fiscal Electronic Device and the Fiscal Electronic Device Management System or the back-end system of the Authority;

“currency points” has the meaning assigned in section 108 of the Revenue Administration Act, 2016 (Act 915);

“Device” means a Fiscal Electronic Device;

“decals” means a sticker label issued by the Authority to a person to indicate that that person is authorised by the Authority to use a Fiscal Electronic Device;

“Fiscal Electronic Device” means a machine designed for use in business for efficient management control in the areas of sales analysis and includes an Electronic Tax Register, Electronic Fiscal Printer and an Electronic Signature Device;

“good corporate citizenship” means the extent to which a business meets the social, legal, ethical and economic responsibilities of the business;

“manufacturer” means a person appointed by the Authority in accordance with this Act to produce Fiscal Electronic Devices for use in the country;

“Minister” means the Minister responsible for Finance;

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- “refund receipt” means a special receipt prescribed by the Commissioner-General for use by a taxable person who operates a policy that allows a customer to return goods purchased;
- “specified taxable person” means a person mentioned in the First Schedule;
- “Subscriber Identity Module card” means a hardware assigned to a Fiscal Electronic Device used by a taxable person to enable that device to communicate with the system of the communication service provider and the back-end system of the Authority;
- “supplier” means a person licensed in accordance with section 18 as a supplier of Fiscal Electronic Devices;
- “Taxpayer Identification Number certificate” means a document issued by the Commissioner-General of the Authority to a registered taxpayer under section 13 of the Revenue Administration Act, 2016 (Act 915);
- “Technical Committee” means the Fiscal Electronic Device Technical Committee of the Board referred to in section 29;
- “technician” means a person trained by the supplier of Fiscal Electronic Devices or the Authority as a technical personnel to install a Fiscal Electronic Device, and to provide repair and maintenance services with respect to that Device; and
- “web portal” means the website of the Authority specially designed for use by a taxable person to view transactions of that taxable person and to generate various reports.

Consequential amendments

37. In furtherance of section 2, the enactments specified in the first column of the Sixth Schedule are amended to the extent specified in the second column of that Schedule.

Transitional provisions

38. (1) Despite subsection (2) of section 3, the Authority shall through a licensed supplier, assign for use not more than five approved Fiscal

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Electronic Devices to each person who on the date of commencement of this Act falls within the category of persons specified in the First Schedule and the cost of the device and its installation shall be borne by the Authority.

(2) The Authority shall distribute the Fiscal Electronic Device to the persons who qualify under subsection (1) within a period of two years after the date of commencement of this Act.

(3) A person who is entitled under subsection (1) may, at the expense of that person, purchase additional Fiscal Electronic Devices after being supplied with Fiscal Electronic Devices to the specified limit, if the additional Fiscal Electronic Devices are necessarily required for the operation of the business of that person.

(4) A person who is authorised by the Commissioner-General in accordance with

(a) regulation 26 of the Value Added Tax Regulations, 2016 (L. I. 2243) to operate a retail scheme, or

(b) regulation 28 of the Value Added Tax Regulations, 2016 (L. I. 2243) to operate any other scheme

shall, on the commencement of this Act, cease to operate the retail scheme or other scheme.

Commencement

39. With the exception of this section, the other provisions of this Act commence on a date to be determined by the Minister by a Notice published in the *Gazette* and in at least two daily newspapers of national circulation.

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FIRST SCHEDULE

(sections 2, 3(1), 9(1), 10, 11 and 3E)

Persons to whom this Act applies

1. A taxable person under the Value Added Tax Act, 2013 (Act 870).

SECOND SCHEDULE

(section 6(5))

Content of Fiscal Receipt

A fiscal receipt shall

- (a) bear a clearly defined description of the item sold or service rendered;
- (b) specify the appropriate tax rate applied;
- (c) have a header that specifies in respect of the issue of the receipt
 - (i) the name,
 - (ii) the business address,
 - (iii) the telephone number,
 - (iv) the Taxpayer Identification Number, and
 - (v) the fiscal numberof the issuer;
- (d) also have in the header the Taxpayer Identification Number of the customer if known;
- (e) specify the
 - (i) Fiscal Electronic Device number,
 - (ii) item description,
 - (iii) quantity,
 - (iv) price per unit,
 - (v) total price in Cedis before tax,
 - (vi) Value Added Tax and National Health Insurance Levy,
 - (vii) total price in Cedis,
 - (viii) payment method,
 - (ix) value per Value Added Tax and National Health Insurance Levy,
 - (x) tax rate,
 - (xi) value without Value Added Tax and National Health Insurance Levy;
 - (xii) receipt number; and
 - (xiii) number of items sold; and
- (f) have a footer that specifies
 - (i) the date and time,
 - (ii) the Fiscal Electronic Device identity,
 - (iii) the fiscal receipt notification; and
 - (iv) the fiscal logo.

THIRD SCHEDULE

(section 17)

Qualification to be licensed as Fiscal Electronic Device Supplier

A person qualifies to be licensed as a Fiscal Electronic Device supplier if that person

- (a) is a Ghanaian;
- (b) provides documentary proof of good corporate citizenship;
- (c) has been duly authorised by the Manufacturer of approved Fiscal Electronic Device to supply these products;
- (d) has a service and maintenance network with requisite trained technicians to support the supplies;
- (e) has the ability to acquire adequate spare parts to support the operations of the Fiscal Electronic Device;
- (f) has experience in a related business of supplying similar electronic devices;
- (g) has the financial capability to obtain at least five thousand Fiscal Electronic Devices from the approved Fiscal Electronic Device manufacturer for supply;
- (h) can provide to the Authority, samples of the Fiscal Electronic Device to be supplied; and
- (i) provides an assurance in form of a guarantee that samples of the Fiscal Electronic Devices imported for supply will be made available to the Technical Committee for purposes of comparing the imported devices with the prototype Fiscal Electronic Device submitted by that supplier to the Authority under paragraph (h).

FOURTH SCHEDULE

(section 25)

Qualification as manufacturer of Fiscal Electronic Device

Prequalification

1. The prequalification information includes
 - (a) company profile;
 - (b) profile of key technical staff;
 - (c) records that demonstrate that the manufacturer has the capacity to supply devices of the nature and to the effect required including reference letters from at least two institutions, preferably tax authorities, from at least two different countries or more to which the manufacturer has supplied similar devices;
 - (d) documents to show that the manufacturer has a minimum of three years experience in the supply of the Device or similar devices;
 - (e) record on country of registration of manufacturer;
 - (f) manufacturer's statement [ISO 9001, ISO 14 001, ISO 27 001, ISO8001 and ISO 18001];
 - (g) company or registration certificate of the manufacturer;
 - (h) Taxpayer Identification Number certificate or its equivalent in the country of the bidder or a statement from the tax authorities in the country of origin of the manufacturer, indicating that the Taxpayer Identification Number certificate or its equivalent is not issued; and
 - (i) valid Tax Clearance Certificate or its equivalent in the country of the manufacturer or a statement from the tax authorities in the country of origin of the manufacturer, indicating that the certificate or its equivalent is not issued.

Approval before manufacture

2. The manufacturer shall provide the following information to the Authority:
 - (a) technical details and design drawings for the items to be supplied for approval before manufacture;

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- (b) an assurance that where the Authority fails to accept the goods, the manufacturer shall accept the goods and replace the goods or make the necessary alterations at no cost to the Authority;
- (c) accounts certified as true copy of originals by source;
- (a) total turnover which must be more than twenty-five million United States Dollars in the last three years and must be supported by certified true copies of original with certifying officer name well printed on the documents for easy confirmation;
- (e) the profile of the manufacturer stating the core business of and the contribution of Fiscal Electronic Devices on ratio-basis in the activities of the manufacturer;
- (j) official government records that show that the manufacturer has been operational for more than seven years;
- (g) curriculum vitae of key technical staff;
- (h) general information on the management structure of the manufacturer, and which make provision for suitably qualified personnel to fill key positions as required during the period of the contract implementation; and
- (i) information on a prime candidate and on an alternate candidate for each key position, both of whom meet the experience requirement specified.

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FIFTH SCHEDULE

(section 29)

Composition of Fiscal Electronic Device Technical Committee

1. Ministry of Finance
2. Ghana Revenue Authority
3. National Communication Authority
4. Standards Authority
5. Attorney General's Department
6. Ministry of Trade and Industry

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SIXTH SCHEDULE

(sections 35 and 37)

Consequential amendments

Column 1	Column 2
Value Added Tax Act, 2013 (Act 870)	<p>The Value Added Tax Act, 2013 (Act 870) is amended</p> <p style="margin-left: 40px;">(a) in section 41 by the insertion after subsection (8), of “(8A) A person satisfies the requirement under subsections (1) and (3), if that person issues a fiscal receipt in accordance with the Taxation (Use of Fiscal Electronic Device) Act, 2017 (Act.....).”;</p> <p style="margin-left: 40px;">(b) in section 48 by the insertion after subsection (4), of “(4A) Despite subsection (1), a taxable person who is issued a Fiscal Electronic Device for use</p> <p style="margin-left: 80px;">(a) shall, for purposes of claiming deductible input tax in accordance with this section, give the Taxpayer Identification Number of that taxable person to a vendor who is a registered taxable person whenever the taxable person is making purchases of taxable supplies from that vendor; and</p> <p style="margin-left: 80px;">(b) may deduct from output tax, deductible input tax in respect of which the Taxpayer Identification Number of the taxable person has been given to the vendor, before the end of the tax period to which the input tax relates.”; and</p>

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	<p>(c) In section 52 by the insertion after subsection (2), of “(2A) Subject to section 26 of the Electronic Transactions Act, 2008 (Act 772) and subsection (2), a taxable person who is required under the Taxation (Use of Fiscal Electronic Device) Act, 2017 (Act.....) to use a Fiscal Electronic Device may file tax returns electronically through the use of the Fiscal Electronic Device.”</p>
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Date of *Gazette* notification: 13th October, 2017.

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MEMORANDUM

The purpose of the Bill is to provide for the mandatory use of Fiscal Electronic Device by a specified category of taxable persons at each point of sale on the premises of the taxable persons. The mandatory use of the Fiscal Electronic Device is to maximise revenue collection, minimise the incidence of revenue suppression, and obtain an accurate record of the volume of sales of each taxable person.

The Government loses substantial revenue through unreported income and sales particularly perpetrated by taxable persons under the Value Added Tax Act, 2013 (Act 870). The effect of this revenue loss significantly affects Value Added Tax revenues as declared to the Ghana Revenue Authority.

As part of efforts to address this phenomenon, the Ministry of Finance in collaboration with the Ghana Revenue Authority has decided to introduce the use of Fiscal Electronic Device. The Fiscal Electronic Device is an invoicing system to be used by specified taxable persons under the Value Added Tax Act, 2013 (Act 870) and other taxable persons to be determined by the Minister for Finance. The revenue that will accrue to the State from the implementation of this policy is expected, in the first year, to range from twenty percent to thirty percent of the current Value Added Tax revenue.

Clauses 1 and 2 deal with purpose and application provisions. The purpose of the Bill is to maximise revenue collection, minimise the incidence of revenue suppression, and provide an accurate record of the volume of sales of each taxable person by making it mandatory for specified taxable persons to use a Fiscal Electronic Device approved by the Ghana Revenue Authority at each point of sale on the premises of those taxable persons. The Bill will, on its enactment, apply to specified taxable persons under the Value Added Tax Act, 2013 (Act 870).

Provision is further made for the Minister, on the recommendation of the Board, to apply the Act to other taxable persons by making

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Regulations to amend the Schedules and applying the provision of the Bill to other tax types. These persons are described in the Bill as “persons specified in the First Schedule”.

The next group of clauses deal with the obligation to use the approved Fiscal Electronic Device for transactions. *Clause 3* obliges each person to whom the Bill, on its enactment will apply, to use and where necessary keep as a back-up, an approved Fiscal Electronic Device at each point of sale on that person’s premises. A penalty for not using the approved Fiscal Electronic Device is provided for in *subclause (4)*. Subject to *clause 37*, the approved Fiscal Electronic Device is to be purchased by a person obliged to use it from a supplier licensed by the Authority. However, each taxable person existing prior to the commencement of the Bill will be assigned Fiscal Electronic Devices up to a maximum of five. Despite these provisions where additional Fiscal Electronic Devices are required by persons who fall within the specified category, the additional cost of purchase and installation of the Fiscal Electronic Devices shall be borne by those persons.

The Fiscal Electronic Device is to be installed by a licensed supplier at a conspicuous sales location on the premises of that person. The licensed supplier is required to train the taxable person on the appropriate use of the Fiscal Electronic Device before activating the installed Device.

Clause 4 deals with the activation of a Fiscal Electronic Device. An approved Fiscal Electronic Device assigned to a taxable person is to be activated after the taxable person has submitted to the supplier, the certified copy of the Value Added Tax certificate issued by the Authority to that person, for purposes of verification, registration and activation of the device. The supplier, on receipt of the certified copy of the Value Added Tax certificate, is to advise the Authority to activate the Fiscal Electronic Device by connecting the device to a web portal set up for that purpose by the Authority. A Fiscal Electronic Device will be activated if the name of the person, the Taxpayer Identification Number of that person

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and the serial number of that Device is authenticated on the web portal of the Authority.

The obligation of the taxable person to put a Fiscal Electronic Device to appropriate use is dealt with under *clause 5*. A taxable person to whom a Fiscal Electronic Device has been assigned is under obligation to exercise care in the use of the device, obtain a user manual for the device from the supplier, keep that manual and use the Device in accordance with the user manual and other instructions given for its use. The taxable person is also required to display at a conspicuous place on the premises from where that person undertakes business, a decal issued by the Authority and make the Fiscal Electronic Device available for inspection by an authorised officer from the Authority.

Clause 6 obliges a taxable person to use a Fiscal Electronic Device for subsequent transactions from the moment the Fiscal Electronic Device is activated and is required to issue a fiscal receipt to each customer. A penalty is provided for a failure to issue a fiscal receipt. The taxable person satisfies the requirement under section 41 of the Value Added Tax Act, 2013 (Act 870) which requires that taxable person to issue a sales receipt, if that taxable person issues a fiscal receipt in accordance with the provisions of the Bill. The taxable person is to ensure that the fiscal receipt contents conform to the format as specified in of the Second Schedule.

Clause 7 of the Bill obliges a taxable person to keep records including the print out of a summary sales report generated by the Fiscal Electronic Device and records on transaction details accessible in read only mode.

Clause 8 deals with defective or malfunctioning Fiscal Electronic Device. This provision requires a taxable person, for whom a Fiscal Electronic Device has been installed for use, to report any malfunction or defect in the Device to the supplier and the Commissioner-General concurrently within one hour after realising the malfunction or defect. A person who makes a report under this *clause* is required where applicable to activate a back-up fiscal electronic device and where a back-up Device is not operational, to issue a Commissioner-General's invoice to a

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customer for each transaction engaged in after detection of the defect or malfunctioning of the device while awaiting rectification of the defective or repair of the malfunctioning Fiscal Electronic Device or a replacement of that Device. The supplier is also required to rectify the defect or repair the malfunctioning Fiscal Electronic Device within twenty-four hours after the supplier has received the report. A penalty is provided for a contravention of *subclause (4)*.

Clause 9 requires a taxable person to keep an Inspection Booklet in respect of the Fiscal Electronic Device into which the taxable person is to record the time the malfunction of the Fiscal Electronic Device was detected, the time at which the person made a report of the defect or malfunction to the supplier and the Commissioner-General and a description of the defect or malfunction recorded. The taxable person is also to record the name and designation of each person who made a report of the malfunction of a Fiscal Electronic Device, findings made by a supplier or an approved technician upon inspection of the Fiscal Electronic Device, and the status of the Fiscal Electronic Device including whether or not the Fiscal Electronic Device was repaired or replaced.

Clause 10 deals with errors in the issuing of a fiscal receipt. Where a taxable person or an employee of that taxable person makes an error in the course of issuing a fiscal receipt to a customer for a transaction, the taxable person is to keep the receipt on which the error was made or cause that receipt to be printed for reconciliation by the Commissioner-General when filing monthly returns.

Where a taxable person operates a policy of allowing customers to return goods purchased from that taxable person for refund of the money paid, the taxable person shall, on return of purchased goods, issue to the customer a certified refund receipt in accordance with the instructions of the Commissioner-General, *clause 11*.

Clause 12 deals with de-registration of a taxable person. A taxable person who is de-registered by the Authority for a stated reason is to submit the Fiscal Electronic Device assigned to that person, to the supplier within five days from the date of deregistration for de-activation and reconfiguration. The supplier, on receipt of the Fiscal Electronic Device,

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is to revalue the Fiscal Electronic Device and advise the Authority on the status of the device before reassigning that device to another person.

Clause 13 requires a taxable person to report the truncation of a Fiscal Electronic Device as a result of the Device being stolen or being disabled through any other means, to the Ghana Revenue Authority and the Police Service.

Clause 14 obliges the Ghana Revenue Authority to extract records maintained in the internal memory of a Fiscal Electronic Device in specified circumstances and to keep the records for at least six years. The circumstances include where the Fiscal Electronic Device is de-activated by the Authority, where the Fiscal Electronic Device has reached its maximum operational capacity or where the Fiscal Electronic Device is rendered un-operational.

Clause 15 obliges the taxable person to whom a Fiscal Electronic Device is assigned, to report any change in the location of the business of that person and change in other particulars of that taxable person to the Commissioner-General in accordance with section 18 of the Value Added Tax Act, 2013 (Act 870).

Clauses 16 to 24 deal with the supply of Fiscal Electronic Device. *Clause 16* prohibits the supply of a Fiscal Electronic Device for use by another person where the supplier is not licensed by the Authority. A penalty is provided for a contravention of this *clause*.

Clause 17 specifies the qualifications required of an applicant for licensing as a supplier of a Fiscal Electronic Device. The qualifications are specified in the Third Schedule and include Ghanaian nationality, having a service and maintenance network with requisite trained technicians to support the supplies, the ability to acquire adequate spare parts to support the operations of the Fiscal Electronic Device and experience in a related business of supplying similar electronic devices. The applicant must also have the financial capability to obtain at least five thousand Fiscal Electronic Devices from the approved Fiscal Electronic Device manufacturer for supply. In addition, the supplier must be able to provide to the Authority, samples of the Fiscal Electronic Device to be supplied, and an assurance in the form of a guarantee that samples of the Fiscal Electronic Devices imported for supply will be made available to the Fiscal Electronic Device Technical Committee for

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purposes of comparing the imported devices with the prototype Fiscal Electronic Device submitted by that supplier to the Authority.

Clause 18 deals with application for a licence as a Fiscal Electronic Device supplier. A person who intends to be licensed as a supplier of a Fiscal Electronic Device has to apply to the Authority for a licence in the manner determined by the Board. The application must be submitted with the prescribed fee. The application is to be submitted to the Commissioner-General, and the Commissioner-General is to acknowledge receipt of the application not later than fourteen days after receipt of the application. The Authority is to consider the application and grant or refuse the licence within sixty days from the date of acknowledging receipt of the applications. The Authority is to inform the applicant in writing about the decision, and where the application is refused, the Authority must state the reasons for the refusal. The Authority may also request the applicant to provide further information and may for that purpose extend the period for the grant of the licence.

Clause 19 empowers the Authority to issue a licence to an applicant to purchase, supply, install and repair Fiscal Electronic Devices if the applicant satisfies the qualification and conditions required for the issue of a licence. The Authority is equally empowered to refuse an application for a licence on grounds of public interest or public safety and order and the Authority is required to inform the applicant of its decision and the reasons for the decision. The Minister is also empowered to prescribe by Regulations, the maximum number of suppliers that may be licensed by the Authority.

Clause 20 deals with the obligations of the licensed supplier. The licensed supplier is to comply with procedure prescribed by the Authority for the purchase, supply, installation, activation and repair or replacement of a Fiscal Electronic Device and to file a report in relation to that procedure in a manner prescribed by the Authority, *subclause (1)*. The licensed supplier is also required, in *subclause (2)*, to keep record of all distributor companies the licensed supplier deals with and to notify the Authority of the distributor network. The licensed supplier is to specify

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in the report mentioned in *subclause (1)*, among other things, the date of supply of the Fiscal Electronic Device; the serial number of the Fiscal Electronic Device, the manufacturer, the person to whom the Fiscal Electronic Device is assigned and the location of the Fiscal Electronic Device. The obligations of a distributor company under the provisions of this Bill are the same as that of the licensed supplier, where a licensed supplier works through a network of distributors, *subclause (3)*.

Under *clause 21*, the Authority is mandated to ensure that a technical inspection of Fiscal Electronic Devices is carried out on half yearly basis by the suppliers. The licensed supplier is to conduct a technical inspection on a Fiscal Electronic Device at the request of a taxable person to whom the Fiscal Electronic Device is assigned. The licensed supplier is to submit a monthly report on technical inspections conducted in the month to which the report relates, to the Authority. The licensed supplier is to, among other things specify in the report, cases of malfunction of Fiscal Electronic Devices, and routine maintenance, repairs and replacements related to each Fiscal Electronic Device. The period of validity of a Fiscal Electronic Device supplier's licence is three years and is renewable annually, *clause 22*.

Clause 23 requires the supplier of Fiscal Electronic Devices to apply for a renewal of the licence one month before the expiration of the licence.

Clause 24 allows the Authority to revoke the licence of a supplier if that supplier fails to comply with any of the obligations specified in *clauses 20 and 21*.

Clauses 25 and 26 makes provision for the Fiscal Electronic Device Manufacturer. *Clause 25* specifies the qualification of a manufacturer of Fiscal Electronic Device. *Clause 26* provides for the selection of a manufacturer of the Fiscal Electronic Devices by the Authority in accordance with the Public Procurement Act, 2003 (Act 663).

Clause 27 and 28 is on the provision of communication service. *Clause 27* enables the Authority to enter into an agreement with a service provider for the provision of communication services between the installed Fiscal

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Electronic Devices and the Fiscal Electronic Data Management System or backend system of the Authority.

Clause 28 sets out the obligations of a communication service provider. These obligations include ensuring that the service provided by that communication service provider accords with the terms agreed on between that service provider and the Authority, providing a dedicated and uninterrupted transmission service between each installed Fiscal Electronic Device and the Fiscal Electronic Device Data Management System or backend system of the Authority. The communication service provider is also to notify the Authority of planned maintenance, at least forty-eight hours before commencing that maintenance, immediately notify the Authority of any disruption in the transmission network and submit a monthly report of active Fiscal Electronic Devices on its network, to the Authority. Furthermore, a service provider is to restore a service within twenty-four hours after a break in transmission, if the break in transmission is attributable to a failure on the part of a service provider. The service provider is to restrict the use of a Subscriber Identity Module card to use by the Fiscal Electronic Device only, if a Fiscal Electronic Device requires the use of a Subscriber Identity Module card.

Miscellaneous provisions are dealt with in *clauses 29 to 38*. *Clause 29* empowers the Board to constitute a Fiscal Electronic Device Technical Committee that includes persons drawn from institutions mentioned in the Fifth Schedule. *Clause 30* requires a person, who makes a purchase from a taxpayer under the Bill, to collect the fiscal receipt for the purchase and ensure that the sum paid for the purchase is correctly reflected on the receipt.

Clause 31 allows the Authority in collaboration with the National Lottery Authority to organise a lottery using the fiscal receipt number on fiscal receipts issued to customers. The lottery is aimed at encouraging customers to collect their receipts after a purchase. *Clause 32* empowers the Commissioner-General to give administrative directives for the implementation of provisions in the Bill and in particular, to determine

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other obligations of a person to whom a Fiscal Electronic Device is assigned. *Clause 33* deals with the offence of tampering with a Fiscal Electronic Device or deliberately causing damage to a Fiscal Electronic Device. In addition to the penalty imposed for an offence of tampering, the Authority may for the tax loss occasioned by the contravention impose an administrative penalty of not more than the Cedi equivalent of six thousand currency points on the person responsible for the contravention.

Clause 34 empowers the Authority to compound offences committed under provisions in the Bill in accordance with section 86 of the Revenue Administration Act, 2016 (Act 915).

Clause 35 empowers the Minister for Finance to make Regulations on the recommendation of the Board for the efficient and effective implementation of the provisions of the Bill and in particular, to amend the Schedules with the exception of the Sixth Schedule.

Clause 36 deals with interpretation and specifies the meaning to be attached to words and expressions used in the Bill.

Clause 37 deals with consequential amendments as a result of the coming into force of the Act.

Clause 38 provides for transitional provisions and states that despite the fact that a taxable person is required to purchase a Fiscal Electronic Device for use, the Authority is to assign approved Fiscal Electronic Devices to persons who are registered taxpayers on the date of commencement of provisions of the Bill, for their use at the expense of the Authority. The Authority is to assign Fiscal Electronic Devices to persons mentioned in the preceding paragraphs within two years after the date of commencement of the Act.

Provision is further made for a person, who is authorised by the Commissioner-General in accordance with regulation 26 of the Value

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Added Tax Regulations, 2016 (L. I. 2243), to operate a retail scheme to cease to operate that retail scheme from the date of commencement of provisions of the Act.

Clause 39 is on commencement of provisions of the Act and with the exception of that *clause*, commencement date for all other clauses is to be determined by the Minister responsible for Finance by a Notice published in the *Gazette* and in at least two daily newspapers of national circulation.

MR. KEN OFORI-ATTA
Minister for Finance

Date: 6th October, 2017.