



Ghana

Overview of legal system

- Ghana is a stable and mature democracy with a rapidly expanding economy
- GDP Annual Growth Rate in Ghana averaged 6.68% from 2000 until 2018
- Ghana has a large amount of natural resource wealth with strong cocoa and gold production, a thriving construction and transport industry and increasing oil revenues
- Foreign direct investment of over \$3 billion a year – examples include
 - » The purchase of an 85% share in the 21,000m² Accra Mall by Atterbury Property Group (South Africa) for \$65 million
 - » Rashtriya Chemicals and Fertilisers investment of \$1.5 billion to set up a urea and ammonium nitrate plant
 - » The \$2 billion construction of an industrial park by Huasheng Jiangquan Group
 - » \$32 billion in financial assistance from Japan to invest in infrastructure, human and mineral resource development
 - » A \$9 billion deal with China Exim Bank for road, railway and dam projects
 - » A US\$700 million Sankofa Gas Project by Eni and Vitol together with Ghana National Petroleum Corporation
- The total investments in the mining sector within the past 10 years have been in excess of US\$10 billion.

Membership of regional and international treaties and organisations

- Economic Community of West African States (ECOWAS)
- The World Trade Organization (WTO)
- ACP-EU Partnership Agreement
- The African Union
- Intergovernmental Group of Twenty-Four on International Monetary Affairs and Development

Legal environment

- The 1992 Constitution of Ghana lays the foundation for fundamental political principles, the structure of the judiciary and legislation, and iterates the fundamental rights and duties of its citizens.
- Common law based on judicial precedents and Customary law
- Has not accepted compulsory ICJ jurisdiction

Ghana Investment Promotion Centre (GIPC)

- Provides for the investment and participation of non-Ghanaians in the marketplace by formulating investment plans, enhancing the investment environment, and disseminating information about investment opportunities
- Mining and petroleum are governed by specific laws- Minerals and Mining Act provides for 10% free carried interest for the government in mineral rights
- Foreign investment requires minimum equity participation of funds or equivalent in capital goods:
 - » Joint ventures: not less than US\$ 200,000 with a Ghanaian having not less than 10% equity participation
 - » 100% foreign-owned investment: not less than US\$ 500,000
 - » Foreign owned trading enterprise: not less than US\$ 1 million with at least 20 skilled Ghanaians employed
- Minimum foreign capital requirement does not apply to:
 - » Portfolio investment
 - » Export trading and manufacturing enterprise
- Provide investors with information regarding incentives such as immigration quota, personal remittances of wages and free transferability of dividends and profits
- Register, monitor and keep records of all enterprises in Ghana and all technology transfer agreements

Business entities

- Unincorporated businesses, incorporated partnerships and statutory corporations
- Company limited by shares or guarantee
- There are few unlimited companies and they are mostly law firms
- External company- incorporated bodies formed outside Ghana that seek to operate in Ghana
- Companies that export more than 70% of their products may enjoy benefits under the Free Zone Act including exemption from duties on imports and exports, a 10-year tax holiday, post-holiday rate of 8%, foreign employees exempt from paying income tax on income earned in the Free Zone

Taxation

- Corporate tax rate – 25% (unlisted companies), 22% (listed Ghana Stock Exchange)
- Companies engaged in non-traditional exports charged at rate of 8%
- Companies engaged in petroleum operations subject to 50% income tax
- Companies engaged in mineral operations subject to a 35% income tax on profits from mineral operations
- Manufacturing companies in regional capitals subject to a rate of 75% of the relevant rate of tax
- Capital gains tax – 15% on realisation of chargeable assets
- Salaries – taxed on a sliding scale of 5-25% for residents and a flat rate of 25% for non-residents
- Royalties payments for private parties carrying on mining activities are revenue based – fixed at 5% of total revenue obtained from mining operations
- Dividends and interest – 8% withholding tax
- Royalties, natural resource payments and rent – 15% withholding tax
- VAT – 12.5%
- A 10% windfall tax levy on mining companies was announced in 2012, but is yet to be passed into law
- Thin-capitalisation rules do NOT apply
- Transfer pricing rules require justifiable interest rates
- Double-taxation treaties (Belgium, France, Germany, Italy, Netherlands, South Africa, Switzerland, United Kingdom, Denmark, Mauritius and the Czech Republic)

Exchange controls

- Floating exchange rate system with no exchange rate controls at transactional level
- Banks report foreign currency transactions to central bank
- Individuals may operate foreign currency account with banks in Ghana
- Investments under the GIPC Act are assured of unconditional transferability of personal remittances of wages through authorised dealer banks and free transferability of dividends and profits
- Import of funds for mining activities is subject to the foreign exchange laws of Ghana and the holder of mineral rights is required to transact through entities authorised to deal in foreign exchange, such as the banks. A holder of a mining lease is permitted to retain not less than 25% of net earnings in foreign exchange in an external account for acquiring machinery and equipment, spare parts and raw materials as well as for debt servicing, dividend payment and remittance in respect of quotas for expatriate personnel.
- A holder of a mining lease is guaranteed free transferability, through the Central Bank of Ghana, or in the case of a net foreign exchange earning holder through the external account, in convertible currency of dividends or net profits attributable to the investments of such convertible currency payments in respect of a loan servicing where a foreign loan has been obtained by the holder for his or her mining operations and the remittance of foreign capital in the event of sale or liquidation of the mining operations or any interest therein attributable to foreign investment.

Choice of law and dispute resolution

- A judgment obtained in a foreign jurisdiction may only be enforced against a Ghanaian citizen if there is an agreement. In every other case, judgments are enforced only by retrial
- Signatory of the New York Convention on the Recognition and Enforcement of Arbitration Awards
- Signatory to the Multilateral Investment Guarantee Agency (MIGA) and the International Centre for Settlement of Investment Disputes (ICSID).

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