



REVENUE MOBILISATION SUPPORT (RMS) GHANA

THE TAX CULTURE OF GHANA

A RESEARCH REPORT PREPARED FOR THE
REVENUE MOBILISATION SUPPORT (RMS)

Draft Final Report

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LIST OF ABBREVIATIONS

ADR	Alternative Dispute Resolution
CI	Constitutional Instrument
CID	Criminal Investigations Department
CIM	Centre for International Migration and Development
CDD	Center for Democratic Development
CEPA	Centre for Policy Analysis
CEPS	Customs, Excise and Preventive Services
CIBA	Council on Indigenous Business Associations
GDP	Gross Domestic Product
GGP	Good Governance Programme
GLR	Ghana Law Report
GPRS	Ghana Poverty Reduction Strategy
GPRTU	Ghana Private Road Transport Union
GTZ	German Technical Cooperation
HIPC	Highly Indebted Poor Country
IRS	Internal Revenue Service
KNUST	Kwame Nkrumah University of Science and Technology
LRC	Legal Resources Centre
LTU	Large Taxpayers Unit
NDPC	National Development Planning Commission
NGO	Non Governmental Organization
NGP	National Governance Programme
NHC	National House of Chiefs
NHIL	National Health Insurance Levy
PAYE	Pay As You Earn
PNDC	Provisional National Defence Council
PNDCL	Provisional National Defence Council Law
PRAAD	Public Records and Archival Administration Department
RAGB	Revenue Agencies Governing Board
RMS	Revenue Mobilisation Support
SAP	Structural Adjustment Programme
SC	Supreme Court
UNDP	United Nations Development Programme
VAT	Value Added Tax
WACA	West African Court of Appeal

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1. EXECUTIVE SUMMARY

The development of a nation depends largely on taxation and without adequate revenue, development efforts will be hampered. Thus, the Ghana Poverty Reduction Strategy (GPRS) seeks to address “Resource Mobilization” as a main agenda item for achieving macroeconomic stability. Issues of taxation have the added potential to shape the political participation of citizens. Yet it appears that, much as Ghanaians would like to pay taxes, the system of taxation constrains and discourages them from doing so.

In Ghana, people are generally critical and careful about taxation for three historical reasons. First, the payment of taxes has come to be evidence of subordinate status. Vassal states in pre-colonial Ghana paid taxes to their overlord states which would have previously conquered them and colonial subjects paid taxes to the colonial government to foot the bill of the colonial enterprise. Secondly, tax issues have historically provided fodder for political mobilization. Good examples are the political mobilization by pro-independence movements that surrounded the imposition of the Poll Tax in the mid-nineteenth century. A more recent example is the political mobilization by opposition forces around the introduction of Value Added Tax (VAT) in Ghana in 1995. Lastly, a history of overt corruption and opulence by politicians, presumably living off tax payers’ monies has meant that many question the use to which taxes are put.

For these and other reasons, it is critical not to divorce a system of taxation, or even taxation as a technical process, from the broader historical, political, economic, social and cultural context of which it is a part. In other words, it is important to consider the tax culture of Ghana. This research project, sponsored by the German Technical Cooperation (GTZ), aims to assess the tax culture of Ghanaians and make recommendations for improving same. The exciting and valuable thing about this research project is the attempt to interconnect issues of Taxation, Good Governance, and Legal Pluralism. In this light, the study also aims to examine the role of traditional authority in ensuring voluntary tax compliance, tax mobilization and assisting with dispute resolution of tax matters.

The underlying assumption of this research project is that a tax system which is structured with an understanding of the history and culture of the community to which it applies will have a better chance of maximizing efficiency and equity in the processes of raising revenue. This way we can hopefully improve tax revenues whilst ensuring an efficient, effective, transparent and clean tax administration that meets the needs of the tax payer.

Until now, no studies have been conducted into the historical and cultural context of taxation within Ghana. It is generally assumed that the majority of Ghanaians are tax averse. Yet, this is precisely an assumption. This project seeks to fill this void by conducting the first tax culture study for Ghana, establish a definition of tax culture for Ghana, provide a measurement of Ghana’s tax culture, convey a number of findings on the elements that constitute Ghana’s tax culture and make a number of recommendations for improving Ghana’s tax culture.

We tested the assumptions about Ghana’s tax culture by talking to chiefs and the Ghanaian public, women and men and from the formal and informal sector. In all 29 chiefs (including 3 Queenmothers and 7 Registrars of Houses of Chiefs) and 1002 individual Ghanaian tax payers were interviewed.

In July 2005, we made a presentation of the preliminary findings of the research project to the National House of Chiefs in Kumasi and received useful feedback from the chiefs. This has been incorporated into this report.

A country-specific tax culture is the entirety of all relevant formal and informal institutions connected with the national tax system and its practical execution, which are historically embedded within the country's culture, including the dependencies and ties caused by their ongoing interaction. It is not only the tax system and the actual tax practice that form part of a country's "tax culture", but also the relationship between the tax authorities and the tax payers. The concept of tax culture is broader than the concepts of "culture of taxation" and "tax paying culture". Tax culture encompasses the science of taxation: taxation as crafted by politicians and tax experts and economists and as administered by tax men, but also the art of taxation: the common understanding and experience of taxation by the tax payer. In our opinion, tax culture is the way of life of a people as it pertains to tax.

From the elements of tax culture listed above, it becomes evident that to understand a specific country's tax culture requires a lot of research effort. This is because a lot of actors, institutions, procedures and processes and their interaction have to be studied to determine the tax culture of a country. It is therefore difficult to measure. This is because it includes many and varied attributes; historical, cultural, social, economic, political, psychological, geographical.

In Ghana, a good starting point for the measurement of tax culture is the popular assumption that Ghanaians are tax averse. We found this statement to be too simplistic as a description of Ghana's tax culture. We found that a less than optimal state of the elements of Ghana's tax culture accounts for the reluctance of many Ghanaians to pay tax. We also found that if these are improved, Ghanaians will be more than willing to pay taxes. Thus, a synthesis of all the elements of the tax culture of Ghanaians should provide an accurate assessment of Ghana's tax culture and point to ways of improving it.

The first element of Ghana's tax culture is her tax history. Historically, and before colonial rule, the chieftaincy institution was the pivot of the whole society. The chief run departments, including the Native Treasury, which had the mandate to mobilize resources. Taxes could be in cash or kind; varied from one person to another and one community to the other; were negotiable etc. With the advent of colonialism, the system of governance which existed before was severely mutilated. All the departments of the pre-colonial chieftaincy system, including the Native Treasury, were abolished and crude methods of revenue generation aimed primarily at meeting colonial budget targets were seriously implemented with the active involvement of any chief the colonialists could find or create. After independence in 1957, the government of Ghana began an accelerated socio-economic development plan and so there was the urgent need for the government to raise enough tax revenue to finance the programme. However, attempts at revenue mobilization were hampered by factors such as the existence of over 300 state enterprises which had monopolized business activities in critical sectors of the economy, but had been exempted from paying tax on their profits by the Statutes that established them. There were also high tax rates that had become punitive and therefore encouraged considerable evasion. There were many small and medium scale enterprises and self-employed professionals who were not registered and

did not pay taxes at all, and of course, a large informal sector from which it was difficult to extract taxes. The final dressing was a weak system of tax administration. The most important tax bases for revenue generation, therefore, was confined to the profits of a relatively small highly organized formal sector, usually multinationals and the wages and salaries of the civil service. Thus, tax revenues were inadequate for the developmentalist agenda of the government. In 1983, Ghana adopted the Structural Adjustment Programme (SAP), which saw a major shake-up in Ghana's tax administration in 1986 and the enhancement of revenue generation. Today, issues related to broadening the tax base – to include, particularly, a burgeoning informal sector and ensuring voluntary tax compliance – still persist.

The second element of Ghana's tax culture is the tax laws. There is a firm constitutional basis for transparency and for customer satisfaction in tax administration. These are contained in the human rights chapter of the Constitution of Ghana and in other tax laws. But only a few tax cases are heard in the courts. The relatively high cost of litigation, delays in the court system and the reluctance of Ghanaians to litigate with the government account for this.

Another element of Ghana's tax culture is tax information. This is very limited at different levels. First there is limited information about tax laws and the tax liability of individuals and firms. Next, there is limited information on tax reliefs, and finally there is limited information on the uses to which tax revenues are put. There is generally very little information about tax in the public domain. People are unable to distinguish between different types of taxes and between taxes and other forms of revenue generation, such as fees. Others even conflate taxes with payments for refuse and garbage services; and local level and national level taxation are all seen as the same. Ghanaians have a lot of questions for the tax administration.

Yet another element of Ghana's tax culture is tax education. Most people, especially in the informal sector, do not know much about the tax system and the filing and payment processes. This calls for tax education, not just tax information. "Taxation without Education is Hallucination". And the absence of education is fodder for misinformation. "The level of tax education and awareness is insufficient. This is reflected in the low level of voluntary compliance by tax payers and reluctance to file returns."¹

The fifth element of Ghana's tax culture is tax mobilization. The key problems with tax mobilization in Ghana appear to be poor revenue collection mechanisms. There are no proper databases of taxable persons, property or other possessions. It is therefore very difficult to mobilize taxes from without the formal sector. There are therefore serious shortfalls in tax mobilization in Ghana. The mode of collection of taxes is also not always the best and the rapport between the tax man and the tax payer in this important area of interaction could be greatly improved.

Tax transparency is one other important facet of Ghana's tax culture. This is also directly related to people's willingness to pay taxes and hence the amount of taxes that may be mobilized. Ghanaians are used to heavy taxation. The evidence is that Ghanaians have in the course of history voluntarily paid taxes for purposes that are clearly for the common good and for

¹ Ghana Revenue Agencies Reform Project-Consultancy Assignment Revenue Agency Reform". Prepared by Richard Kwame Asante of Kwame Asante & Associates, June 2000, P.10.

identifiably worthy causes. The various mass anti-tax demonstrations that we have experienced in Ghana were reactions to more systemic dissatisfaction with the systems of governance in the country. The Poll Tax demonstrations were a proxy for the broader campaign against taxation without representation (and the use of tax revenues to finance foreign colonial enterprises) and the VAT demonstrations were a proxy for a broader campaign against harsh economic conditions.

The seventh element of Ghana's tax culture is tax delinquency. Our research has revealed that Ghanaians evade taxes when they can. We also found that Ghanaians can be very tax loving given a well administered, transparent and userfriendly tax system.

Next is tax dispute resolution. The laws of Ghana promote Alternate Dispute Resolution (ADR). Most Ghanaians would want to see tax disputes resolved through this means and a good number of them would like to have chiefs involved in the resolution of tax disputes. An overwhelming majority of chief respondents said that the chieftaincy institution had the fundamental competence and capacity to resolve tax disputes.

On the ninth element of Ghana's tax culture – tax payer satisfaction – we found that with the current tax system, Ghanaians literally hate the tax man and hate paying taxes. So many reasons were given for popular dissatisfaction with the tax system: tax payers do not know what tax monies are used for; government officials who live off tax revenues are corrupt and wasteful; the tax burden is too high; income levels are too low; there is little transparency in the way tax is imposed and collected; there is no way of telling whether or not tax revenues are used judiciously; and so on. Most of the issues relating to tax payer satisfaction are directly related to the services provided by revenue agencies.

The last element is the role of traditional authorities in improving the tax culture of Ghanaians. Although a few respondents cautioned that chiefs should not be involved at all in taxation because they are corrupt and because of lowering levels of allegiance for chiefs by the citizenry, it is very safe to conclude, given the role of chiefs in the development of this country, that improving the tax culture of Ghanaians will fail unless the chiefs are involved in the exercise.

There are three other factors that we must note in order to get a full sense of Ghana's tax culture. In Ghana, a wide perception of corruption on the part of public officials who are paid with tax payers' money is a huge component of Ghana's tax culture. Secondly, a great percentage of Ghana's Christian population (which approaches 70% of the population) regularly pay tithes of at least 10% of all earnings and other contributions to their churches, and do so gladly. We need to learn from the churches the pre-requisites and determinants of revenue mobilization. Lastly, it is important to note that there are slight regional variations in the tax culture of Ghana. In the Northern region, many more people in the informal sector (relative to the other regions) do not pay income taxes or are not up to date with their tax obligations. In the Ashanti region the picture is the opposite.

It is critical that steps are taken to improve the tax culture of Ghanaians. The recommendations outlined below are aimed at improving the tax culture of Ghanaians:

1. There is the need to increase the number and/or competence or capacity of the personnel employed to collect taxes. This is especially so for the huge informal sector that is a part of

Ghana's tax paying public. Tax men should also be well remunerated and their social status improved. Some have suggested that the chief taxman should have a position equivalent to that of a minister of state. At the micro level, the use of respectable professionals in aid of tax collection, at least some of the time, and other such measures will greatly improve the status of the tax man. In this regard, it is not completely objectionable to have chiefs do actual tax collection some of the time in order to improve the status of the taxman at the local level. This way, the respect that most Ghanaians still have for their chiefs will rub off on the tax men and hopefully remain. Further, this will be a practical exercise through which chiefs will have a fair sense of tax mobilization issues to better act as mediators in tax disputes and to better protect the rights of their citizens vis-à-vis the tax administration.

2. There is overwhelming evidence that tax information and tax education are lacking even to the fairly sophisticated. This can be improved through publicity and tax education.
3. Next to tax information and tax education is tax transparency. Here the key concerns relate to ensuring information flow from tax administrators to tax payers and achieving accountability for tax revenues collected. The way in which tax is imposed, collected and used by the state mirrors the governance of a state. Above all, the tax payers perception of how tax is generated and used directly impacts tax morality, tax compliance and tax revenue levels.
4. Ghana's tax culture is peculiar to Ghana. This means that Ghana's tax laws, to be effective, must be peculiar to Ghana to some extent. Culturally friendly rules do not have to occasion a legislative change at the Parliamentary level. These could be done as rules and regulations or as administrative instructions issuing from the Ministry of Finance or the revenue agencies.
5. Using the regular courts for tax dispute resolution does not seem to be very popular with Ghanaians. In the light of this, it is proposed to strengthen the dispute resolution mechanisms within the revenue agencies to make them easily accessible, fast and effective at resolving tax disputes. It is also proposed to enhance the dispute resolution roles of the chiefs to cover local tax disputes. It is also possible to maintain a roster of chiefs who may act as mediators in tax disputes at the pre-trial stage in those tax disputes that make their way to the court.
6. Tax payer satisfaction is also a crucial factor for the public perception of tax administration. The ways in which tax administrators execute their mandate could also discourage Ghanaians from meeting their tax obligations.
7. There is potential for bringing good practices in the traditional modes of resource mobilization to bear on taxation and tax administration in Ghana. Chiefs can encourage their citizens to pay tax, disseminate tax information, do tax education, do symbolic tax collection, resolve tax disputes, protect their citizenry from the excesses of tax men and ensure that tax revenues are properly used.
8. Finally, consultations should be held with the following key institutions before the recommendations in this report are finalized:
 - a. The Ministry of Finance
 - b. The Internal Revenue Service (IRS)
 - c. The Customs Excise and Preventive Service (CEPS)
 - d. The VAT Service;
 - e. The Revenue Agencies Governing Board (RAGB)
 - f. Ministry of Local Government and Rural Development and Select District Assemblies
 - g. The National House of Chiefs
 - h. Interested Members of the General Public, Civil Society Groups and the Media.

The consultations with the first seven groups should be a one-day seminar at which the research methodology and process, findings, and recommendations are presented for a thorough discussion. This way the expertise of these institutions and their personnel will be brought directly to bear on the findings and the recommendations. Also, the recommendations can be turned into action plans which contain what is doable according to the key stakeholders. The last consultation should be centered around broader and strategic questions such as the involvement of chiefs in taxation.

2. INTRODUCTION

2.1 WHAT IS THIS RESEARCH PROJECT ON TAX CULTURE ABOUT?

“Question: What do you understand by tax?”

Answer: You spend your time working and somebody thinks you do not deserve it and because he has power over you he takes some from it.”

“Question: Why would you not want to pay tax?”

Answer: I actually feel pains in my body when I pay tax”

Taxation is important and we should pay taxes. The development of a nation depends largely on taxation and without adequate revenue, development efforts will be hampered. In the 2006 budget statement, tax revenue from the IRS, CEPS and VAT Service alone is projected to be ₵24,186.7 billion, that is, 21.5 per cent of GDP.²

Issues of taxation have the added potential to shape the political participation of citizens. This is because citizens ordinarily engage with politicians and bureaucrats to discuss, agree on and operationalize rules and systems for the size, scope and mobilization of taxes for financing public institutions and development projects. These discussions necessarily include which institutions and which development projects should be financed by the tax payers' money.

Yet as the above quotation from some of our interviewees show, not everybody is comfortable with paying taxes or at the very least with the system of taxation that is currently in operation in Ghana.

In Ghana, people are generally critical and careful about taxation for three historical reasons. First, the payment of taxes has come to be evidence of subordinate status. Vassal states in pre-colonial Ghana paid taxes to their overlord states which would have previously conquered them and colonial subjects paid taxes to the colonial government to foot the bill of the colonial enterprise. Secondly, tax issues have historically provided fodder for political mobilization. Good examples are the political mobilization by pro-independence movements that surrounded the imposition of the Poll Tax in the mid-nineteenth century. A more recent example is the political mobilization by opposition forces around the introduction of VAT in Ghana in 1995. In both cases, the broader demands for independence and for less onerous living standard (in the case of the 1995 events) were conveyed to the government and the national and international public through the proxy of an “oppressive” tax regime. Lastly, a history of overt corruption and opulence by politicians, presumably living off tax payers' monies has meant that many question the use to which taxes are put.

For all of the above reasons, it is critical not to divorce a system of taxation, or even taxation as a technical process, from the broader political, economic and social context of which it is a critical component. In other words, we should not seek to transform our system of taxation to one that is equitable, better governed, transparent and covers a wider net without considering the “tax culture” of Ghanaians.

² Edmund Kofi Yeboah, “Tax Amnesty for All.” Daily Graphic, Thursday, January 12, 2006, p. 1, 3.

This research project, sponsored by GTZ (German Development Cooperation), aims to assess the tax culture of Ghanaians and make recommendations for improving same. The exciting and valuable thing about this research project is the attempt to interconnect issues of Taxation, Good Governance, and Legal Pluralism. These are popular themes in public discourse in Ghana today but they are often spoken of as different thematics. This research report links the themes of Taxation, Good Governance and Legal Pluralism in practical and concrete ways. All of this is cast in the light of historical institutionalism – an examination of the institutions of taxation, governance and traditional authority as they interacted through time.

GTZ is a German federal government-owned development agency, which promotes international cooperation aimed at contributing to sustainable development through the provision of technical assistance in partner countries. GTZ runs several programmes in Ghana, working in partnership with several government ministries and NGOs. GTZ's Revenue Mobilisation Support (RMS) has since March 2004 established a new project to improve efficiency and effectiveness of tax legislation and tax administration, as a way to encourage greater stability in public revenue flows. The GTZ-RMS focuses mainly on direct taxes in close cooperation with the (RAGB) and the IRS.

This research project on Tax Culture was initiated in order to solicit the opinions and expectations about the payment of tax in general, and thereby to establish the tax culture of Ghanaians. The study also aims to examine the role of traditional decision makers (chiefs, elders, etc) in ensuring voluntary tax compliance, tax mobilization and assisting with dispute resolution of tax matters. The GTZ-RMS therefore worked very closely with a team of consultants and researchers from the Legal Resources Centre to conduct research into the historical and cultural context of taxation in Ghana. This research is meant to provide a clearer understanding of the context in which modern systems of taxation operate. The overall aim is to bring this learning to bear on efforts at improving good governance in tax administration in Ghana. We hope, ultimately, to improve professionalism in Ghanaian tax officials on the one hand and voluntary tax compliance of tax payers on the other. The results of this study could assist in the development of an effective tax collection and tax administration policy.

The underlying assumption of this research project is that we can rationalize the efficiency of a tax system by examining the economic behaviour of communities to which the tax system applies. A tax system, which is structured with an understanding of the history and culture of the community to which it applies will have a better chance of maximizing efficiency and equity in the processes of raising revenue. This way we can hopefully improve tax revenues whilst ensuring an efficient, effective, transparent and clean tax administration that meets the needs of the tax payer.

2.2 THE RESEARCH PROJECT AND GHANA'S CURRENT POLITICAL, ECONOMIC AND SOCIAL CONTEXT

2.2.1 GOVERNMENT'S PROGRAMME ON TAXATION

In the last one and a half decades, tax reforms have been an important component of broader economic reforms in developing countries. The main objectives of these government initiatives

have been to increase public revenues by enlarging the tax base, improving tax mobilization techniques, introducing VAT, and attempting to improve the efficiency of tax administration by improving transparency and reducing corruption and tax evasion. While governments can do little in the short run to change the structural determinants of tax revenue (such as composition of value added), they can alter other factors that influence tax revenue, such as economic policies, the level of corruption, and the quality of tax administration. In many developing countries the wide divergence between the effective and statutory tax rates indicate that there is scope for raising tax revenue without increasing tax rates by reinforcing tax and customs administration, encouraging voluntary tax compliance, reducing and eliminating some tax exemptions, and fighting fraud and corruption.³

In African countries, experts have warned that tax reform efforts will continue to be modest due to the low levels of development and the heavily agricultural and informal character of their economies. Again, the fight against corruption needs to be undertaken on several fronts and can be costly. Furthermore, tax mobilization and reform can be achieved only when there is strong political will and leadership to adopt the necessary measures. As all countries across the world, African countries have introduced VAT because it is recognized as a modern and efficient way to collect the revenue needed for the country. The purpose of applying a single rate for VAT is to improve the efficiency of tax by facilitating its administrative management and by limiting the possibilities of evasion. A multiplicity of taxation rates would lead to important administrative and control costs that are beyond the tax administrative capacities of most African states. For the structure of taxation, the role of indirect taxation has become increasingly important in Africa, while that of the personal income and other direct taxes remains very low.⁴

Ghana is no exception. The GPRS seeks to address “Resource Mobilization” as a main agenda item for achieving macroeconomic stability. The GPRS, Ghana’s key development document today, further aims in part to achieve good governance by ensuring transparency and accountability in resource generation, allocation and management. It specifically identifies improvements in Fiscal Policy Formulation and Resource Mobilisation as two main areas for intervention. The broad objectives are to enhance the rule of law by increasing accountability and transparency in revenue collection by widening the tax base through efforts at reducing revenue leakages, reducing the incidents of tax avoidance and strengthening the capacity of revenue collecting institutions, and ensuring cost-recovery pricing.⁵

There are three revenue-collecting agencies: CEPS, VAT and IRS. In addition, there is a Non-Tax Revenue Unit in the Ministry of Finance and Economic Planning. Recently, a Revenue Agencies Governing Board has been established to co-ordinate the activities of the three revenue agencies. Together, the three agencies mobilize total national domestic revenue. Direct and indirect taxes increased from ¢ 918.2 billion and ¢1,352.8 billion respectively in 1999 to reach ¢2,790.1 billion and ¢3,757.2 respectively in 2002. In real terms, direct taxes increased consistently from 4.5%, as

³ Jorgen Levin, Jean K. Thisen, Optimal Commodity Taxation Efficiency and Equity Aspects. Paper Presented at Ad-Hoc Expert Group Meeting, Economic Commission for Africa, on Fiscal Policy and Growth in Africa: Fiscal Federalism, Decentralization, and the Incidents of Taxation, 7-9 October 2003, UNCC, Addis Ababa, p. 2

⁴ Ibid. P. 3ff.

⁵ National Development Planning Commission (NDPC) (2003) Ghana Poverty Reduction Strategy, 2003-2005- An Agenda for Growth and Prosperity, February 19, 2003. p. 61.

a percentage of Gross Domestic Product (GDP), in 1999 to 5.7% of GDP in 2002. Indirect taxes on the other hand showed the same trend accounting for 5.9% of GDP in 1992 and increasing to 7.7% of GDP in 2002. A poor performance was exhibited from international trade taxes over the period. In 1999, trade taxes amounting to ₵785.0 billion mainly driven by customs duties and export duty on cocoa, increased to ₵1,995.0 billion in 2002. This accounted for 3.8 percent of GDP in 2000 and thereafter increasing marginally to 4.1 percent in 2002. Total domestic tax revenue as a percentage of GDP increased from 14.8% of GDP in 1999 to 18.0% in 2002. This significant improvement resulted from the introduction of some revenue enhancing measures and improvement in tax administration in the country.⁶

Ghana's reliance on external development assistance to support budgetary implementation is still legendary. Despite the improvements in revenue generation, tax revenue has only been enough to finance between 50-60% of total budgetary expenditures. Tax revenue since the mid 1990s hardly exceeded 80% of total budgetary revenue, 70% of total domestic financed expenditures, and 57% of total expenditures.⁷ These are very high percentage rates, but much more could be done.

2.2.2 *GTZ'S CONTRIBUTION*

GTZ has since 2003 aimed to improve Good Governance in Ghana.

The Revenue Mobilisation Support (RMS) Project of the GTZ started in March 2004. It partly aims to improve internal revenue collection, necessary for a state to finance infrastructure and other public goods. In this regard, GTZ-RMS works with government to establish in Ghana an efficient, modern tax system that meets international standards. This will include working to ensure a modern tax system in which collection is based on transparent and contestable rules. To achieve this, GTZ-RMS is assisting to develop a comprehensive and customer-oriented tax payer information database in order to improve tax administration and institutional transparency. G also aims to improve the professionalism of Ghanaian tax officials and voluntary tax compliance of citizens and residents. Other issues of interest to GTZ relate to double taxation, the procedural law on taxation and the establishment of tax courts.

2.2.3 *THE TAX CULTURE RESEARCH PROJECT*

There is an inherent tension between the state and the citizen when it comes to tax matters. Although it is conceivable that citizens should be ready and willing to pay taxes, (which are used for public goods for the benefit of all), in reality, citizens often prefer a free rider's attitude and avoid taxation as much as possible. Voluntary tax compliance is therefore an issue. Flowing from the above, a responsible, democratic, and inclusive state must ensure that tax collection is based on transparent and contestable rules that are implemented in a fair manner, the better to ensure voluntary tax compliance. Transparency and accountability in the tax system are all the more crucial as the tax administration deals with money, with the attendant issues of unofficial

⁶ NGP (2004), The Funding of Key Governance Institutions in Ghana: Report of a Diagnostic Study. National Governance Programme, 6th National Governance Workshop.

⁷ CEPA (2005), Multi-Donor Direct Budget Support in Ghana: The Implications for Aid Delivery and Aid Effectiveness" (CEPA Centre for Policy Analysis Ghana Selected Economic Issues No. 11) 2005 at p. 3.

payments and corruption. Again, the way in which revenue is collected by the state mirrors its respect for citizen's rights.

A well functioning tax system can be a valuable instrument for fostering growth and development. The cultural approach to taxation seeks to rationalise the efficiency of a tax system by examining the economic behaviour of societies to which the system applies. Notwithstanding an objective analysis based on economic data, the subjective effects of societal conditioning will impinge on the efficiency of any tax system, and distort the outcomes, whether positively or negatively. A tax system which is fashioned with an understanding of the cultural values of the society, in which it is to apply, has a better chance of maximising efficiency; hence the need for this research project on tax culture.

Until now, no studies have been conducted into the historical and cultural context of taxation within Ghana. It is generally assumed that the majority of Ghanaians are tax averse. Yet, this is precisely an assumption. This project seeks to fill this void by conducting the first tax culture study for Ghana, establish a definition of tax culture for Ghana, provide a measurement of Ghana's tax culture, convey a number of findings on the elements that constitute Ghana's tax culture and make a number of recommendations for improving Ghana's tax culture.

3. THE RESEARCH METHODOLOGY AND PROCESS

3.1 PRELIMINARY RESEARCH AND DESIGN OF QUESTIONNAIRES

The research project started with brainstorming on project design and the development of a programme document (See Appendix I). This was jointly executed by the lead consultant and the client-GTZ-GGTC.

This was followed by preliminary research on a number of issues that impinge on the tax culture of Ghana. The purpose of the preliminary research was to refine the project document and assess the information and knowledge that was necessary for designing the research instruments. In all six (6) preliminary reports were prepared on the following subject areas: the historical and cultural context of taxation and systems of governance (Appendix A1); the chieftaincy system and its role in resource mobilization (Appendix A2); the system of local governance and resource mobilization (Appendix A6); the economic behaviour of Ghanaian residents as it relates to taxation (Appendix A4); taxation and legal pluralism in Ghana (Appendix A5) and traditional methods/forms of taxation and how they may be incorporated into a modern tax system (Appendix A3).

The preliminary reports were used to design a semi-structured questionnaire for interviews with chiefs (See Appendix C2), a structured questionnaire for interviews with individual tax payers (See Appendix D1) and to finalize the project document and map out a research strategy (See Appendix H for the Project Document and Appendix G for the Inception Report which contains the research design).

Once the questionnaires were designed, they were piloted in Accra, reviewed and then finalized. During the review of the questionnaires and the pre-departure orientation we held for field research staff, we agreed on the translation/rendition of key words in the questionnaires into the key local languages of the research regions.

3.2 RESEARCH SAMPLE

We decided to test the assumptions about Ghana's tax culture by talking to chiefs and the Ghanaian public; women and men from the formal and informal sector. In all 29 chiefs (including 3 Queenmothers and 7 Registrars of Houses of Chiefs⁸) and 1002 individual Ghanaian⁹ tax payers were interviewed. There were 7 Paramount Chiefs, 6 Divisional Chiefs, 3 Chiefs, 3 Headmen, 3 Queenmothers and 7 Registrars from five regions¹⁰ in Ghana in the research sample.

The interviews with the chiefs were done with a qualitative semi-structured interview instrument (See Appendix C2). Chiefs have historically had a revenue mobilization mandate. They also play

⁸ The Registrars of the various Houses of Chiefs in Ghana and Officials at the National Chieftaincy Secretariat are very well versed in matters of tradition because of their long and/or concentrated interaction with the custodians of Ghanaian tradition-chiefs and queenmothers.

⁹ 934 respondents said they were Ghanaian. 68 respondents refused to answer to their nationality. Due to some historical reprisals against non-Ghanaians in Ghana, they were unwilling to openly admit that they are non-Ghanaians.

¹⁰ The regions are: Greater Accra Region, Western Region, Ashanti Region, Volta Region and Northern Region.

a critical role in national development issues and taxation is a national development issue. It was expected that the chiefs would have very insightful views on the tax culture of Ghanaians; we were not disappointed.

About half of the number of chiefs interviewed have been chiefs for over 10 years. They were all aged between 40 and 100 years. The mean age group was 40-60 years. Almost all of the chiefs had had some formal education, more than half at the secondary and tertiary levels. All except one belonged to recognized trades and professions, a third in the formal sector. They belonged to diverse ethnic groups: Ga, Ashanti, Ewe, Fante, Dagbani, Gonja, Sefwi, Nzema, Sisala, Dagomba, and Mamprusi. The chiefs rule over subjects ranging in number from a thousand to over a million.

We also conducted interviews with 1002 Ghanaian residents with a structured questionnaire (See Appendix D1). For the individual tax payer interviews 205 women and 795 men from all walks of life were interviewed.¹¹ Respondents included teachers, lawyers, bankers, nurses, accountants, policemen, development workers, herbalists, traders, hairdressers, sales managers, administrators, mechanics, artisans, businessmen and women, spare parts dealers, farmers and tailors. We administered twice as many questionnaires in the Greater Accra and Ashanti Regions as for the Western, Volta and Northern Regions. This is because the populations of the two regions are the highest in the country. Respondents were aged between 15 and 65 and their levels of education ranged from basic education to tertiary education. Of the total number of individual tax payer respondents, 589 were from the formal sector and 217 were from the informal sector. A good number of respondents, 196, could not decide which sector they belonged to, or declined to answer the question. Over 70% of respondents were employed by others and only 10% were self-employed.

The details of the interviews and the experiences of our field research team are discussed in the next section.

3.3 FIELD RESEARCH REPORTS AND EXPERIENCES

The field research lasted one month. During the piloting of the questionnaires we encountered a number of difficulties with respondents. These difficulties escalated during the administration of the finalized questionnaires. In the case of the chiefs, we had before hand written to the five registrars of the Houses of Chiefs in the five research regions. This greatly facilitated the process of getting access to the chiefs and having House of Chiefs staff accompany us to the various residences of the chiefs we interviewed. These interviews were a very pleasant experience for all of us who participated in them. We presented the customary gifts we had prepared to the chiefs and in a number of cases our field research staff were given customary gifts in return.

Not so with the interviews of individual tax payers. During piloting, the challenges we encountered were a good forewarning, even if a foreboding forewarning. For quite interesting reasons most people were very reluctant to grant the interviews; excuses were many and varied, ranging from being too busy, to an inability to talk due to an aching wisdom tooth even though

¹¹ Many potential women interviewees declined to be interviewed. Where they were with their husbands, they referred the research assistants to their husbands.

this latter excuse was given by a person who was actively engaged in a conversation with a colleague before the field research assistant made her request. One woman who was reading newspapers in her office said she was too busy to talk and actually asked the research assistant to leave. Some of our field research staff had to buy items from the shops of respondents in the informal sector in order to motivate them to fill out the questionnaire.

People were generally nice until they found out the subject for discussion: tax. They became suspicious as soon as they heard the word tax and refused to speak. One respondent kept asking one of our staff if she had a tape recorder in her bag. There was open hostility from some people who assumed our field staff were from the IRS. Some of our staff got scolded several times. One respondent in the Northern Region explained her fear and reluctance: two years ago, a gentleman walked into her shop and bought some items. He demanded a receipt, which she gave to him. She was arrested later because she did not issue a VAT receipt. Apparently the gentleman was from the Criminal Investigations Department (CID) of the Ghana Police Service.

Regional and District managers of companies with their headquarters in Accra were very reluctant to answer simple questions relating to how long they had been doing business in the region and the number of employees in the company until they received the requisite permission from their head offices in Accra.

Some respondents complained that they had been through many such exercises in the past with no practical results; they were therefore reluctant to fill the questionnaires or respond to questions posed by the field staff. Others complained that previous researchers had made promises to them (like promising to send them a copy of the report) but never followed through on those promises. There was a general feeling on the part of individual tax payers of being used and abandoned by researchers. It is not surprising therefore that some of the respondents wanted to be paid for answering the questions. Some police officers interviewed very openly asked for tips.

In July 2005, the lead consultant, Dr. Raymond Atuguba and the Project Leader/Finance and Tax Advisor of the GTZ-RMS, Dr. Christoph Habammer, made a presentation of the preliminary findings of the research project to the National House of Chiefs in Kumasi (the presentation is attached as Appendix C6). The House of Chiefs made very useful comments and suggestions after the presentation. These are incorporated in various parts of this report.

The process was generally successful, correcting for the usual hitches in this type of research. And even those hitches provided some quaint comic relief to field research staff walking and working in the scorching sun and hunting down reluctant tax payer respondents. A German Field research staff noted the following in the daily journals that they kept: "Two of the interviewees stopped the interview at the point at which they had to express their own opinion and I was not able to motivate them to continue it. Sometimes it was a bit difficult to handle the situation: one person asked me to pay him for doing the interview and some wanted to be taken abroad. When I explained that the questionnaire would give them an opportunity to voice their opinions, they started and finished without complaining".

3.4 CLIENT INVOLVEMENT IN RESEARCH PROJECT

A very unique and useful aspect of this research project was the level of collaboration between the client and the team of research consultants. From brainstorming the project, through preliminary research and project design to field work and data analysis, the research team and the client collaborated intensely. This assisted the research team to continuously assess the demands of the client and adapt its delivery to the needs of the client.

4. RESEARCH FINDINGS

4.1 TAX CULTURE

Someone once remarked at the Annual Meeting of the German Association for the History of Economics in Hamburg that tax culture is a very interesting and important topic but nobody writes about it!¹² This is very true. This research report is the first on tax culture in Ghana. In many countries, practically nothing has been written on the subject.

It is important to fully understand the concept of tax culture before attempting to assess Ghana's tax culture. Within the Ghanaian context, no studies have been conducted into the historical and cultural context of taxation. Yet, the administration of a system of taxation that is developed in different cultural settings will be difficult in the absence of such studies. It is generally assumed that the majority of Ghanaians are tax averse, and this is used as the main proxy for measuring Ghana's tax culture. Our research has revealed that the use of that proxy may be fundamentally flawed. In the words of one chief we interviewed "It is only an insane person who will not pay tax".

It is well known that the administration of any system of taxation is influenced by a broad range of geographical, political, economic, social and psychological factors – both historical and current. The importance of research into the tax culture of a society lies in the fact that a tax system, which is fashioned with an understanding of the cultural workings of the society in which it is to apply, has a better chance with ease and efficiency of administration. "Tax culture matters! There is no such thing as a "free bunch" of tax reform measures that can be applied universally."¹³ What then is tax culture?

Tax Culture is a term that is easy to define but difficult to appreciate. This is because a major component of the definition of tax culture is "culture" and culture is anything but easy to appreciate. It is the entirety of the mores, way of life, norms, customs, conventions, traditions, ideas, values, beliefs, behavioural strategies, perceptual models, organizational structures, tools, techniques, works of art, rituals, symbols, civilisation – so to speak – of a community, nation or region.

A country-specific tax culture is the entirety of all relevant formal and informal institutions connected with the national tax system and its practical execution, which are historically embedded within the country's culture, including the dependencies and ties caused by their ongoing interaction. It is not only the tax system and the actual tax practice that form part of a country's "tax culture", but also, the relationship between the tax authorities and the tax payers accounts for the unique "tax culture" of a country. The concept of tax culture is broader than the concepts of "culture of taxation" and "tax paying culture".

¹² Nerré, Birger The Concept of Tax Culture, Paper prepared for the Annual Meeting of the National Tax Association, November 8-10, 2001 Baltimore, MD, USA, p. 2 available on the world wide web at: <http://www.worldbank.org/publicsector/tax/norms/pdf>, visited 18th November 2005.

¹³ Nerré, Birger (2002) "Croatian Tax Culture: Asset or Constraint in the Transformation Process?". Paper presented at the International Conference on Unofficial Activities in Transition Countries: Ten Years Experience" at the Institute of Public Finance, Zagreb, Croatia from the 18th-19th October 2002, and sponsored by the Friedrich Ebert Foundation and Institut Za Javne Financije, p. 11.

Tax culture encompasses the science of taxation: taxation as crafted by politicians and tax experts and economists and as administered by tax men, but also the art of taxation: the common understanding and experience of taxation by the tax payer. In the best case scenario this latter matter will involve the eradication of tax illiteracy leading to a tax consciousness that generates voluntary tax compliance within a framework of transparent tax laws that are applied humanely and consistently. This clearly shows that tax culture goes beyond tax system design, tax legislation and tax administration. Related issues are: tax revenue distribution between local and central bodies; how explicit and precise the tax laws are; how violations are sanctioned; which rival interest groups exist in terms of resource mobilization; what the actual tax mobilization strategies and techniques are; and what relationship exists between the tax authorities and the tax payers.

In sum, the factors that determine a country's tax culture will include: amount and mechanisms of revenue mobilization; the degree of voluntary tax compliance; tax payers views on the equity of the tax systems; views on whether there are returns on tax payments in terms of social amenities and other public goods; cultural values like "honesty", "justice", and "sense of duty"; the organizational culture of tax men; tax discipline¹⁴; tax mentality; tax behaviour; tax morality,¹⁵ tax codes, the tax authorities, tax experts, tax payers; tax communication; tax collection processes; tax compliance; tax carrots and sticks; tax resistance; tax negotiability, deferment and double taxation; tax dispute resolution mechanisms; the use of tax proceeds; accountability for use of tax proceeds; tax documentation (Record keeping and access to records); and forms of taxation.

The term tax culture is inclusive of a number of other elements: the understanding of why one has to pay taxes; the citizens understanding and appreciation of taxes; factors that influence tax compliance such as the fear of sanction; the organizational culture of the tax and revenue services; the relationship between tax officials and tax payers and the resulting behavioural patterns; tax authorities and the individual tax payer's competencies; how explicit and precise the tax laws are; how violations are sanctioned; the history of taxation and tax institutions of the society in question; the corruption or perceived corruption either on the part of the tax officials or on the part of the tax payers; and attitudes towards cheating on taxation. Tax culture, therefore, includes all attitudes and also all patterns of behaviour which the tax-paying citizens hold against the tax and the state.

From the elements of tax culture listed above, it becomes evident that to understand a specific county's tax culture requires a lot of research effort. This is because a lot of actors, institutions, procedures and processes and their interaction have to be studied to determine the tax culture of a country. Yet, good policy advice should not disregard the national tax-cultural constraints. This

¹⁴ Tax discipline reflects the attitudes of the tax payer in meeting his or her tax obligations.

¹⁵ Tax moral is used to describe willingness to pay taxes, borne out of a feeling of obligation to the state because one obtains some benefits from the State, the general public or the community or because one is able to pay taxes.

way the prevention of tax culture shocks and the reduction of tax culture lags should become easier to achieve.¹⁶

Tax Culture, like all social institutions evolves, it is not static. This is because culture is consistently undergoing modification processes stimulated by external and internal factors. This is understandable since culture is a dynamic phenomenon of interaction and not a fixed set of processes for actors. This also means that the evolution of tax culture is closely tied to the systems and persons that determine this evolution. Thus politicians, tax policy makers and tax administrators must strive to improve the tax culture of their countries. This is especially so for tax administrators and collectors since they are at the frontlines (serving as the interface between politicians and policymakers on the one hand and the tax payers on the other) and have a unique capacity to determine the tax culture of the country.

Tax culture is part of national culture or the culture of a society. We can therefore have tax culture shocks. Shocks in the field of tax culture can emerge during an encounter with an unknown or foreign tax culture. The Poll Tax Ordinance that was introduced in Ghana in 1852 was a tax culture shock. A tax culture shock occurs when there is an attempt to transfer a particular tax system into a different “tax culture” following a “big-bang” approach. In such cases “tax culture shocks” are unavoidably caused. With smoother “gradualist approaches”, serious shocks might be avoided. Shocks may be experienced at the individual or micro level, or on the collective or macro level.¹⁷ The successful demonstrations in Ghana in 1995 against the introduction of VAT was mainly because the political opposition were able to mobilize a broad range of people who experienced tax culture shocks at the individual level and then sensitized them into thinking of the shocks in broader, more systemic and macro terms. This way, the micro tax culture shocks were transposed to a macro tax culture shock, leading to the demonstrations and the eventual withdrawal of the VAT by the government.

There may also be tax culture lags. This occurs when the different elements of a nation’s tax culture develop at different speeds so that the relationship between some parts is no longer in cultural and evolutionary equilibrium. This might be due, for example, to a new democratic dispensation which automatically leads to some tax reforms or the introduction of a new tax code. First, tax authorities will have to cope with the new laws and guidelines. Then tax payers will have to adjust their behaviour to the latest changes in the tax laws. During this period of multi-level adjustments, tax-cultural distortions are inevitable. It is possible that there is currently a tax culture lag in Ghana following the introduction of the new Tax Code in 2000 and the many tax reforms in the last few years.¹⁸ It is important to note that tax culture lags can hardly be avoided, even if a gradualist approach has been chosen as a method of reform.¹⁹

In our opinion, tax culture is the way of life of a people as it pertains to tax. This should encompass everything of any conceivable relevance and sometimes even what seems to be

¹⁶ Nerré, Birger The Concept of Tax Culture, , Paper prepared for the Annual Meeting of the National Tax Association, November 8-10, 2001 Baltimore, MD, USA, p. 2 available on the world wide web at: <http://www.worldbank.org/publicsector/tax/norms/pdf>, visited 18th November 2005, p. 20.

¹⁷ Nerré, Birger, Ibid, p.14.

¹⁸ Nerré, Birger, Ibid, p.18.

¹⁹ Nerré, Birger, Ibid, p.19-20.

irrelevant. The tax culture of a country is unique only to that country. The tax culture of Ghana would account for instance why people are reluctant to pay taxes, why some tax regimes work better than others and so on. We should include in the definition of Ghana's tax culture, historical considerations-including the tax issues during colonialism, cultural considerations-in the ordinary sense of the word, and current considerations including a sense of national frustration, national indiscipline and donor dependency.

4.2 GHANA'S TAX CULTURE

It is obvious from the detailed explanation of the concept in the previous section that tax culture is very difficult to measure.²⁰ This is because it includes many and varied attributes; historical, cultural, social, economic, political, psychological, geographical.

In Ghana, a good starting point for the measurement of tax culture is the popular assumption that Ghanaians are tax averse. After a thorough examination of this proposition, we will examine the following elements of the tax culture of Ghana:

1. Tax and Resource Mobilization History of Ghana;
2. Tax Laws;
3. Tax Information;
4. Tax Education;
5. Tax Mobilization;
6. Tax Transparency;
7. Tax Delinquency;
8. Tax Dispute Resolution;
9. Tax Payer Satisfaction;
10. Tax and Traditional Authorities;

A discussion and synthesis of all of these elements of the tax culture of Ghanaians should provide an accurate assessment of Ghana's tax culture.

4.4.1 ARE GHANAIS TAX AVERSE?

"Nobody likes paying taxes" says the RAGB/GTZ Press Release of Wednesday October 6th, 2005. Consistent with this statement, we started our research project with this assumption. We also designed our questionnaires with this assumption. We were wrong.

This came out very clearly in a portion of the Field Research Report by one of the field research assistants in this study. After she had administered over 150 questionnaires to respondents in the Greater Accra Region she noted: "Some questions were contradictory and some were based on the assumption that the respondents would not want to pay taxes". The following quotation from another of our field researchers is also very instructive: "The notion that Ghanaians are tax averse is not a truism to a large extent. The problem, I realized emanated from the tax system and the attitude of officials from the collection agencies. This was evidenced by the reactions of respondents, especially when it came to question 11 [Why would you not want to pay tax?]" Most respondents literally got angry with me for asking that question. To them, they pay taxes and would always fulfill their tax obligations and thus the question seemed either accusing or

²⁰ Jin Kwon Hyun, Tax Compliances in Korea and Japan: Why are they different? Draft Paper for discussion at the seminar held by the Policy Research Institute, Ministry of Finance, Japan, February, 2005, p. 11.

insulting. Upon further explanation however, these respondents calmed down and responded appropriately. It is the tax system and the officials thereof that would make them not want to pay taxes. From their side, as long as they remained in employment they would always pay taxes.” A last comment from one of our field researchers in the Ashanti Region sums it all up: “My personal impression after this first day is that almost all the interviewees are strongly willing to pay taxes, even without legal obligation. Some of the interviewees said that they do not know much about the tax system and they do not even care, but as taxes are used to develop their country they are willing to pay them. From my point of view they are extremely honest and trust the system blindly.”

Ghanaians are not tax averse-pure and simple. If so, why are we generating less revenue than we could possibly generate from taxation? The reasons are not far to fetch.

The majority of respondents thought that their tax burden was too high. One respondent, a workman, lamented thus: “as a good citizen, I would always want to pay taxes, just that the burden is too much. From a small shop like mine, I have to pay about ₵600,000.00.” Another respondent was critical of the attitude of tax collectors: “How do they seize my work tools because I’ve not paid my tax at a particular period and expect me to get money to later come and pay the tax.” Most respondents lamented the fact that their shops and work places were barricaded by taxmen when they defaulted in their tax obligations, making it impossible for them to make good their obligations by working to raise the funds for the purpose.

Respondents had other reasons why they would not pay taxes. They complained that there were not enough tax breaks at the beginning of an enterprise. This means that a lot of money that could be spent to consolidate businesses are used to pay taxes, leading to poor performance, and sometimes the collapse of the enterprises. “It is painful that in Ghana one would toil and struggle, raise his own capital, establish his business and just when things start picking up, someone comes to collect taxes from me.” If we add to this the problems associated with raising capital to start a business, the inability of government to provide ready avenues for adequate capital, and the high interest rates on loans, the result is that Ghanaians become unwilling to pay taxes.

As far back as 1965, one intelligent observer had this to say: “There can be few countries in the world which impose a wider range of taxes than Ghana. In addition to basic sources of revenue such as income tax, customs duties and excise duties, there are many other taxes (occasionally of a more exotic variety), including the following: stamp duty, entertainments duty, property tax, hotel consumer’s tax, excess profits tax, purchase tax, sales tax, foreign travel tax, betting tax, capital gains tax, and estate duty.”²¹ As late as 2005, a Press Release issued jointly by the Revenue Agencies Governing Board and GTZ still listed taxes relevant to the Large Taxpayers

²¹ Park, A. E. W Ghana. The Estate Duty Act 1965, *Journal of African Law*, Vol. 9, No. 3 (Autumn, 1965), 162-165. p. 162.

Unit²² as “VAT, Corporate Income Tax, PAYE, and Excise Duties as well as other Miscellaneous Taxes”.²³

Ghanaians are therefore used to heavy taxation. Of the 1002 tax payers interviewed, 758 regularly pay taxes. This is buttressed by the survey carried out by the Large Taxpayers Unit.²⁴ In this survey, respondents gave high priority to tax compliance; 76% of respondents see tax evasion as crime, even though 75% of them think that the tax burden is too high. Those who show a relatively high resistance to meeting their tax obligations articulate a higher than average willingness of moving towards compliance in the case of improved services from tax authorities.

The evidence is that Ghanaians have in the course of history voluntarily paid taxes for purposes that are clearly for the common good and for worthy causes. “In response to an appeal from the new Governor, Winniett – who explained that because of shortage of funds no Judicial Assessors could be stationed in the towns of the principal chiefs – a meeting of chiefs at Cape Coast constituted itself a Legislative Assembly and voted a Poll-Tax of 1/- a head, to be used, *inter alia*, for “the general improvement and extension of the judicial system in the interior”. This law – though constitutionally invalid – was accepted and ratified by the government, and adopted (under the title “Poll Tax Ordinance”) as the first Ordinance of the Colony.”²⁵

Ghanaians have traditionally regarded the payment of taxes and the protection and social provisioning of the state as a quid pro quo. By 1874, the “only major source of revenue left for Northern Ghana consisted of caravan tolls on cattle and kola nuts passing through. But these tolls were deliberately abolished by the British Administration in 1908 with the object of inducing the cattle traders of Upper Volta to bring down more of the livestock to Ashanti where the Public Health Department had launched a massive eat-more-meat campaign. The removal of the caravan tolls did not result in an increase in the supply of livestock in Ashanti; on the contrary, it reduced the supply, for the cattle traders regarded the payment of the tax as entitling them to government protection, and were thus not certain of safety for life and property on the highway to Ashanti since “protection money” was no longer demanded from them”.²⁶

In the light of the above discussion, it is difficult to understand the various mass anti-tax demonstrations that we have experienced in Ghana. When this was brought to the attention of the chiefs we interviewed, they restated the proposition that Ghanaians are not tax averse and added that the social movement activities that surrounded the introduction of the Poll Tax in 1852 and the introduction of VAT in 1995 were immediate causes of more systemic dissatisfactions with

²² Large Taxpayers Unit (LTU) of the Revenue Agency Governing Board (RAGB) was set up in April 2005. The establishment of the LTU as a new one stop agency was aimed at improving the performance of Ghana’s tax administration. LTU is responsible for the administration of all tax liabilities of the 360 large tax payers (i.e. VAT, Corporate Income Tax, PAYE and Excise Duties as well as other Miscellaneous Taxes).

²³ “One-stop Tax Agency enhances customer satisfaction: Evaluation of a customer baseline survey on the Large Taxpayers Unit”, RAGB/GTZ Press Release, Monday, March 21st 2005 (On file with author).

²⁴ LTU survey results, p. ...

²⁵ Allott, A. N. Native Tribunals in the Gold Coast 1844-1927. Prolegomena to a Study of Native Courts in Ghana Journal of African Law Vol. 1 No. 3 (Autumn, 1957), 163-171 at p.166.

²⁶ Dickson, K.B. Background to the Problem of Economic Development in Northern Ghana. Annals of the Association of American Geographers, Vol. 58, No. 4 (Dec., 1968) 689-696, at p. 689.

the systems of governance in the country. The Poll Tax demonstrations were a proxy for the broader campaign against taxation without representation (and the use of tax revenues to finance foreign colonial enterprises) and the VAT demonstrations were a proxy for a broader campaign against harsh economic conditions.

Our chiefs respondents added that the ways in which tax administrators executed their mandate could also discourage Ghanaians from meeting their tax obligations. In their experience from mobilizing revenue from stool subjects, most of their subjects are very willing to pay taxes and seek out those who collect taxes in order to meet their tax obligations. A great majority of respondents said they would pay taxes even if it were voluntary and not compulsory; and this is the case even though the majority of individual respondents (57%) think their tax burden is too high or high. Respondents did not also know what percentage of the taxes generated from the district assemblies and from national tax authorities go to benefit them and their communities directly. Others think that there is too much official opulence and vulgar extravagance and that the IRS is not honest in the light of persistent rumours that they help people underpay. The great majority of respondents thought that the tax system was not transparent and that in the event that the tax authorities improved their services, it would be easier for them to fulfill their tax responsibilities and furthermore add to their willingness to pay taxes. Again, in respect of the following matters, a great majority of individual tax payer respondents were dissatisfied with the tax authorities: convenience; competence; fairness; readiness to cooperate; providing support; clarity and comprehensibility of decisions; and information about legal tax obligations. It is not surprising that only 219 respondents out of the 1002 individual tax payer respondents were satisfied with the tax system generally.

Respondents also doubted the real benefits of paying taxes. “I do not see the benefit of paying tax” was a common refrain. One chief in the Greater Accra Region laments that after several years of paying taxes there is no potable drinking water in his community and no good roads. To him, Ghanaians are too poor and there are too many taxes: “One puts up a small kiosk with one bottle of beer to sell and this attracts a levy from the Assembly.” He, however, believes that Ghanaians as a whole could benefit from taxes and so “it is only an insane person who would not pay tax”. Is it possible that recent increases in VAT have been accepted because the increases have been targeted at specific projects such as the National Health Insurance Scheme or the Ghana Educational Trust Fund (GETFund).

The willingness of Ghanaians to pay taxes and the fact that Ghanaians are not tax averse is summed up in one of the recommendations in a recent report on the funding of governance institutions: “given the willingness of Ghanaians to pay more taxes to strengthen the solvency of governance institutions, this specific study could explore how additional revenues could be raised through taxation.”²⁷

Taxation in Ghana has historically had a strong governance flavour. Tax protests in Ghana have been linked to representative government (Poll tax Ordinance of 1852) and poor economic governance (VAT demonstrations of 1995). The corollary of the use of a poor system of taxation

²⁷ NGP (2004), *The Funding of Key Governance Institutions in Ghana, Report of a Diagnostic Study* (6th National Governance Workshop 2003) pp. 9 and 139.

as a fulcrum for mass mobilization against poor systems of governance is that a good system of taxation can be used for mass mobilization of revenues for development purposes.

Ghana’s tax culture is best captured in this contradictory quote from one of our field reports: “As a general observation for the whole week, I would say that almost all of the interviewees were strongly convinced, that their tax burden was too high, but as I asked how much they pay, they couldn’t answer. A lot of the respondents expressed also quite strongly their willingness to pay taxes, but finally they didn’t. Such contradictions often came up.” It is clear that Ghanaians are not tax averse. Yet they do not fully meet their tax obligations. They would if they saw more benefit from paying taxes; if the system of taxation were more humane, transparent and better administered; and if corruption of public officials was minimized. The following data from the individual tax payers’ survey are instructive indeed.

**FIGURE 1
DO YOU PAY TAXES?**

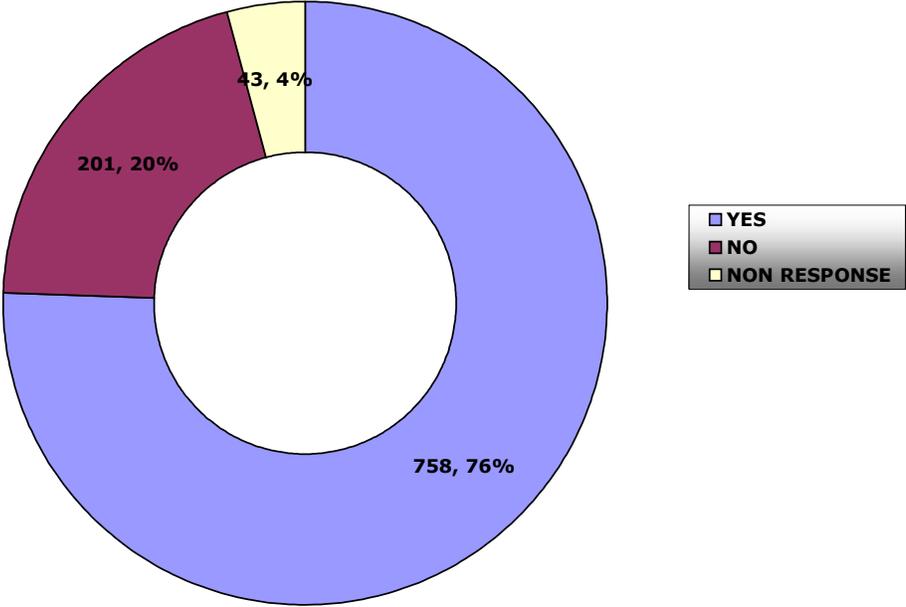


FIGURE 2
I WOULD PAY TAX IF IT WERE VOLUNTARY

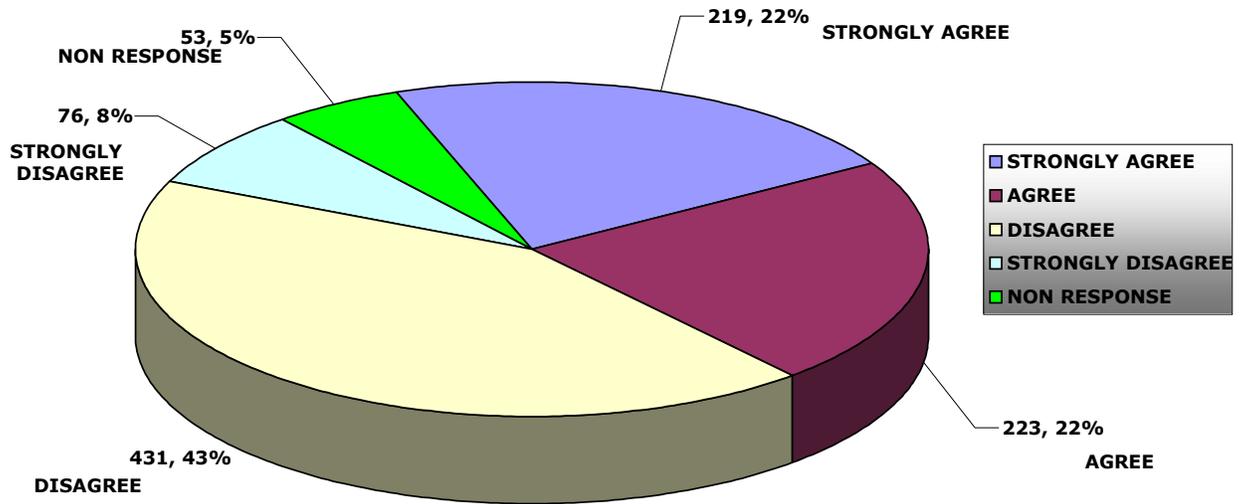
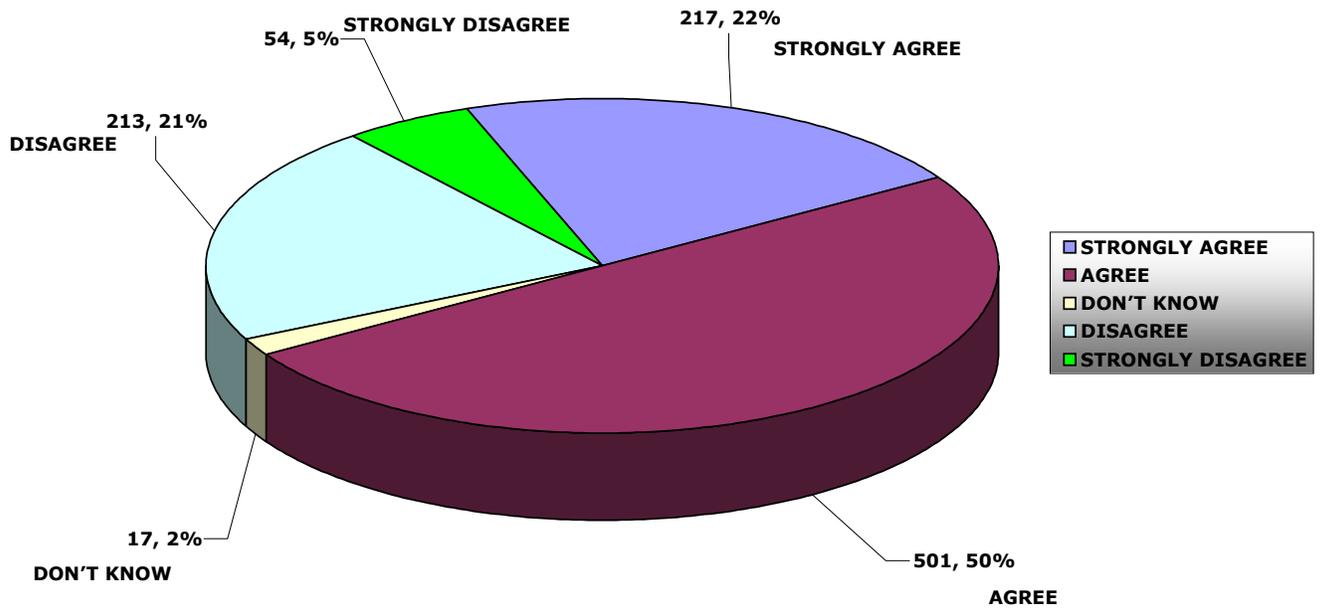
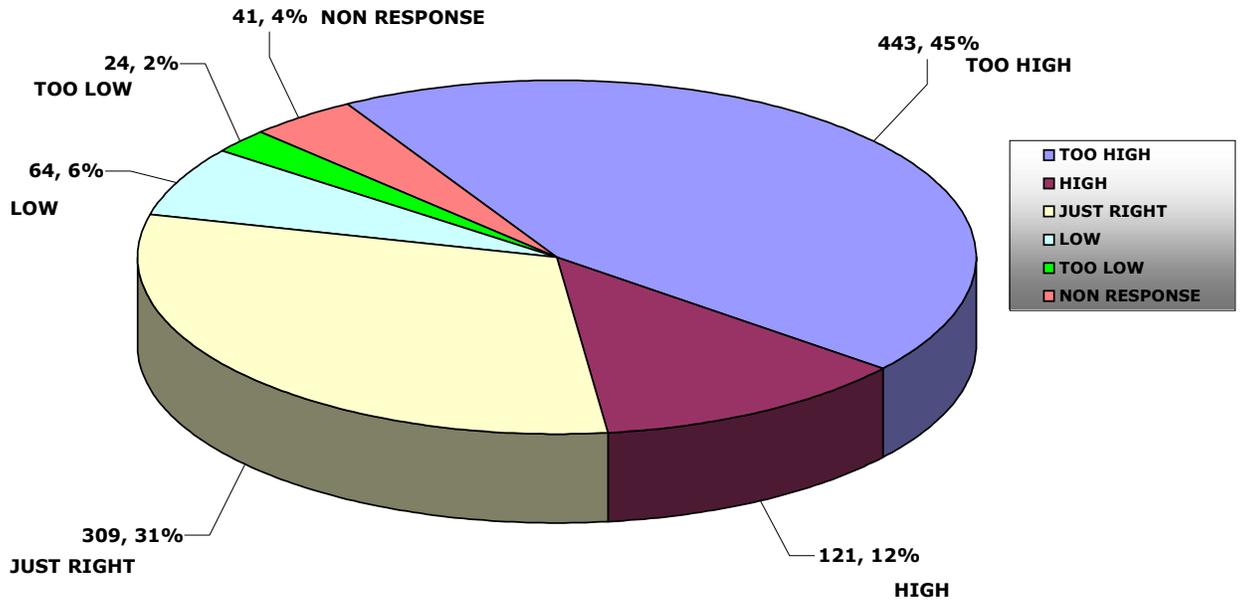


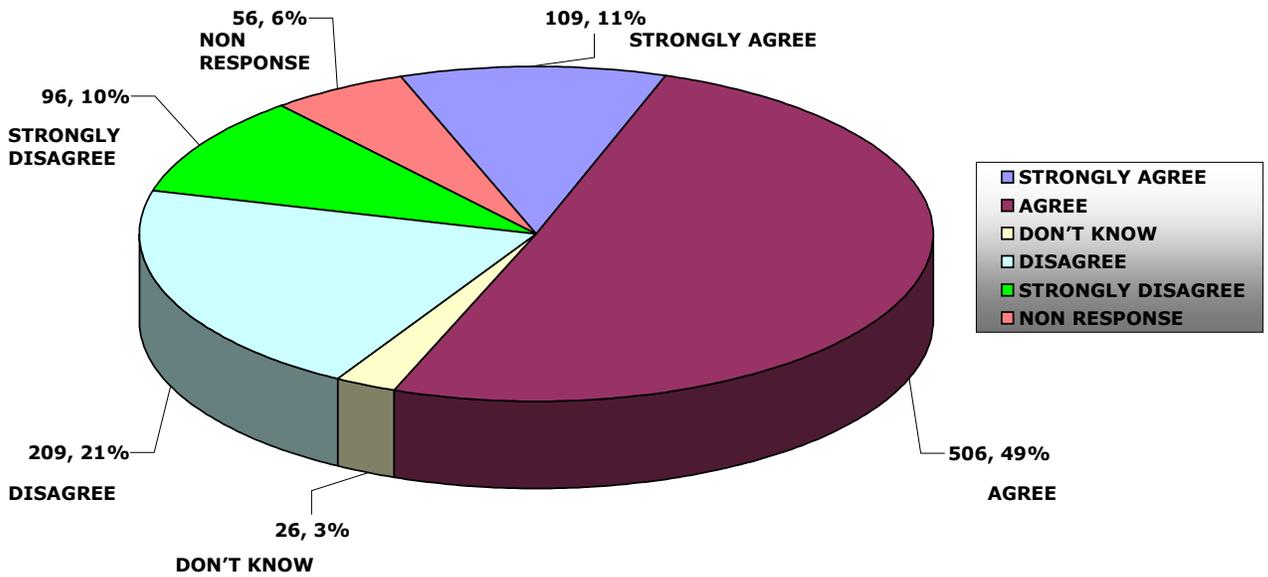
FIGURE 3
GHANAIS AS A WHOLE BENEFIT FROM TAXES



**FIGURE 4
HOW IS YOUR TAX BURDEN?**



**FIGURE 5
IN CASE THE TAX AUTHORITIES WOULD IMPROVE THEIR SERVICES, IT WOULD BE EASIER FOR ME TO FULFILL MY TAX RESPONSIBILITIES AND FURTHERMORE ADD TO MY WILLINGNESS TO PAY TAXES?**



If the slides above are confusing, the answer is in the last slide. Ghanaians would love to pay taxes – if certain conditions are met: ease of paying taxes; if taxes payable are negotiable and not fixed no matter the circumstances; if the taxes are used for verifiably good causes etc. In the absence of these conditions precedent, Ghanaians will hate paying taxes and will not pay taxes. This was the general trend of thought in the various field reports – written and oral – from the field research assistants. As evidenced from the following slides, only 15% of respondents found the system of filing taxes convenient – and the majority of these may be public sector respondents whose taxes are deducted from source, making the payment of taxes very easy for them.

FIGURE 6
DO YOU FIND THE FILING AND PAYMENT PROCESSES CONVENIENT?

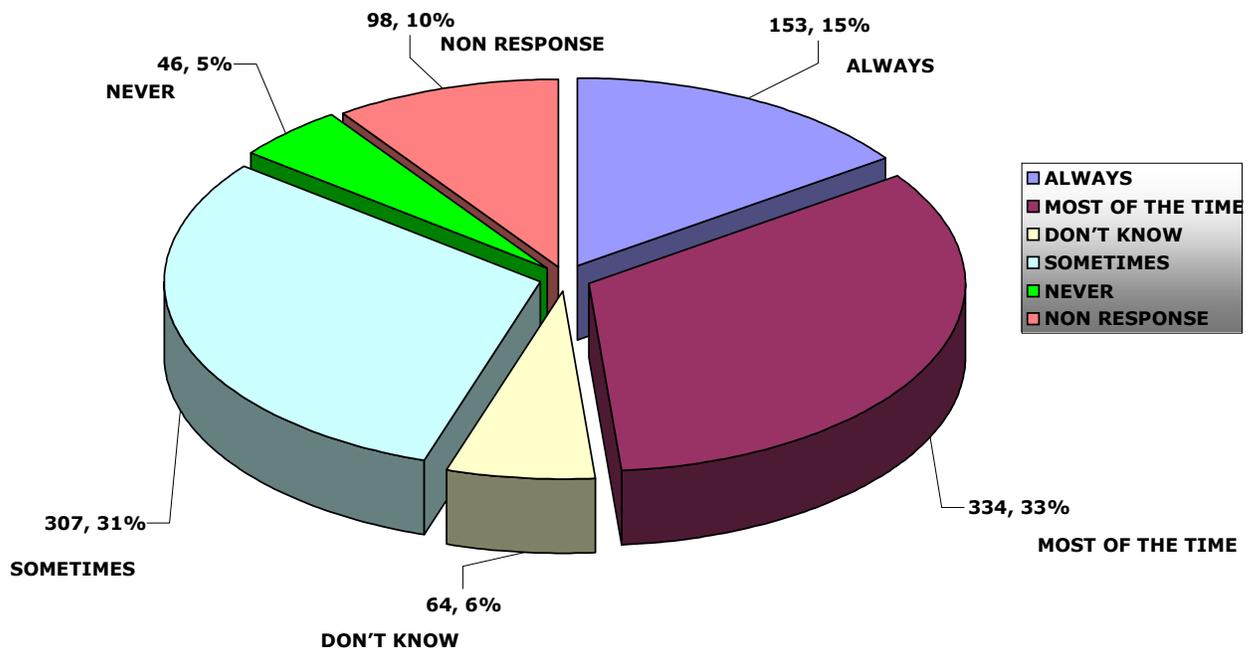


FIGURE 7
DO THE FILING AND THE PAYMENT PROCESSES HAVE ANY BEARING
ON YOUR ATTITUDE TOWARDS TAXATION?

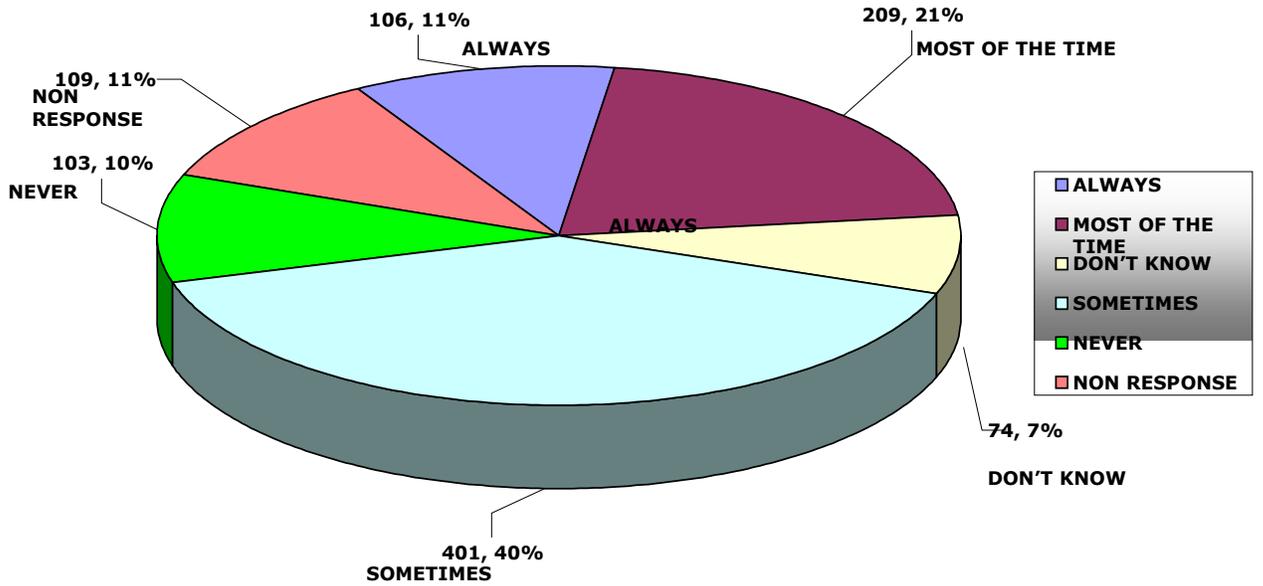
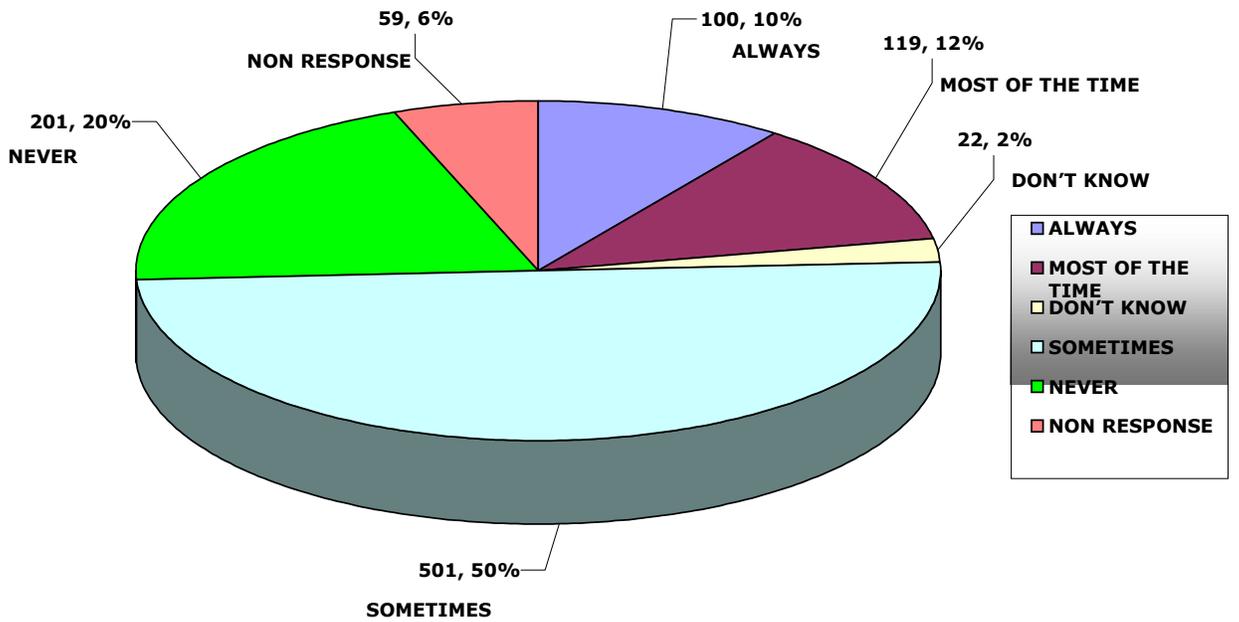
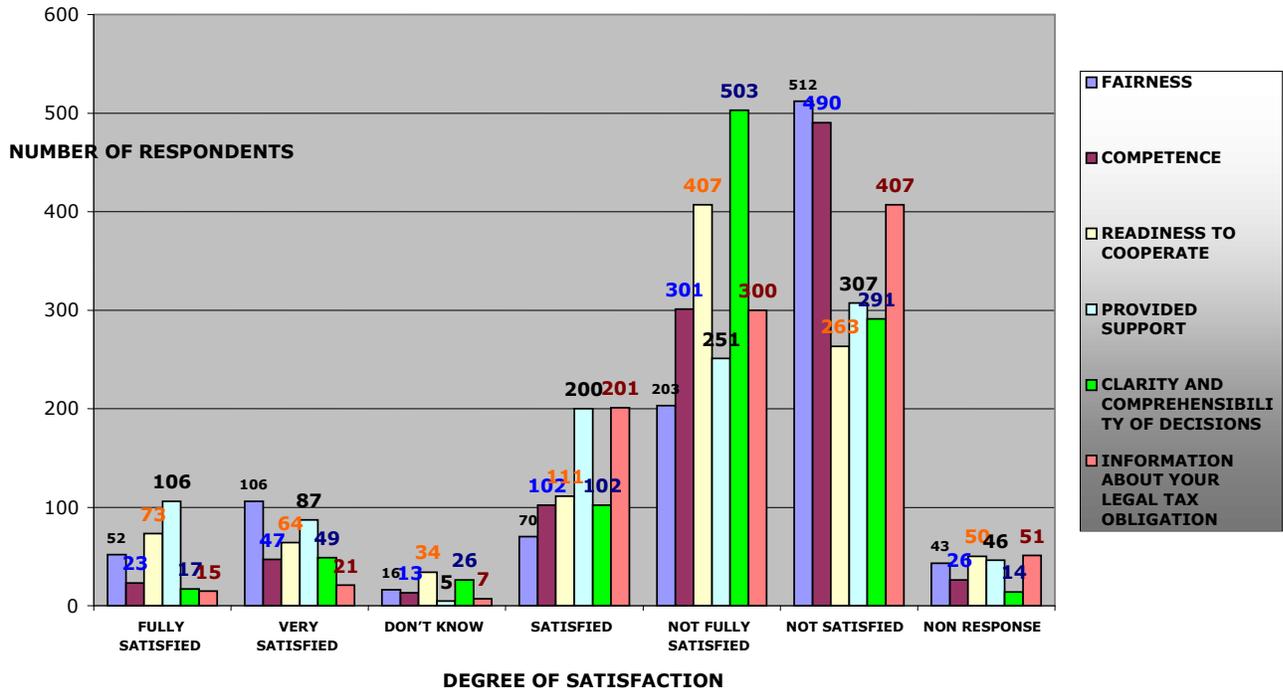


FIGURE 8
ARE YOU SATISFIED WITH THE TAX SYSTEM?



**FIGURE 9
VIEW OF RESPONDENTS ABOUT THE WORK OF TAX AUTHORITIES**



During our interviews, there was a sense of mounting frustration at the multiplicity of “taxes”. Respondents did not distinguish between taxes, fees, tolls and other payments. A regular complaint was that “there are too many people taking monies from us-Market tolls, parking tolls, sanitation tolls, local government levies, IRS taxes” etc. This complaint was often immediately followed by assertions of corruption in government and statements to the effect that Ghanaians do not trust that the monies they pay will be used judiciously and for the right purposes.

There are three other factors that we must note in order to get a full sense of Ghana’s tax culture. Our interviews have revealed that in Ghana, a wide perception of corruption on the part of public officials who are paid with tax payers’ money is a huge component of Ghana’s tax culture. Given that the issue of corruption has in the last decade and a half seriously engaged the attention of Ghanaians, we interrogated the responses further. From our interviews, it is not so much the affluence of public officials and those close to them that matters, it is the arrogance with which they carry themselves around, the blatantness with which they deny corruption, or the sense of impunity with which they gladly concede corruption, that is the worry of the Ghanaian. And this in the face of mounting social costs of living and increasing real poverty levels.

Secondly, a great percentage of Ghana’s Christian population (which approaches 70% of the population) pay tithes and other contributions to their churches, graduated according to income levels, usually 10% of all earnings, official and unofficial. And they do this conscientiously and gladly – at least most of the time. This is the type of consciousness we need to build in the case of taxation. It is important to note that for most of the Christian population, their church is their first

point of call for loans and when illness or other misfortunes strike. If we relate this scenario to the responses we get from the majority of the tax payers we interviewed (to the effect that they do not pay tax because they are unable to identify the benefits that derive from paying tax), we will be drawing very interesting parallels and points for learning.

Lastly, it is important to note that there are slight regional variations in the tax culture of Ghana. Take the northern region for example: many more people in the informal sector in this region (relative to the other regions) do not pay income taxes or are not up to date with their tax obligations. They explain that the tax authorities are not in touch with them for the purpose of collecting the taxes due. It appears that the Northern Region is assuming the character of a “tax haven”. One smart respondent explained that he relocated his business from the Ashanti Region to the Northern Region in order to get away from the watchful eye of the tax authorities in the former region. The field research assistant for the Northern Region noted as follows: “In conclusion it could be seen generally that people of Tamale do not pay taxes, that is, even if they are aware of their obligations to pay tax.”

In the Ashanti Region the picture is a little different. Respondents were generally very interested in the exercise and both formal and informal sector operatives expressed their willingness to pay taxes. It was clear from the interviews that respondents had had consistent contact with tax authorities and were generally meeting their tax obligations. There was, however, evidence that tax payers knew very little about taxation and the tax system even if they regularly paid taxes.

4.4.2 TAX AND RESOURCE MOBILIZATION HISTORY OF GHANA

The history of resource mobilization of a country has a lot to do with its tax culture. What a country is used to is not easily changed. And it is easy to build on what is familiar, acceptable and doable.

Historically, and before colonial rule, the chieftaincy institution was the pivot of the whole society, more or less the government of the day. The chief had different departments made up of the Native Court, the Native Police and the Native Treasury. Under the Native Treasury, the chiefs had the power to tax the natives. This tax could be in cash or kind. The taxing system varied from one community to the other. The various sources of revenue included the following: property levies; funeral contributions; community welfare levies; land rent; special development contributions; tolls; royalties from traditional councils paid to paramountcies; fundraising during festivals and other festive occasions; levies on game, timber and mineral products; funeral contributions; burial fees; and other special levies. Historically therefore, Ghanaians have experienced a variety of tax regimes. These were mainly seasonal (e.g. during harvest) and event-based (e.g. during festivals); based on the profession/occupation of a person (e.g. market women and fisher folks) or based on a person’s origin (stranger) or status (stool subject or vassal state).

Information about taxes and the purpose of the tax was often communicated to everyone. This could be done by the town crier or gong-gong beater or at a durbar organized for the purpose. All persons above the age of 21 years had a tax quota (sometimes there was discrimination on the basis of sex in terms of the amount payable). Those in industry had a special tax quota, and persons who were not permanent residents had a different tax quota. In some places, professionals

and identifiable trades such as market women and fisher folk also paid special levies, mostly in kind for the sustenance of the chief's palace and for ongoing community projects. Special levies were also collected from the lease of land.

The chiefs and elders decided on when to impose taxes and how much. These payments were usually made annually. The annual taxes were obligatory for everybody: from the least citizen to the most important. The tax did not always have to be money; it could be farm produce such as corn, palm oil, livestock etc.

There were many mechanisms for collecting these taxes. Fundraising could be done on the spot during festivals or fundraising durbars; taxes could be collected by family heads and transferred to the chief's treasury; and house to house collection by the officials of the Native Treasury. Communal labour was also considered a form of resource mobilization.

The amount imposed was often negotiable depending on a person's circumstances. Disputes that emanated from the collection of levies were referred to the head of the extended family for settlement. It is when such steps failed that the chief would sit with his council to decide on the case. This could be an open or closed hearing. Many penalties, including being ostracized, could be imposed on tax defaulters. Other penalties were special fines (foodstuff, farm animals, drinks or cash); preventing the burial of the dead from a defaulting household; preventing defaulters from farming on community land; assault by the youth for disobeying the chief's order; physical labour, and banishment.

The administration of this system of taxation was not cumbersome and was easy to execute because of the allegiance subjects had for their chiefs and the reverence everyone had for chiefs. On the other hand, there were mostly no written records of taxes collected and this made transparency and tax dispute resolution difficult.

With the advent of colonialism, the system of governance which existed before was severely mutilated. All the three departments of the pre-colonial chieftaincy system were abolished. The chiefs lost most of their power including the power to tax their subjects. However, the colonial administration exploited the old system by using the chiefs to collect taxes for them.

The taxing system was regulated by the Native Treasury Ordinance of 1930 which mandated the chiefs to collect taxes in a prescribed form. It is worthy of note here that chiefs were well remunerated for this service.

By the second half of the nineteenth century, British administration had taken a firm root, at least, on the Ghanaian coast. In 1843, two enactments namely the British Settlement Act and the Foreign Jurisdiction Act were passed extending British rule to the Gold Coast. Before 1852, tax related issues only took the form of treaties and usages. In 1852 however, the Poll Tax Ordinance was passed to raise revenue for the administration of the newly created colony of the Gold Coast independent of the British administration in Sierra Leone.

Before the imposition of the Poll Tax, there is evidence of the collection of other kinds of taxes. The following colonial dispatch is instructive on this point

“Downing Street
4th August, 1855
No. 3

“Sir,

I transmit to you herewith a letter from the Secretary to the Royal Commission of the Patriotic Fund, in acknowledgement of the sum of fifteen pounds eighteen shillings contributed by certain Residents on the Gold Coast to the Patriotic Fund and conveying to them the thanks of the Royal Commissioners.

I have the honor to be Sir...

The Officer Administering
The Government of the Gold Coast”.²⁸

Among the various reasons for the introduction of the Indirect Rule in British West Africa was the existence of an effective African tax system. Traditional rulers were the main instruments used in implementing this policy. Where there were no chiefs, “warrant chiefs” were created. These rulers assisted British colonial treasurers in collecting taxes from the people. British rule meant increased authority for chiefs to collect taxes and conversely the diminishing authority of the chiefs to impose taxes. The following communication between the Chief Registrar and the Secretary for Native Affairs concerning the attempted imposition of a tax by one chief on “refugees” living on his land expresses the point and makes interesting reading:

“COLONIAL SECRETARY’S OFFICE
ACCRA
26th March, 1902.

Apontua,

I am directed to inform you that your letter, dated 15th instant, in which you wrote to the Chief Justice about the action which the headman of Fancheneko was taking towards the Juabins residing at Domi, has been laid before the Governor who has caused a letter to be written to Headchief Amoako Ata II, of Akim Abuakwa, at Kibbi, directing him to inform Enin Ajaye that the proposed tax will not be allowed and that unless this chief refrains in future from troubling you and your people at Dome, he will be severely punished...

(Sgd) L. R. Arthur
Colonial Secretary

Kwabena Apontua,
OSEEM”²⁹

²⁸ Gold Coast Despatches from Secretary of State to Governor 1855 (ADM1/1/13) Public Records and Archives Department, Accra.

²⁹ Ashanti Refugees and the People of Eastern Akim Case No. 145 (ADM 11/1/18), Public Records and Archival Department.

By 1908, authority to tax was clearly in the hands of the colonizing force and the following letter was written:

Domi
6th aug. 1908

Sir,

I beg most respectfully to lay this before your Honour that, about six years ago, the late Chief Anin Adjaye of Fancheneko was claiming from me and my subjects a proposed tax which I refused to pay and also I complained to Government about same. Your Honour the present Chief RamRam who has now occupied the throne, has commenced of giving me and my people trouble by raising a tax of load of cocoa from each of us (Juabins) at the expiration of every year and if I and my people refuse to pay this tax, we must quit from this land (Domi) and as I have a paper on this same case, from Government and all the time like to live with each other in peace, I have therefore despatched a bearer by name Quacoo Nyame to come with this my letter...

I have the honour to be sir
Your most obedient servant
Chief Kwabena Apontua
(Sgd)

After independence in 1957, the government of Ghana began an accelerated socio-economic development plan and so there was the urgent need for the government to raise enough tax revenue to finance the programme. However, attempts at revenue mobilization were hampered by factors such as the existence of over 300 State Enterprises which had monopolized business activities in critical sectors of the economy, but had been exempted from paying tax on their profits by the statutes that established them. There were also high tax rates that had become punitive and therefore encouraged considerable evasion. There were many small and medium scale enterprises and self-employed professionals who were not registered and did not pay taxes at all, and of course, a large informal sector from which it was difficult to extract taxes. The final dressing was a weak system of tax administration. The most important tax bases for revenue generation, was therefore confined to the profits of a relatively small highly organized formal sector, usually multinationals and the wages and salaries of the civil service. Thus, tax revenues were inadequate for the developmentalist agenda of the government.

The situation further created high fiscal deficits and macro-economic instability problems for the economy. Many attempts were made to raise additional tax revenue. Yet mechanisms such as the presumptive taxation, standard assessments, and the insistence on the production of Tax Clearance Certificates for certain business and non-business transactions and other attempts at enhancing horizontal and vertical equity by facilitating the taxation of the self-employed professionals and businesses and informal small scale business operators run into problems as a result of weak administrative structures. Macroeconomic instability continued.

In 1983, Ghana adopted the Structural Adjustment Programme, which saw a major shake-up in Ghana's tax administration in 1986. Among the structural changes were the setting up of Departments like the Research, Planning and Monitoring; Legal; Audit; and Finance and Administration to handle specific functions at the Internal Revenue Service, the Customs, Excise

and Preventive Service and the establishment of a Value Added Tax Service. The policy objectives of the administrative changes included among others:

1. Identifying and researching into potential areas of taxation especially in the informal sector which had hitherto been hard-to-tax;
2. Re-demarcating tax administrative jurisdiction with a view to bringing taxation closer to the doorstep of the tax payer;
3. Decentralization of operational activities to increase tax administrator/tax payer contacts and enhance tax payer identification, especially in the informal sector; and
4. Review policies that addressed problems of compliance by the self-employed and informal sector to increase government tax revenue and broaden the tax base.³⁰

Yet general government policies continue to drive businesses into the informal sector and underground; and the possible conflicts between policy goals to support small business development and the policy goal to broaden the tax base and reduce underground economic activities were not carefully thought through. Today we still have a sufficiently narrow tax base, a less than efficient tax administration system and huge tax payer dissatisfaction. We cannot but work towards the improvement of the tax culture of Ghanaians.

4.4.3 TAX LAWS³¹

Three revenue agencies administer the main part of Ghana's central government revenue. These are the Internal Revenue Agency governed by the Internal Revenue Act, 2000 (Act 592), the Customs, Excise and Preventive Service governed by the Customs, Excise and Preventive Service Management Law, 1993 (P.N.D.C. Law 330) and the Value Added Tax Service governed by the Value Added Tax Act, 1998 (Act 546). The Revenue Agencies Governing Board oversees the three Agencies, which are independent of each other. Monies collected under these Acts have to be paid into the Consolidated Fund.

There is a firm constitutional basis for transparency and the demand for customer satisfaction in tax administration. The general human rights provisions in the 1992 Constitution of Ghana and especially articles 18 and 20 (on the security of personal property) and article 23 (an injunction on administrative bodies (such as tax institutions) and administrative officials (such as tax administrators) to "act fairly and reasonably and comply with the requirements imposed on them by law") bear directly on the tax system. Article 23 further provides that "persons aggrieved by the exercise of such acts and decisions shall have the right to seek redress before a court or tribunal". To add substance to this right to administrative justice, article 33 of the Constitution provides that anybody may apply to the High Court for redress in the case of violation of any of the fundamental human rights. An appeal from the decision of the High Court lies to the Court of Appeal and then the Supreme Court.

On taxation itself, the Constitution provides in article 174 (1) that no taxation shall be imposed otherwise than by or under the authority of an Act of Parliament. And where an act confers power

³⁰ Tax Compliance and the Informal Sector in Ghana, www1.worldbank.org/wbiep/fiscalpolicy/cases.pdf, visited June 2005, (On file with author).

³¹ This section borrows heavily from: Jamila Jakalia and Dennis Kolberg, Ghanaian Procedural Tax Law, (Unpublished Paper, on file with authors).

on any person or authority to waive or vary a tax imposed by that Act, the exercise of the power of waiver or variation shall be subject to the prior approval of Parliament (Article 174 (2)).

In apparent response to these constitutional injunctions, the three key pieces of tax legislation mentioned above have provisions on assessments, collection and enforcements, etc. The High Court (Civil Procedure Rules) (C.I. 47) also contain rules that apply to court proceedings that relate to any tax dispute regardless of whether the tax payer is liable under Act 592, Act 546 or P.N.D.C. Law 330. The Civil Procedure Rules provide regulations for tax appeals and establish Commercial Courts. Under Order 54 of the Rules (on Tax Appeals), a person can appeal to the court by filing the particulars of the appeal with the court registrar.

The law provides that an appellant shall, pending the determination of the appeal pay an amount less than quarter of the amount payable in the first quarter of that year of assessment as contained in the notice of the assessment. The court may take evidence or seek experts' assistance and may confirm, reduce, increase or annul an assessment on which the decision is based and may in all cases make such decision as the court considers appropriate.

Under Order 58 (on Commercial Courts), tax matters are listed as one of the claims that can be brought to the Commercial Court. Rule 3 of Order 58 states that actions in the Commercial Courts shall be commenced and regulated in the same way as actions in the High Court, consequently, the rules on filing of the writ of summons, entry of appearance, defense and reply shall apply to actions in the Commercial Courts.

Upon filing of a reply by the Commissioner on an appeal to his decision, the Administrator of the Commercial Court shall assign the case to a judge of the court to conduct a pre-trial settlement conference. The parties may be represented by their counsel, and experts may be invited to assist.

However, if at this stage the parties wish to settle the matter by other means like arbitration or negotiation the judge shall give time and terms for settlement. Where a settlement is reached amicably, it shall be read to parties and entered as the judgment of the court. But where the pre-trial conference or the attempt at out of court settlement fails, the pretrial judge shall direct the case to the Administrator to be fixed before another judge for trial.

Under Order 58, Rule 10, the judge shall try the case with the help of two assessors. Rule 12 provides that after the case has been heard, the court shall sum up the evidence for each side and then require each assessor to state his opinion in writing as to the case with regards the facts and the judge shall pronounce judgment on the case. Opinions of the assessors are not binding on the court.

In effect, under the High Court Civil Procedure Rules, a tax case may be settled in court either through the pre-trial conference or through a normal trial. If the parties choose to settle the matter with an external person or body, they can come back to the court afterwards and have the award or settlement entered as a court judgment.

Only a few cases on tax matters are heard in Ghana. The reason for this is the relative cost of litigation, delays in the court system and the reluctance of Ghanaians to litigate with the

government. Most cases that are concerned with tax matters relate to import and export duties. The 2004-2005 Annual Report of the Judicial Service of Ghana reports that only 1 tax case was filed in the first four months of the establishment of the Commercial Court (March-June 2005).

A total of 961 out of 1002 individual tax payers we interviewed responded that they thought tax evasion was a crime. Only 9 thought it was an acceptable misconduct. Aside this, almost all respondents, including the very highly informed and educated knew next to nothing about tax laws.

4.4.4 TAX INFORMATION

Findings on tax information were at different levels. First there is limited information about tax laws and the tax liability of individuals and firms. Next, there is limited information on tax reliefs such as tax deductions, tax exemptions, tax rebates, tax holidays and the like. Finally there is limited information on the uses to which tax revenues are put.

There is generally very little information about tax in the public domain. People are unable to distinguish between different types of taxes and between taxes and other forms of revenue generation, such as fees. Others even conflate taxes with payments for refuse and garbage services; and local level and national level taxation are all seen as the same.

One of our field staff reported thus from the Ashanti Region: “My interaction here took me to mostly young adults who are either learning a trade like hair plaiting or car washing. Generally I observed that most young persons knew little or nothing at all about taxation...” And in the absence of information there is misinformation. Most people feel that taxes are used to enrich the lives of government officials to the detriment of the poor tax payer.

Ghanaians have a lot of questions for the tax administration:

1. Who is responsible for giving relevant information to the tax payer?
2. How does the tax payer access information pertaining to his tax issues?
3. Is there any form of regular sensitization and education on tax issues for the tax payer?
4. Are tax defaulters prosecuted?
5. How is the tax payer’s money used?
6. Does the tax payer have a say in what the tax money should be used for, are his views taken into consideration?
7. Is corruption among tax officials, a perception or reality?
8. Are corrupt tax officials punished?

It is clear that mechanisms for improving information flow between tax administrators and tax payers are essential. “The people’s right to know and even control how their taxes and other resources made available to the government are used, is one of the cornerstones of democratic governance.”³²

³² CEPA (2005), State Audit: An Instrument for Accountability and Good Economic Governance. Ghana: Selected Economic Issues, No. 10, 2005, p.1.

4.4.5 TAX EDUCATION

Tax education is so important that it is sometimes conflated with tax culture. Some experts actually define tax culture as “the removal of the general public’s “tax illiteracy” and in this sense tax culture is considered to be the opposite of “tax illiteracy”.³³

As noted earlier, most people, especially in the formal sector, do not know much about the tax system and the filing and payment processes. Our field researchers had to explain every single question to virtually all respondents several times, baked up with mini-educational sessions on the system of taxation in Ghana. A lot of the questionnaires that were left to be filled by some category of formal sector workers were not properly filled; the reason was that they did not understand the tax system enough to fill out the questionnaires by themselves. This calls for tax education, not just tax information. Those in the informal sector ordinarily tender their sales returns and they are told how much to pay by the taxman. They then proceed to pay for it. They sometimes get a receipt but they are unable to distinguish genuine receipts from fake ones. They are not even able to identify for sure that a taxman is indeed a taxman. Many have been duped several times. Consequently, a number of respondents complained that the tax system was not transparent but did not know enough of its workings to make suggestions for improvement.

Another extract from the journal of a research assistant is very instructive on this point. “As regards general knowledge of taxation, interviewees knew next to nothing about taxation. They paid money without knowing to which officials they were paying the money and what kind of tax obligations they were fulfilling. This further slowed things down as I had to explain what I meant by taxes and which particular payments were taxes...[M]ost students did not appreciate the taxation process... Only a handful appreciated indirect forms of taxation such as the VAT and the NHIL.”

In the words of one intelligent observer: “Taxation without Education is Hallucination”. And the absence of education is fodder for misinformation. During the field research, a lot of interviewees thought that government officials and chiefs did not pay taxes. People were generally unaware of tax exemptions and tax rebates. In the results of the large tax payers survey, 66 % want to be provided with more specific information.³⁴

A tax consultant has the last words on this matter: “The level of tax education and awareness is insufficient. This is reflected in the low level of voluntary compliance by tax payers and reluctance to file returns.”³⁵

4.4.6 TAX MOBILISATION

The mobilization of tax revenue is an important policy objective. One of the ways in which the state may maximize the resources it extracts from tax payers is through diversification of the tax revenue base. Physical and political limits on tax rates encourage the state to diversify the tax base so as to maximize revenues. The tax-maximizing state will therefore have a clear incentive to distribute its tax collections so as to exceed the revenue-maximizing rate on any given tax base.

³³ Nerré, Birger, *supra* p. 6-7.

³⁴ See Appendices E and F for large tax payers survey results.

³⁵ Ghana Revenue Agencies Reform Project-Consultancy Assignment Revenue Agency Reform”. Prepared by Richard Kwame Asante of Kwame Asante & Associates, June 2000, P.10.

However, tax diversification is no help to the developing country that does not have the administrative capacity to exploit the tax base fully. Tax diversification has no independent influence on the tax revenues of developing countries. Apparently, states must reach some threshold level of administrative capacity (as measured by per capita income) before it can reap the benefits of tax diversification. To conclude, ordinarily, countries with more diversified tax bases collect more revenue relative to national income.³⁶ In the case of developing countries, however, although they may have a more diversified tax base than developed countries, they are unable to exploit it because of administrative weaknesses.³⁷

Tax mobilisation is an issue in Ghana. The theme for the fourth quadrennial national delegates conference of the IRS division of the Public Services Workers Union (PSWU) was "Sustaining the Growth and Development of the Economy of Ghana through Direct Tax Mobilisation, The Role of Labour"³⁸. It was noted at this conference that tax administration has become extremely important both to those concerned with increased tax yields and those concerned with tax policy and its effects on the economy in general. It was also noted that direct tax collection is "very difficult and cumbersome".

In the 2006 budget statement, the government of Ghana proposed to waive tax penalties in order to effectively mobilize huge arrears of taxes and widen the tax net. As we write this report, the Ministry of Finance and Economic Planning has provided an opportunity to all corporate bodies and individuals who are in default of their income tax obligations to clear them without any penalty or sanction.³⁹ The industry welcomed this move the very next day after it was brought into effect, calling for regularisation of the process of granting tax amnesties and for government to endeavour to widen the tax net to cover the informal sector.⁴⁰ It is clear that many potential tax payers are outside the tax net and even those within the net do not fully meet their tax obligations.

The wide divergence between the effective and statutory tax rates in many African countries indicates that there is scope for raising tax revenue without increasing tax rates by reinforcing tax and customs administration, reducing tax exemptions and fighting fraud and corruption. Yet, one must be realistic in terms of improvement in revenue ratios that can be reasonably expected to be achieved in many African countries, given the low level of development and the heavily agricultural and informal character of their economies.⁴¹

³⁶ Conybeare, John A.C., The Rent-Seeking State and Revenue Diversification, *World Politics*, Vol. 35, No. 1 (Oct., 1982), 25-42.

³⁷ Lotz, Joergen R.; Morss, Elliott R. A Theory of Tax Level Determinants for Developing Countries, p. 338 and Conybeare, John A. C., The Rent-Seeking State and Revenue Diversification, *World Politics: A Quarterly Journal of International Relations* 35, 1 Oct., 1982 25-42

38 Governance World Watch, Compiled and edited by the Knowledge Management Branch of DPADM/UNDESA, Issue 67, November 2004.

³⁹ Edmund Kofi Yeboah, "Tax Amnesty for All." *Daily Graphic*, Thursday, January 12, 2006, P. 1-3.

⁴⁰ Edmund Kofi Yeboah, "Captains of Industry Welcome Tax Amnesty". *Daily Graphic*, Friday, January 13, 2006. p. 16.

1. ⁴¹ Levin, Jorgen and Thisen, Jean K., Optimal Commodity Taxation Efficiency and Equity Aspects. Paper Presented at Ad-Hoc Expert Group Meeting, Economic Commission for Africa, on Fiscal Policy and Growth in Africa: Fiscal Federalism, Decentralization, and the Incidents of Taxation, 7-9 October 2003, UNCC, Addis Ababa, P. 1-3.

Flowing from the above, African countries have introduced VAT because it is recognized as a modern and efficient way to collect the revenue needed for their countries. For example, many African countries chose for VAT, a unique rate. This was dictated by the administrative heavy costs of having a VAT at several rates. Basic needs and the social services (education and health) are often exempted from VAT in such a way as to limit the regressive impact of *a priori* single rate. The purpose of applying a single rate is to improve the efficiency of tax by facilitating its administrative management and by limiting the possibilities of evasion. A multiplicity of taxation rates would lead to serious administrative and control costs. Thus, in terms of the structure of taxation, the role of indirect taxation has become increasingly important in Africa, while that of the personal income and other taxes remain very low.⁴²

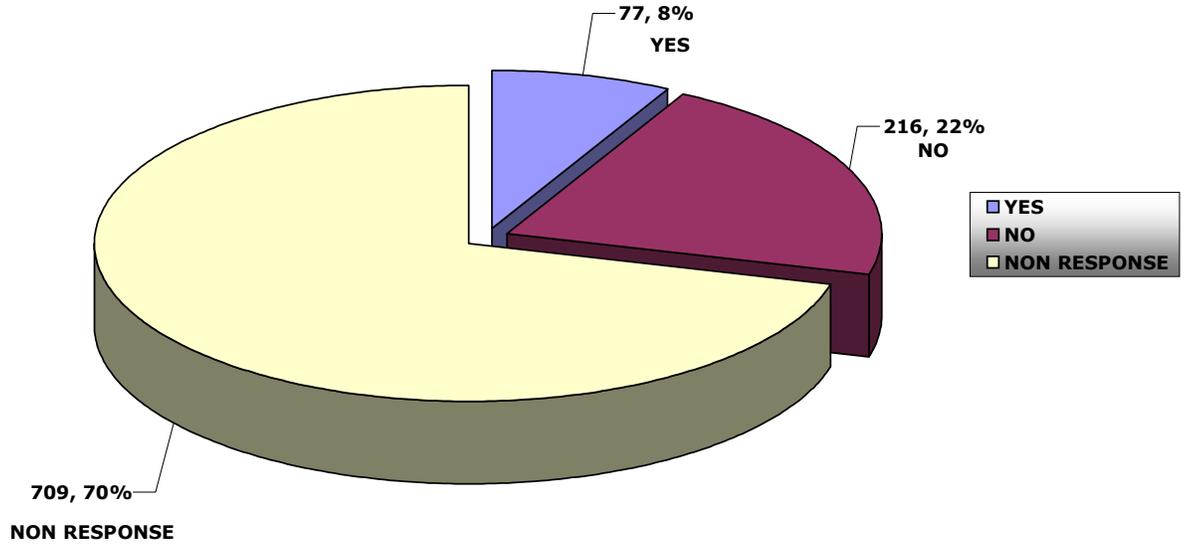
Aside the IRS, CEPS and VAT Service, the District Assemblies are the fourth most important tax agency. When we asked the chiefs about the agency for tax mobilization in their areas of jurisdiction, 25 of the 33 responses was “the District Assembly”. Under the local government laws, each district assembly must submit, through the regional co-ordinating council, the development plans of the district to the NDPC for approval. They then submit their budget related to the approved plans to the Minister for Finance for approval. Aside the District Assemblies Common Fund (5% of government revenue that is constitutionally required to be transferred by central government to the districts), and lately, HIPC Funds (debt relief from the Highly Indebted Poor Country Initiative), the districts generate revenue through the imposition of rates. Rates may be “general” or “special”. A “general rate” means a rate made and levied over the whole district for the general purposes of the district and a “special rate” means a rate made and levied over a specified area in the district for the purpose of a specified project in the district approved by the district assembly for that area. General rates include rates payable by the owner of premises within the district, value of the premises; rates assessed on possessions; rates assessed on persons who reside within the area; and rates assessed on owners of movable and immovable property in the area.

Under section 111(1) of the Local Government Act, 1993, (Act 462), a district assembly may in writing authorize any suitable person in respect of a specified area of the district as a “Rate Collector” to collect rate. A Rate Collector is mandated to furnish in writing to the district assembly a nominal roll of all rateable persons in the area in respect of which he has been authorized to collect rates. He must collect all rates and pay the amount received to the district assembly and report any person who fails to pay the amount due.

The key problems with tax mobilization in Ghana appear to be poor revenue collection mechanisms. There are no proper databases of taxable persons, property or other possessions. It is therefore very difficult to mobilize taxes from without the formal sector. There are therefore serious shortfalls in tax mobilization in Ghana.

⁴² Levin, Jorgen and Thisen, Jean K., . 1-3.

FIGURE 10
DO YOU PAY TAXES FOR YOUR EMPLOYEES

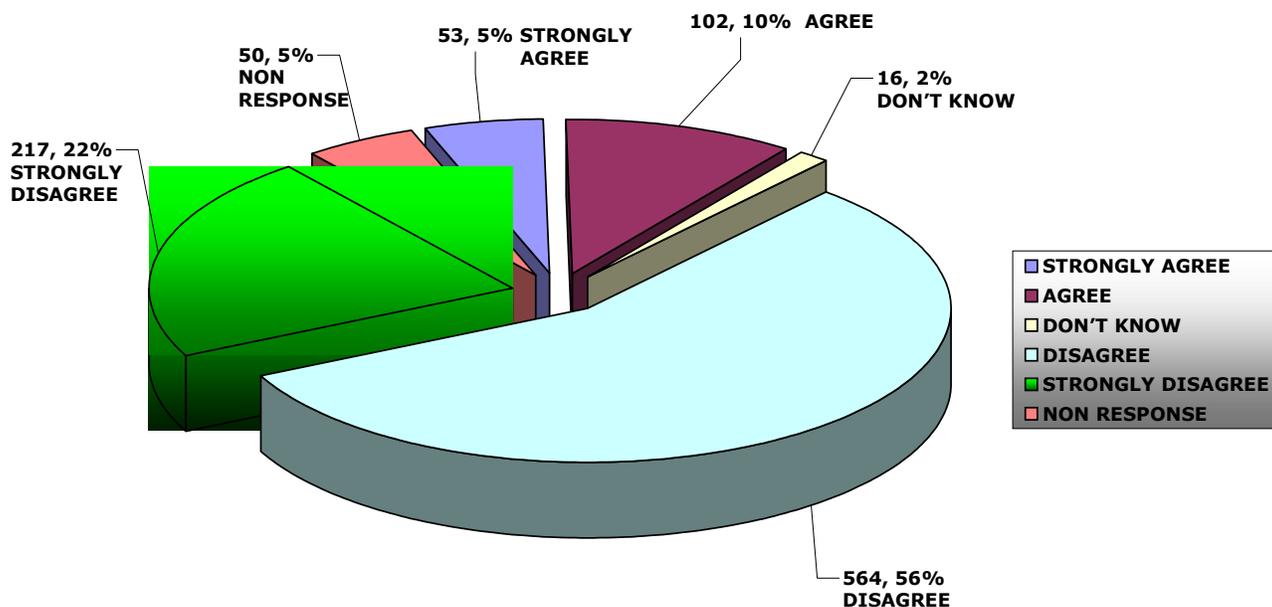


The slide above is evidence that private sector employers leave their employees to their own tax obligations. A mechanism of taxation that ensures that private sector employers regularly deduct the taxes of their employees at source will enhance revenue collection. The 70% of respondents who did not respond to this question masks a significant component of employers who do not pay taxes on behalf of their employees. This is so even if we correct for those respondents who are not employers. Of the remaining 30% who are employers, only 8% pay taxes on behalf of their employees.

4.4.7 TAX TRANSPARENCY

The transparency of a tax system is directly related to people's willingness to pay taxes and hence the amount of taxes that may be mobilized. From our interviews, a chief reason why many do not like to pay taxes is that the tax system is not transparent enough. Out of 1002 respondents, 781 disagreed or strongly disagreed with the assertion that the Ghanaian tax system is transparent. A modern tax system should ensure collection on the basis of known, clear, transparent and contestable rules. It should also provide mechanisms for citizen monitoring of revenue collected and how such revenue is used.

**FIGURE 11
THE TAX SYSTEM IS TRANSPARENT**



Good governance consists of several dimensions. The *capacity* of the state to function in the service of the public good; *commitment to the public good*, *transparency*, *accountability*, *the rule of law*, and *mechanisms for dispute resolution*. “Most Ghanaians consider transparency and accountability, the rule of law and free and fair elections...to be the key components of good governance”,⁴³ and the GPRS provides that one of the actions to be taken to achieve good governance is to “ensure transparency and accountability in resource generation, allocation and management”.⁴⁴

By *transparency* we mean the openness of state business and conduct to the scrutiny of other state actors and of the public. Transparency requires freedom of information; and mechanisms to ensure that citizens can acquire information about how government makes decisions, conducts business, and spends public money. Transparency requires full openness and competitiveness in public procurement, but it also requires openness with regard to the personal finances of government officials.⁴⁵ From our interviews, Ghanaians are yearning to know exactly how their tax revenues are used.

Transparency is intimately related to *accountability*. Governing agents are more likely to be responsible and “good” when they are answerable for their conduct to the society in general and

⁴³ NGP, (2004) The Funding of Key Governance Institutions in Ghana: Report of a Diagnostic Study. National Governance Programme. 6th National Governance Workshop, 2003. p. 4.

⁴⁴ GPRS 2003-2005.

⁴⁵ Diamond, Larry “Democracy, Development and Good Governance: the inseparable links” (Kronti ne Akwamu Series No. 1 CDD-Ghana 2005), pp. 6-9.

to other specific institutions that monitor their behaviour and can impose sanctions upon them. Effective oversight requires open flows of information, and hence transparency, so that monitors can discover facts and mobilize evidence. This requires a system of government by which different institutions check and hold one another accountable, compelling them to justify their actions. Power is thus constrained, bound not only by “legal constraints but also by the logic of public reasoning.”⁴⁶ A manifest commitment to the public welfare on the part of government also breeds a civic spirit in society, including a willingness to pay taxes and obey the law. Ordinary citizens will sacrifice immediate advantages for the longer-term common good only when they believe that their fellow citizens will as well. “When government itself is transparent and disciplined in its commitment to the public good, it provides credible signals to the rest of society about what types of behaviours can be expected. A more capable and knowledgeable government also generates the capacity to enforce the law, mediate disputes, keep order, collect taxes, promote trade, maintain fiscal stability, attract investment, and so foster economic growth.”⁴⁷ When we think transparency, we should think, “What would inspire Ghanaians to *want* to pay their taxes, and to identify with such an exciting national project?”⁴⁸

The tenets of tax transparency are effectively captured in the following quotation: “The people’s right to know and even control how their taxes and other resources made available to the government are used, is one of the cornerstones of democratic government...Government therefore has a special responsibility to provide assurances to the public a clear picture of where public finances [including taxes] come from, how utilized and accounted for in an open and credible framework”⁴⁹. The framework for this, in the case of tax revenues, is very unclear to the common man to say the very least.

The transparency issues relating to taxation have historical roots. The system of taxation in pre-colonial Ghana was not very transparent. Payment of taxes was borne more out of the reverence the citizenry had for their chiefs than the transparency of the tax system. In the words of a leading chief in Ghana today, the share of royalties that goes to the stool, should be given to the chief as the occupant of the stool and be regarded as “unaccountable imprest”. This exemplifies the transparency issues that have historical roots. The system of taxation during colonial rule was even more opaque. Citizens were hardly consulted on what, when and how revenues may be mobilized. Yet there are mechanisms of transparency and accountability we can learn from our traditional system of revenue generation. In the past, “unaccountable imprest” was actually accountable. This is because the chief, as chief, was the automatic bearer of certain financial obligations of the whole community. Thus, if a stranger came into town it was the duty of the chief to feed, cloth and house him and generally deal with his issues. The so called “unaccountable imprest” was directed to such community ends and the community was glad and not peeved because the obligations of the chief frequently exceeded the quantum of the unaccountable imprest. In some communities, this mechanism still exists. In others, however, chiefs take the benefit of the unaccountable imprest and neglect the obligations that come with it. This has raised serious issues of transparency and accountability.

⁴⁶ Diamond, Larry, *ibid*, p. 9.

⁴⁷ Diamond, Larry, *ibid*, p. 17.

⁴⁸ Diamond, Larry, *ibid*, p. 17.

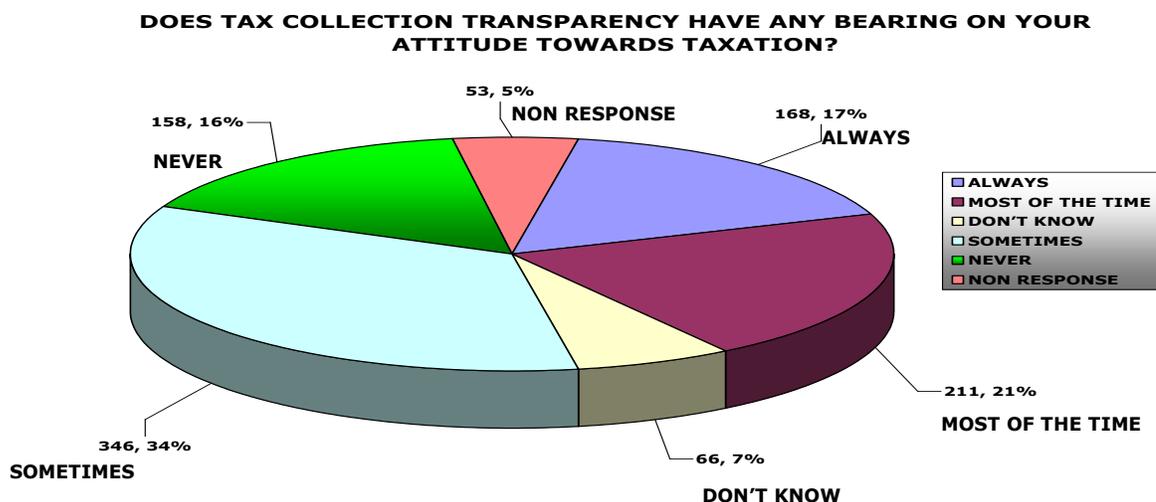
⁴⁹ CEPA, (2005) State Audit: An Instrument for Accountability and Good Economic Governance. Ghana: Selected Economic Issues, No. 10, 2005. Centre for Policy Analysis. P.1-2.

In post independent Ghana, issues of transparency in the tax system still persist. The World Bank later reported that the 1992 fiscal shock in Ghana was in part caused by the decision to write-off the 14,000 million cedis in taxes owed by the GNPC...”⁵⁰ And the Council on Indigenous Business Associations (CIBA) appears to have acted as a major conduit of patronage, by the ruling National Democratic Congress (NDC) party, notably by providing material pay-offs to the leaders and employees of those associated organizations which were granted the right to collect taxes from their members on behalf of the Internal Revenue Service and/or a municipal authority, in exchange for a commission. The CIBA has, in the past, collected rates in Kumasi on behalf of the Kumasi Metropolitan Assembly, for which it received a ten per cent commission. Such “tax-farming” created jobs for NDC supporters, as well as substantial revenues for compliant associations.⁵¹

Lack of transparency is an issue at several other micro levels: what taxes am I supposed to pay? To whom do I pay them? How am I assessed? Can I challenge the assessment? Where do I go to make such a challenge? What will the money be used for and how will I know that it is beneficial to me, my sister, the community, or the public? One trader holds out various receipts to one of our research associates and asks how she is supposed to know that they are genuine, that she gave the money to the right person and that the money will arrive in government coffers and be used for something useful.

Today, virtually nobody knows what taxes are collected, how they are used and how beneficial tax revenues are. In the words of a number of respondents: “No, I don’t know anything about the tax system so I do not know if it is transparent.” And “The government should say exactly what the money is being used for and there should be public education [on taxation]”.

FIGURE 12



One of our field staff for the Ashanti Region made the following observation: “People told me

⁵⁰ Sandbrook, Richard and Oelbaum, Jay Reforming Dysfunctional Institutions through Democratisation? Reflections on Ghana, *The Journal of Modern African Studies*, Vol. 35 No. 4 (Dec. 1997) 603-646, at 629.

⁵¹ Sandbrook, Richard and Oelbaum, *ibid*, p. 625-6.

about tax collectors and gave the recommendation to “change them all”. They claimed that some of the collectors keep part of the money. More people explained that as in African countries everyone is related, the IRS should employ collectors born in other districts, should move them after a certain period of time to another district and take care in choosing “good people”.

Even very well educated and informed chiefs did not know who raises revenue within their jurisdictions and what percentage of such revenues benefit the communities from which the monies are taken.

FIGURE 13
WHO MOBILISES TAXES IN YOUR AREA NOW?

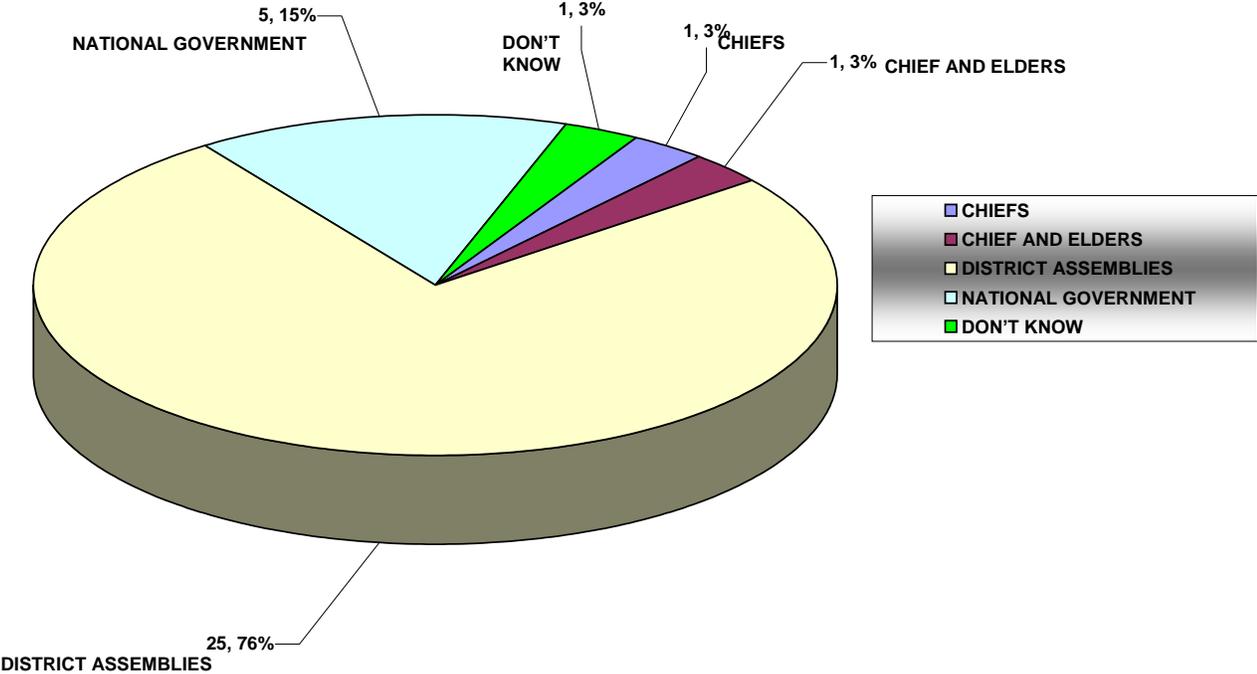
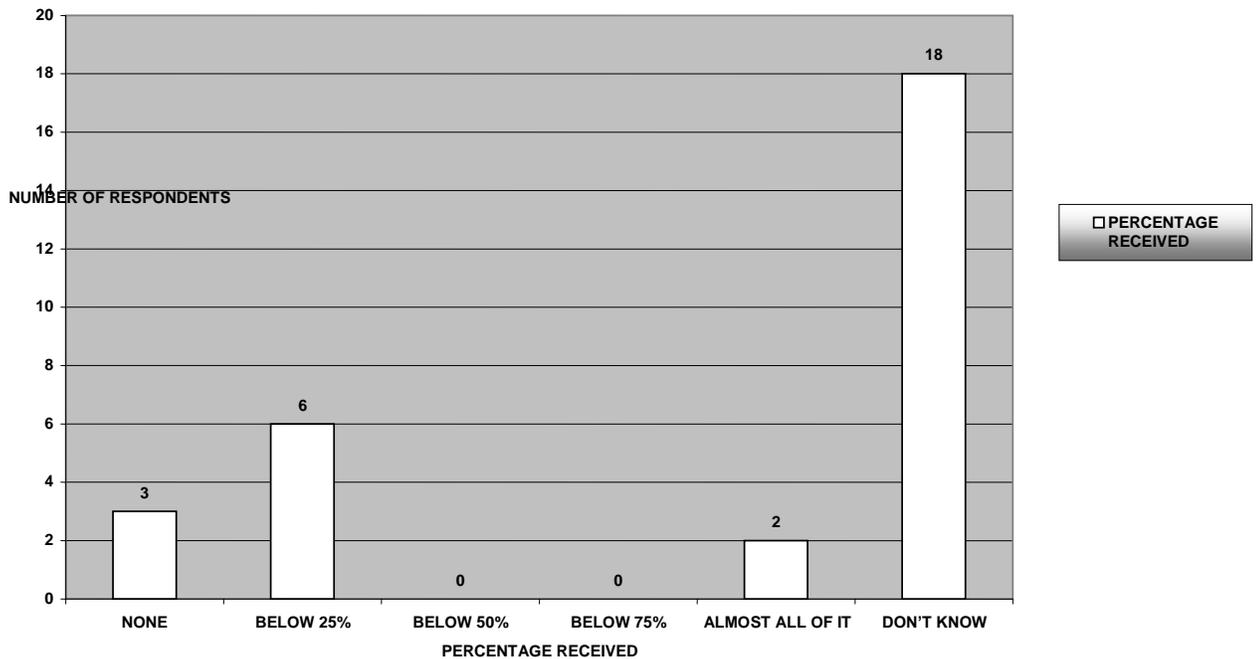


FIGURE 14
WHAT PERCENTAGE OF TAXES MOBILISED FROM YOUR DISTRICT DO YOU THINK ACTUALLY BENEFITS
YOUR COMMUNITY?
FROM THE TAXES RAISED BY THE DISTRICT ASSEMBLIES



Our respondents had a number of suggestions for improving transparency in the tax system in Ghana: tax rebate and tax relief information and forms should be readily available; the public should be educated in order to understand the workings of the tax system so they can challenge wrongdoing and sub-optimal performance; tax returns should be published; tax administrators should listen to the issues of tax payers and attend to them; mechanisms should be instituted to make those who use tax revenues accountable to the public; persons involved in corruption related to taxation must be prosecuted not just dismissed from their jobs; bureaucracy should be eliminated in the system of tax administration; and the relative power of the citizen as against the tax authorities should be increased.

In the words of one respondent, “those who know what taxes are used for would always want to pay.” “Why would you not want to pay tax to the government? Because I do not know what the tax money is used for” was common dialogue between our field staff and respondents. When people do not know what taxes are used for, they will guess what it is used for and orient their actions and attitudes accordingly.

In the LTU survey, most respondents felt strongly about how taxes are used; mainly that it is used to enrich the lives of government officials to the detriment of the poor tax payer. They thought that Government should account for its use of the money.⁵² Many of our respondents did not know much about the tax system and thought that the tax system was not transparent at all. They would prefer to give money to charity rather than pay taxes. They also feel that they should have a say in the way tax is administered and be capable of assessing the value of paying taxes. Others

⁵² See LTU survey results in appendices E and F.

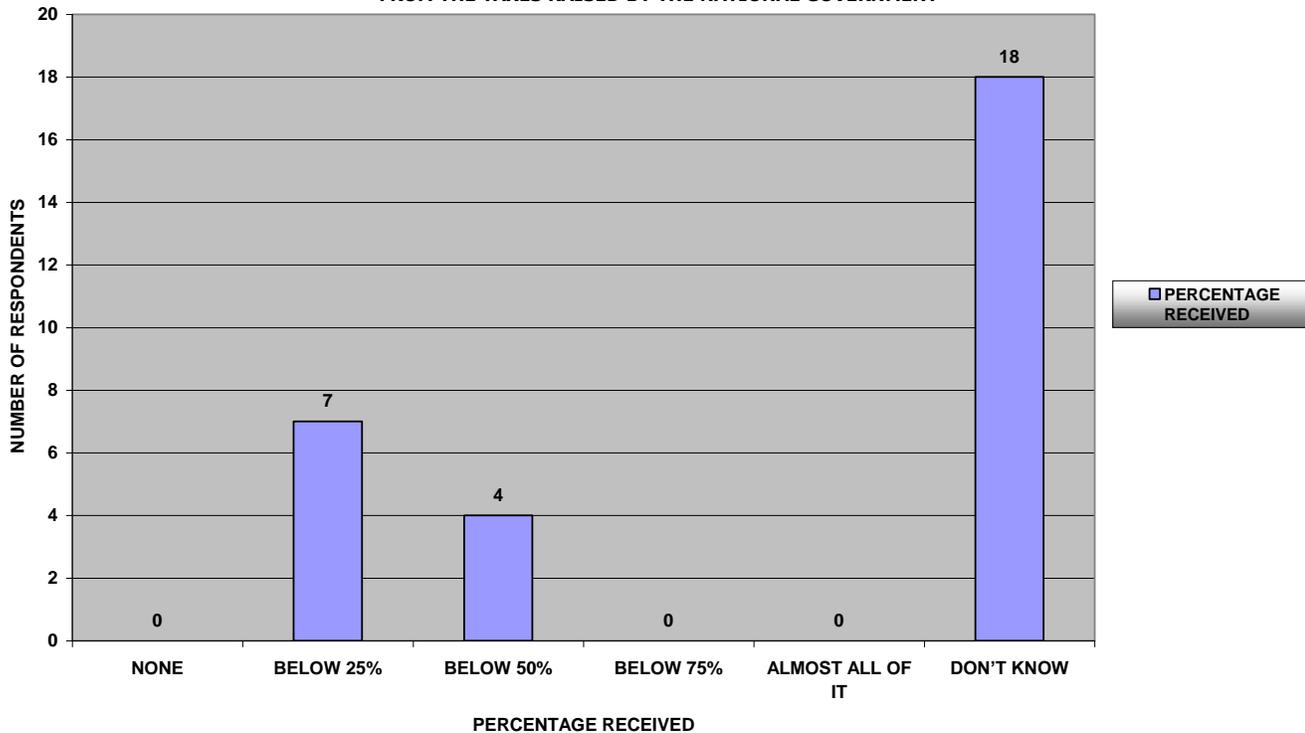
feel cheated because they always pay taxes while many in the informal sector do not pay taxes or are under taxed.

The following spiced salad of popular views and reactions to non-transparency in tax administration is worth quoting in full:

“In fact I am overtaxed. I say so because there are people in the informal sector who gain more but have ways of understating their gains and the IRS has no effective system of checking this. Also there is too much official opulence and vulgar extravagance. The IRS is not honest; there are persistent rumours that they help people underpay. They are corrupt. Valued Added Tax (VAT) is punitive because the poor has to pay the same amount as the rich. I also do not know what the tax money is used for. Tax does not encourage the leadership to be innovative in their thinking because it is an easy way to make money for the government. The corruption in the system is really discouraging; we have no idea how much money is collected and how this money is disbursed. We like to know that we are benefiting from these payments. Because despite all the taxes that are being collected, Ghana is always taking loans from other countries. Most people in the informal sector who own large businesses are helped by the tax collectors to evade tax. Money collected through taxes is not used judiciously and are misused by some people in government”.

FIGURE 16

**WHAT PERCENTAGE OF TAXES MOBILISED FROM YOUR DISTRICT DO YOU THINK ACTUALLY BENEFITS YOUR COMMUNITY?
FROM THE TAXES RAISED BY THE NATIONAL GOVERNMENT**



4.4.8 TAX DELINQUENCY: EVASION, AVOIDANCE ETC

It is generally assumed that the majority of Ghanaians are tax averse. Our research has revealed that this assumption is too simplistic. Ghanaians can be very tax loving given a well administered tax system. The theory of tax compliance was pioneered within the framework of game theory. Tax evasion was treated as a risky asset, which is usually determined by tax audit and tax penalties-punishment oriented policies. However, the game theoretical approach could not completely explain tax compliance. Since then there have been many studies to explain the behavior of tax compliance in more realistic terms and in a more holistic fashion. These have focused on both economic and non-economic factors as determinants of tax compliance. The concept of tax culture has been used in these later studies to explain the different levels of tax compliance and general tax behaviour of different countries.⁵³

Flowing from the above, much research has in recent years investigated whether values, social norms, and attitudes differ across countries and whether these differences have measurable effects on economic behavior. One area in which such studies are particularly relevant is tax compliance, given both the noted differences across countries in their levels of tax compliance and the marked inability of standard economic models of tax payer compliance to explain these differences. In the face of these difficulties, many researchers have suggested that the intrinsic motivation for individuals to pay taxes – what is sometimes termed their “tax morale” – differs across countries, and have used experimental methods or information on selected countries to test this hypothesis. Tax morale can generally be understood as the moral principles or values individuals hold about paying their tax. Several other approaches have been used to examine this notion. In a common approach, studies sometimes referred to as “cultural studies” have often relied upon controlled laboratory experiments conducted in different countries because such experiments can be set up with identical experimental protocols to allow cultural effects to be isolated. Tax morale is likely to be influenced by such factors as perceptions of fairness, trust in the institutions of government, the nature of the fiscal exchange between tax payers and government, and a range of individual characteristics. Importantly, tax morale is likely to differ across countries because of cultural differences across these countries. There is also a strong negative correlation between the size of the shadow economy and the degree of tax morale in those countries.⁵⁴

Studies done in Switzerland, Belgium and Spain, countries with a certain cultural variety have concluded that, generally, the cultural background seems not to have a strong effect on tax morale within a country. However, there is evidence that there is a strong interaction between culture and institutions, which has a strong impact on tax morale. Tax evasion is a sensitive topic and it is difficult to get useful data on it. Researchers have, however, tried to gain insights with experiments. The results indicate that the high level of tax compliance cannot be explained entirely by the level of enforcement. It is important to see the process of tax evasion as a staircase with different steps. First, tax payers have to be seized by a will not to comply. Some researchers

⁵³ Jin Kwon Hyun, Tax Compliances in Korea and Japan: Why are they different? Preliminary Draft Paper for discussion presented at a Seminar held by the Policy Research Institute, Ministry of Finance, Japan, February, 2005 (On file with author).

⁵⁴ James Alm and Benno Torgler, Culture Differences and Tax Morale in the United States and in Europe. Paper presented at the Annual Meeting of the Public Choice Society 2004 in Baltimore and at the 2004 Annual Conference of the National Tax Association in Minneapolis (On file with author).

have argued that many individuals do not even think of tax evasion, and there are tax payers who do not even search for ways to cheat at taxes. In fact, experiments indicate that there are individuals who always comply. In a second step, a person with an inclination to dodge his taxes is able to translate his intention into action. Many individuals do not have the opportunity or the knowledge and resources to evade. And in a third step, there are individuals who feel inclined not to comply and check for the opportunity to evade taxes. This is the phase where standard economic theory comes into play, where individuals evaluate the expected value of evasion. The studies point out that differences in compliance behaviour across cultures is driven by differences in tax administration, citizen attitudes toward governments etc.⁵⁵

In the LTU survey,⁵⁶ some respondents thought that many tax defaulters are not prosecuted. They stressed that arresting and prosecuting tax delinquents in special tax courts and punishing them will have a direct bearing on the perception and attitude of persons towards tax evasion and ultimately reduce the incidents and frequency of the phenomenon. Others thought that taxmen should be more proactive in identifying tax delinquency and should develop a tax payers' data base and software that facilitates the identification of tax delinquency.

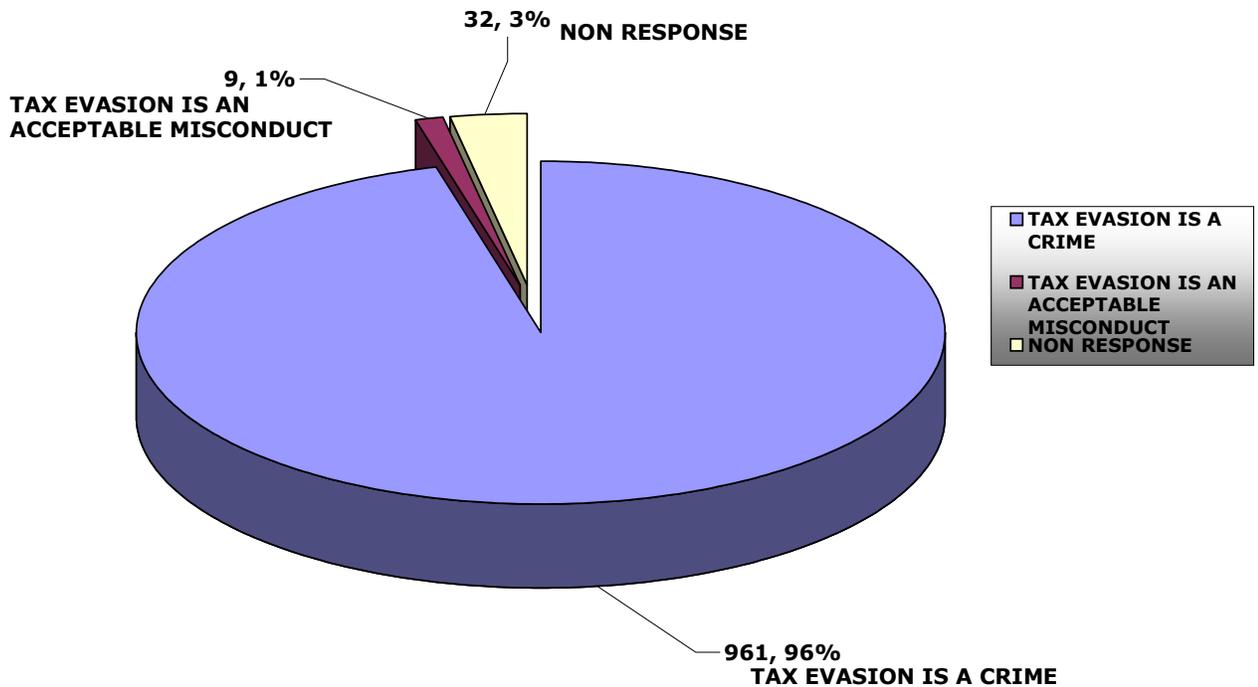
During our interviews with the chiefs and the individual tax payers, they emphasized that traditionally, tax defaulters were punished and because the communities were small it was easy to track defaulters. Some of the punishments they mentioned were very extreme and included banishment and lynching.

There was a general sense that tax evasion is a crime and evaders should be punished.

⁵⁵ Benno Torgler and Friedrich Schneider, **Does culture influence tax morale? Evidence from different European countries**. Paper presented at a seminar at the University of Basel together with the University of Zurich, (On file with author).

⁵⁶ See appendices E and F

**FIGURE 16
TAX EVASION**



4.4.9 TAX DISPUTE RESOLUTION

According to our respondents, traditionally, most people do not default in the payment of taxes. When they do, the chief and his elders settle the matter. According to one chief, this has happened only twice in his living memory, that a citizen has been arraigned before the dispute resolution council for tax delinquency. An overwhelming majority of chief respondents said that the institution has the fundamental competence and capacity to resolve tax disputes.

The Courts Act stresses the need for civil courts and its officers to “promote reconciliation, encourage and facilitate the settlement of disputes in an amicable manner between and among persons over whom the court has jurisdiction”, and counsels them to “promote reconciliation among the parties, and encourage and facilitate the amicable settlement of the suit or proceeding.”⁵⁷ Courts with criminal jurisdiction may also “promote reconciliation, encourage and facilitate a settlement in an amicable manner of any offence not amounting to felony and not aggravated in degree, on payment of compensation or on other terms approved by the court before which the case is tried, and may during the pendency of the negotiations for a settlement stay the proceeding for a reasonable time and in the event of a settlement being effected shall dismiss the case and discharge the accused person.”⁵⁸

⁵⁷ Courts Act, 1993, (Act 459), Section 72.

⁵⁸ Courts Act, *ibid*, Section 73.

The Civil Procedure Rules⁵⁹ also provides for the settlement of disputes by Alternative Dispute Resolution (ADR). Under the Rules, parties at the pre-trial conference may, instead of allowing the pre-trial judge to settle the dispute through mediation, negotiation, arbitration or any other mode of settlement, agree to refer their dispute to an external person or body to settle same, and the pre-trial judge shall give directions and time for the settlement.

It is in these areas of dispute resolution that chiefs are willing to assist. Their desire is to engage in general dispute resolution, but they are willing to do a pilot involving only tax cases. Traditionally chiefs have always had a dispute resolution role. They still do. Several dispute resolution bodies are headed or empanelled by chiefs, they run their own chiefs' courts, they run traditional councils, and judicial committees of the Regional and National Houses of Chiefs that settle disputes. The decisions of the National House of Chiefs in chieftaincy matters are appealable directly to the Supreme Court.⁶⁰ Two ways of engaging chiefs in dispute resolution have been canvassed.

Chiefs, with their council of elders, may constitute the courts in their towns and villages. The chiefs and elders are close to the people particularly in the rural areas, and they are well versed in local customs and usages and therefore know customs and traditions applicable to disputes that would be brought to them. Again, membership of the council of elders is not "fixed" such that the absence of a member will delay a hearing because of absence of jurisdiction. Again, where the chief and elders are resident in the area, they may hear and determine cases expeditiously and at limited cost. However, there is the issue of the absentee chief to deal with; some chiefs' courts are known to charge high fees well above the cost of instituting simple proceedings in the Magistrate Court; they do not have clear rules of procedure; most procedures are not in writing; there is sometimes no consistency in the application of rules by the chief's courts and some people generally prefer the regular courts because of allegations of corruption by chiefs' courts.⁶¹

Alternatively, the mandate and jurisdiction of the existing Judicial Committees of the Traditional Councils should be expanded so that they could deal with minor local cases. Many chiefs do not live in their traditional areas; they live and work elsewhere. They would therefore not be available all the time to adjudicate small disputes. The Judicial Committees on the other hand are standing committees of Traditional Councils that have regular meetings at which they deal with matters placed before them. Secondly the Judicial Committees have mechanisms for adjudication. However, the Judicial Committees meet only at scheduled times and have a specific composition without which it has no jurisdiction. It also meets at the District Capital and so justice will be as far away from the ordinary person as is the case with the regular courts and delays and great costs will be occasioned.

Finally, what ever method is chosen, the institutional and human resource capacities of the chiefs and those who man the dispute resolution mechanisms will have to be built so they function

⁵⁹ High Court (Civil Procedure) Rules, 2004 (C.I 47) Orders 58, 64 and 68 .

⁶⁰ Article 273 (6) of the 1992 Constitution and Section 4 (4) of the Courts Act, 1993, (Act 459).

⁶¹ NGP (2005), Traditional Authority and Good Governance: Implications for Democratic Consolidation. Report of the 7th National Governance Workshop, Organised by the National Governance Programme and the UNDP, Kumasi, 27th-29th October 2004, p. 25-27.

effectively. The neglect to do this for the existing Traditional Councils has meant that they are performing sub-optimally.

Whatever the constraints, there are several reasons why the idea of involving chiefs in dispute resolution has serious advantages and should not be dismissed lightly. The closeness of the dispute resolution venue to citizens; the use of the local language in which parties and adjudicators are at ease and are well versed; the absence of technical jargon in the proceedings; and a simple and understandable procedure are just a few advantages.

An international conference on chieftaincy held in 2003 drew the following conclusion:

“In view of the lack of accessibility for the majority of Ghanaians to the regular courts of Ghana, the chief’s tribunal must be re-introduced and made part of the judicial system of Ghana. Chiefs must be introduced to new techniques in adjudication; to the fine principles of the rule of law and the equality of everybody before the law, with some education in judicial process so that they are willing to clean their stables...

Chiefs in Ghana have not always conducted themselves well. They have not administered justice impartially and they have not always accounted faithfully to their states with regards to the management of resources...⁶²

In addition to the caution given above, we should note that given the willingness of chiefs to assist in some aspects of tax mobilization and administration, conflicts of interest may arise where the chiefs also engage in dispute resolution relating to taxes collected and administered with their active assistance. However we try to distinguish these functions, there is a thin line between encouraging voluntary tax compliance and insisting on tax compliance to the point where there is a conflict of interest situation where chiefs engage in dispute resolution of tax matters that arise. We will revisit these issues in the recommendations section.

4.4.10 TAX PAYER SATISFACTION

Tax payer satisfaction is directly linked to tax morality, tax compliance and tax revenue levels.

Ghanaians will love to pay taxes if only the tax system were better in several respects. “If tax is for a good purpose, I would not mind paying 50% of my income”, says one respondent.

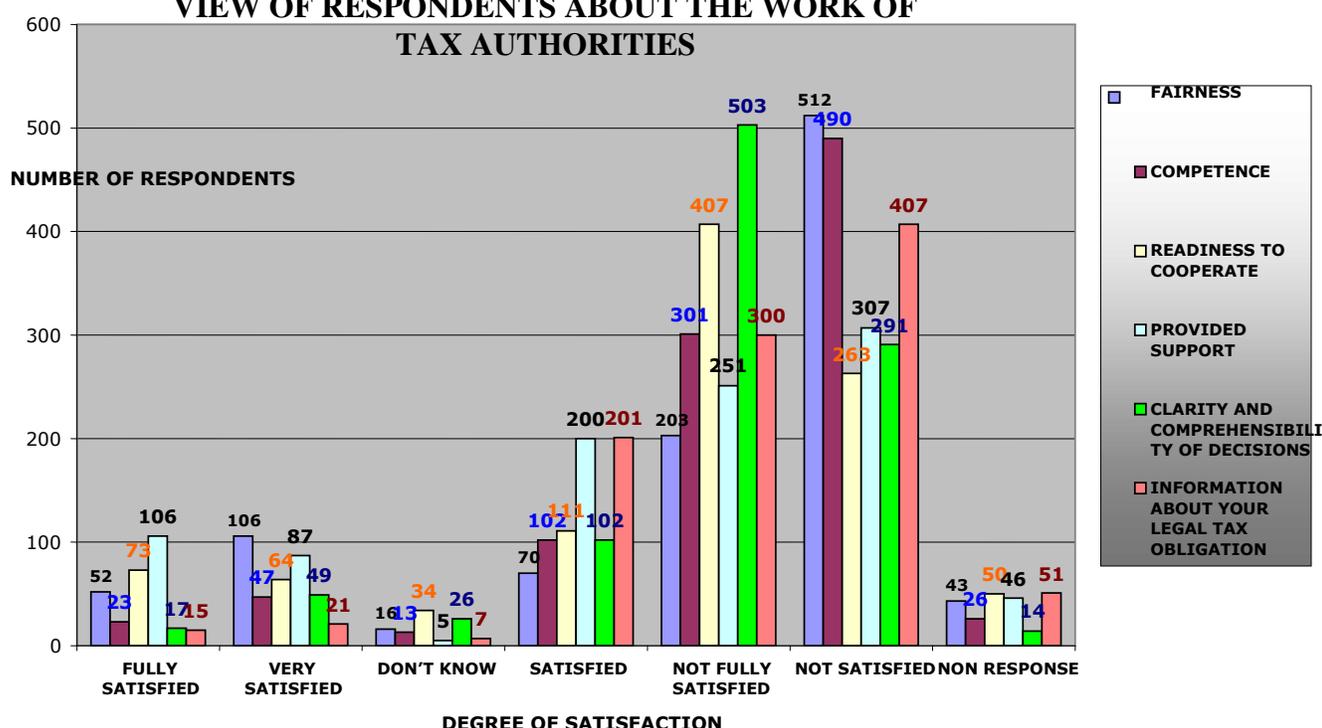
With the current tax system, Ghanaians literally hate the tax man and hate paying taxes. “I actually feel pains in my body when I pay tax”. There was open hostility from some people who assumed our field staff were from the IRS. Some of our staff got scolded several times. Many respondents complained about the tax collectors and named corruption as one of the reasons why they would not want to pay tax. They also noted that there are too many taxes and it is quite confusing as to what to pay, what is being paid and at what point in time it should be paid.

Some of the respondents were satisfied with the tax system. They indicated as a reason for their satisfaction with the tax collection system that the tax collectors often come directly to the shop

⁶² Baku, Kofi, Chieftaincy in Africa: Culture, Governance and Development, Summary of International Conference Proceedings at the International Conference Centre, Accra Ghana, January 6-10 2003, p 23 and 26.

and collect the money there, so that they are not obligated to queue at the tax office. Tax collectors also sometimes agree to payment in installments. The few who were alright with the tax system were unhappy that they did not have the opportunity to negotiate (literally bargain over) the amount of tax that is payable. Negotiation, bargaining and discussion are a huge component of Ghanaian culture. In our interviews, respondents preferred the tax officials of the District Assemblies to the IRS because it is possible to say to the former: “I have not sold enough goods today, go and come tomorrow for your tax”. A tax system that is anti-negotiation, anti-bargaining and anti-discussion, cannot sit in well with the Ghanaian.

FIGURE 17
VIEW OF RESPONDENTS ABOUT THE WORK OF
TAX AUTHORITIES



So many reasons were given for popular dissatisfaction with the tax system: tax payers do not know what tax monies are used for; government officials who live off tax revenues are corrupt and wasteful; the tax burden is too high-“Tax rates are too high, even bonuses and overtime are taxed”; income levels are too low; the rich should pay more taxes than the poor; there is no encouragement or incentive for regularly paying taxes; tax payers do not see the direct benefits of paying tax; there is little information and education about the tax system; tax payers do not appreciate the importance of taxation; there is near total ignorance about tax rebates, deductions and exemptions that the tax payer is supposed to enjoy; many in the informal sector are tax delinquent, sometimes with the connivance of tax men and this discourages others from paying taxes; there is little transparency in the way tax is imposed and collected; there is no way of telling whether or not tax revenues are used judiciously; if Ghana is still borrowing heavily

externally, then tax revenues are not helping out; some modes of tax collection are crude and unfriendly; taxes are too many and varied and should be consolidated; sanctions for tax evasion are too minimal and enforcement lax; “I think it is a way of robbing Ghanaians...after taking the money we do not hear anything anymore”.

In April 2004 the Large Tax payers Unit (LTU) survey was conducted. The results⁶³ indicated that 75 % of the large tax payers are more satisfied with LTU than with the other three individual revenue agencies (IRS, VATS and CEPS). 72 % of the respondents welcome the implementation of a one-stop tax agency. The large tax payers have also pointed out some fields of improvement for the LTU. 66% want to be provided with more specific information. 79 % like to get information via internet. Finally, 60 % would like to see further improvements in the expertise of LTU employees.

Other areas needing improvement according to the survey are: provision of more and better information and guidelines for the tax payer on exemptions, refunds, tax clearance certificates etc; tax payer education; speedy and efficient tax services; reducing corruption; proper record keeping of tax payer records; better customer service; training for schedule officers of tax payers; computerization of receipts; a reduction in paperwork and a move towards electronic processing; better attention to tax payer problems; information on rules and regulations (including regularly updated manuals that include notes on how tax laws are applied); clarifications on contradictory aspects of tax laws; simple and user-friendly tax forms; use of incentives to encourage tax compliance, not just punitive measures; improvement in the currently confrontational relationship between tax agencies and tax payers.

The way in which tax is imposed, collected and used by the state mirrors the governance of a state. Ghanaians currently do not love to pay taxes for a multiplex of reasons. Tax authorities cannot change this by wishing it away. But they have control over a number of factors, such as customer service, that enormously impact on the willingness of tax payers to meet their obligations. In the next and final section of this report, we make recommendations to creatively address this most crucial governance issue.

4.4.11 THE ROLE OF REVENUE AGENCIES

A recent forum held in Accra by the Association of Ghana Industries and the revenue agencies as part of the fifth National Industrial Week had as its theme: “Making Ghanaian industries price-competitive: The role of revenue agencies”.⁶⁴ Revenue agencies, as the key institution in tax administration can make or unmake an economy. Most of the comments and suggestions above (on tax payer satisfaction) are directly related to revenue agencies. In the recommendations section we discuss the role of revenue agencies in improving the tax culture of Ghanaians.

4.4.12 TAX AND TRADITIONAL AUTHORITY

The significance of traditional governance in Ghana has been such that the various constitutions of the country have guaranteed its existence and operation. The 1992 Constitution of the Republic of Ghana continues to recognize and guarantee the institutions, although it bans chiefs from participating in partisan politics. The Chieftaincy Act, 1971 (Act 370), sets out the guidelines for

⁶³ See Appendix E and F for LTU Survey Results.

⁶⁴ Daily Graphic, Tuesday, November 22, 2005

the functioning of the various Chieftaincy institutions. It legitimizes and defines the operation of the various Houses of Chiefs and mandates the National House of Chiefs to undertake the progressive study, interpretation and codification of customary laws. The constitutional guarantees reflect the relevance of traditional governance in modern democratic governance and justify, clearly, the inclusion of the institution in any discourse on nation building and development.

That the inability of central government to follow through on its policies and development agenda in the remotest parts of the country has created leadership and authority vacuum is indisputable. This vacuum is filled by traditional authority. Again, the traditional authorities as custodians of the land and other natural resources play a critical role in the economic activities of the people, such as farming, mining, construction etc. As custodians of the history and culture of the people, they are also regarded as one of the critical echelons of leadership through which the Ghanaian development agenda of poverty reduction and wealth creation could be achieved.⁶⁵

Research on “chieftaincy, governance and development”, has revealed that a significant number of Ghanaians are in favour of maintaining the institutions of traditional leadership, albeit, with government support, to develop the capacity of the institutions to function effectively. Furthermore, in a communiqué issued in January 2003, during an international conference on Chieftaincy in Africa, traditional leaders called for a review of their role and their incorporation into mainstream governance. “The chiefs demanded that:

1. The chieftaincy institution be assisted to enhance its profile as an integral and viable component of the contemporary socio-political structure of Ghana.
2. The chieftaincy institution be adequately resourced from the consolidated fund.
3. The capacity building efforts of the chieftaincy institution be supported financially.
4. The institution be seen as a critical and indispensable partner in governance at the local level...and that the Constitution be amended to allow for the institutional participation of chiefs at these levels of governance.
5. The judicial function of chiefs be recognized, properly defined and enhanced...”⁶⁶

It is clear that traditional authorities are willing and waiting to participate in several aspects of governance in Ghana, including the governance of the tax administration system. This view was buttressed by the receptiveness of the National House of Chiefs (following our presentation of the preliminary findings of the research process to them) to listen to us, brainstorm with us and point to avenues for collaboration by the chieftaincy institution in the governance of tax matters.

Already a debate has begun about the appropriate roles to be played by traditional leadership in the management of local and national resources, the mobilization and involvement of communities as partners and stakeholders in development, the search for strategies for containment and resolution of conflict and creation of harmony and peace. Of great significance is the fact that the academic background and profile of chiefs in the modern era have improved

⁶⁵ NGP, (2005), Traditional Authority and Good Governance: Implications for Democratic Consolidation. Report of the 7th National Governance Workshop, Organized by the National Governance Programme and the UNDP, Kumasi, 27th-29th October 2004, , p. 1

⁶⁶ NGP, 2005, Ibid, p. 1-2.

considerably. Most chiefs are now educated. Some of them are well-trained professionals. A regrettable trend in this encouraging development is the emergence of the phenomenon of the “absentee chief”.⁶⁷ This poses a challenge to traditional governance and the role of chiefs in development efforts in their communities since they may never be available in those communities for direct assistance to those efforts.

On the other hand, “there are dissenting voices which point to the anachronistic nature of the institutions of traditional leadership.” Central government has taken over the military, judicial, administrative, legislative functions and economic resources of chiefs and the institution of traditional leadership is bedeviled with conflict and disputes in connection with land and succession.⁶⁸ Chiefs have not always conducted themselves well. They have not administered justice impartially and they have not always accounted faithfully to their states with regards to the management of resources.⁶⁹ Others are down right dismissive of the institution and draw attention to the lowering levels of allegiance for chiefs by the citizenry.

Even though many argue today that chieftaincy is incompatible with the demands of the modern state, there is evidence that chiefs champion modern causes. For example Asantehene, Otumfuo Osei Tutu II maintains a consultant on Information Technology and Public Relations and has developed a website for Ashanti. The participatory aspect of it is that each division in the Kingdom would be networked. The World Bank provided funding for the website. The lessons are clear. Chiefs have been and can be agents of development.⁷⁰

Despite the above named problems with the chieftaincy institution, the potential of chieftaincy for effective leadership is not in doubt, even if they seem to operate in parallel, and in some cases in contradiction with the governance agenda of central government. The reason is that the Ghanaian society is still predominantly traditional in spite of the on-going transition to modernity. Given that only a mere 30% of the population is modernized, the remaining 70%, which is predominantly traditional, still looks upon chiefs as performing important religious and civil functions. Furthermore, central government has relied on chiefs as important links between them and people in the rural areas, and have utilized their offices in reaching out to the rural communities. Central government also uses chiefs to staff statutory Boards, to mediate in areas of conflict and disputes on behalf of Government and generally act as cultural ambassadors for Ghana.⁷¹

The general feeling, however, is that the rather residual functions given to traditional leadership do not afford chiefs the opportunity to play an effective role in modern governance. There is a need, therefore to redefine the roles that a traditional leader can play in order to make him/her an integral part of the modern governance paradigm. “Chiefs must consider the time opportune for them to review traditional governance from within; to critique themselves and rid the institution

⁶⁷ NGP, 2005, Ibid, p. 2

⁶⁸ NGP, 2005, Ibid, p. 2

⁶⁹ Baku, Kofi, supra, p.35.

⁷⁰ Baku, Kofi, ibid, p. 53-54.

⁷¹ NGP, 2005, p. 1-5.

of certain excesses and aberrations; to repair the damages done to the image of the institution; and to build its capacity towards integration into mainstream modern governance”.⁷²

Research has revealed that with capacity building and training chiefs could play important roles in resource management through data collection and documentation of information of resources in their traditional areas. It is therefore important to review the role of chiefs in the economic lives of their people in general. Contemporary governments rely on chiefs as important links between them and the people in rural areas: governments have utilized the offices of chiefs to explain important government policies to the people. On the balance, it has been argued that there is a need for the redefinition of the roles that a chief can play to make him an integral part of the modern development process.⁷³ The President of Ghana has shown the way by setting up a special commission on chieftaincy.

There is a constitutional injunction against anyone taxing citizens except government. Yet, the evidence is that chiefs mobilize significant amounts of revenue and other resources from their citizens⁷⁴. These are meant to be “voluntary” contributions from stool and skin citizens to the stool or skin for various purposes including the execution of development projects decided upon by the chiefs and elders, sometimes with input from the citizens. The evidence is that these contributions are not entirely voluntary. When, for example, a Chief takes monies called homage or levies as a pre-requisite for the passage of a corpse through his jurisdiction, the payment can hardly be said to be voluntary. There is also evidence that some chiefs, following the diminishing of their powers of taxation, use other undesirable methods of getting money. These include dipping into the stool land revenue and forestry royalties, multiple sales of the same piece of land to several buyers and the charging of inordinate fees for the performance of traditional functions of the chief such as dispute resolution.

In the light of the above, the majority of tax payer respondents were very opposed to the participation of the chieftaincy institution in tax matters. What then can the role of chiefs in improving the tax culture of Ghanaians be?

Chiefs are still a very powerful constituency in Ghana. The last serious attempt to strip chiefs of their status and power were those undertaken by Dr. Kwame Nkrumah, when he sought to control stool lands, one of the most important bastions of chiefs’ status and powers.⁷⁵ There are Traditional Councils in all traditional areas, Regional Houses of Chiefs in the ten administrative regions of Ghana and a National House of Chiefs in Kumasi. There is also a National Chieftaincy Secretariat in Accra. The chieftaincy institution is well represented in the Council of State and other national bodies such as important committees and commissions of inquiry. The National Reconciliation Commission is just one of many examples. The Constitution of Ghana contains a whole chapter of the Chieftaincy Institution. The importance of the chieftaincy institution in Ghana cannot be underestimated. Chiefs in Ghana today still hold court and settle many disputes

⁷² NGP, 2005, p. 2-3.

⁷³ Baku, Kofi, p. 51 and 89.

⁷⁴ During our interviews, a significant number of chiefs objected to the use of the term “subjects” to describe their constituents. They preferred the term “citizens”. In their opinion, the latter term was more dignifying and consistent with the range of rights (and resulting obligations on the chiefs), which their constituents have.

⁷⁵ See for example the State Lands Act, 1962 (Act 125) and the Administration of Lands Act, 1962 (Act 123).

between their citizens. There is evidence that some of the disputes that they resolve are well beyond their jurisdiction. Some chiefs settle criminal matters involving felonies that should be referred to the police under our criminal laws. Yet parties to such disputes submit to the jurisdiction of the chiefs, accept the ruling they give and abide by them with more gusto and acceptance than they would a regular court of law. In important matters such as land reform, the views, endorsement and implementation support of chiefs are strategically courted. Anyone who is in some doubt about the centrality of the Chieftaincy Institution needs only remember the quality, quantity and range of persons and institutions who paid their respects to the late Ga Mantse⁷⁶; the powerful force of initiatives and pronouncements by the Asantehene and the Okyehene, and the delicate issues surrounding the death of the Ya Na, Yakubu Andani. The Chieftaincy Institution controls about 80% of lands in Ghana.⁷⁷ Important matters of national importance are discussed at the meetings of the General Assembly of Chiefs and of the various Houses of Chiefs. Decisions are taken on these matters; the position of the Chieftaincy Institution on the matters are stressed; feedback is given to relevant stakeholders; and above all, these stakeholders take them seriously. All these are evidence of the resoluteness of the Chieftaincy Institution, the great public regard for the Institution in Ghana and its potential for advancing or retrogressing any national endeavour, including the building of an excellent tax culture in Ghana. Although a few respondents cautioned that chiefs should not be involved at all in taxation because they are corrupt and because of lowering levels of allegiance for chiefs by the citizenry, it is very safe to conclude that improving the tax culture of Ghanaians will fail unless the chiefs are involved in the exercise.

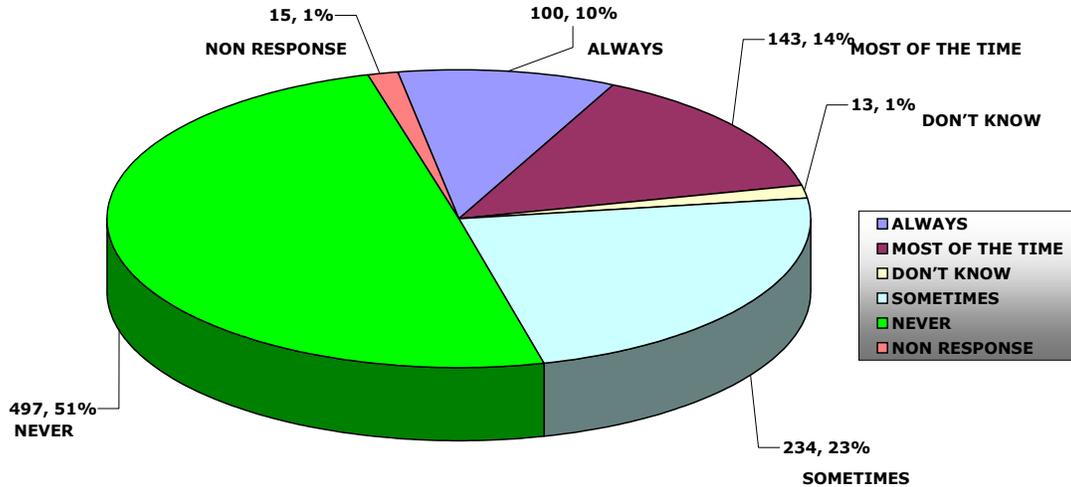
**DO YOU THINK CHIEFS / TRADITIONAL LEADERS SHOULD AT SOM
LEVEL BE INVOLVED IN THE TAX SYSTEM OF THIS COUNTRY?**

ALWAYS	100
MOST OF THE TIME	143
DON'T KNOW	13
SOMETIMES	234
NEVER	497
NON RESPONSE	15

⁷⁶ Nii Amugi II

⁷⁷ Ministry of Lands and Forestry, (1999) National Land Policy, (Accra, June 1999).

FIGURE 18
DO YOU THINK CHIEFS / TRADITIONAL LEADERS SHOULD AT SOME LEVEL BE INVOLVED IN THE TAX SYSTEM OF THIS COUNTRY?



Nearly half of the respondents do not think chiefs and traditional leaders should be involved at some level in the tax system of Ghana. The other half thinks they should. The various comments we collated from respondents-individual tax payers and chiefs alike-with regard to this question was that the import of the question was taken to be whether or not chiefs should collect taxes. Almost all respondents agreed that chiefs should not be involved in anyway in the direct collection of taxes. In their opinion, this is incompatible with the dignity of the Chieftaincy Institution and will cause citizens to loose respect for their chiefs. Chiefs should be promoters and canvassers of taxation and not tax collectors and enforcers.

Respondents, however, saw very critical roles for the Chieftaincy Institution in other aspects of the tax system. These included assisting taxmen to mobilize taxes by helping mobilize their citizens for tax collection; sending information out about tax obligations; educating their citizenry on the need to pay taxes and encouraging them to do so⁷⁸; assisting in the resolution of disputes arising out of the mobilization of taxes; and in limited circumstances, collating taxes from households and holding it for collection by tax authorities.

It was only in the northern region that a good number of respondents, including chiefs, thought that chiefs could be involved in direct tax collection. In their opinion there was practically no difference between tax collection and the mobilization of other forms of revenue from their citizens. Such a suggestion emanating from the northern part of Ghana is not very surprising since that area was not much of a revenue base for the colonial government and so the full and direct brunt of the colonial tax policies and their operationalization were not really felt in these parts.

⁷⁸ Of the 29 chiefs interviewed, 28 responded that they actively encourage their citizen to pay taxes.

There was abundant evidence that chiefs already play these roles in the tax administration system, albeit informally and on an ad hoc basis. One respondent cited an example of Lawra in the Upper West Region where the District Assembly involved the chief in mobilizing revenue and collected for the period, far more revenue than it had ever been able to collect. Most of the chiefs have welfare and other levies set up in their traditional areas and they have effective means of collection and punishment of defaulters; for example, defaulters are not given any financial aid in times of misfortune until tax arrears are paid. In the northern region, our field researchers were shown bags of millet representing resources mobilized from the citizens by the chief.

There were strong calls from the chiefs themselves for institutionalizing these roles and making them more effective and efficient at performing them. During a brief presentation of the highlights of this research project by the lead consultant, Dr. Raymond Atuguba and Dr. Christoph Habammer, the Project-Leader of GTZ-RMS, to a meeting of the National House of Chiefs in Kumasi on the 22nd of July 2005, the reception and response by *Nananom*⁷⁹ was very critical, but warm and useful.

The National House of Chiefs, speaking through its President and Principal Members undertook to convene a high-powered committee of chiefs to study the draft report and give feedback. The House first noted the constitutional injunction against any one except the government taxing and underlined the fact that they were not interested in assuming any responsibility for the actual collection of taxes. The House also indicated its willingness to partner government in its bid to improve the tax culture of Ghanaians by assisting in all aspects of improving the tax system except the actual collection of taxes on behalf of government. These could include disseminating information on tax matters; encouraging their citizens to pay taxes; supporting tax mobilization; and protecting the rights of their citizens in tax administration. They also indicated that their traditional role of dispute resolution could be expanded to include, explicitly, the resolution of aspects of tax disputes. Their popular mobilization role could also be used in aid of mobilizing their citizens for tax education and tax collection.

The following comments made by the chiefs during the discussion are reproduced below, almost verbatim:

1. "Taxation is a developmental issue as Dr. Atuguba said. If we chiefs are concerned with development and have been mobilizing levies for that purpose, then we should be interested in tax issues".
2. Nananom cannot be involved in the direct collection of taxes-this is the constitutional domain of the state. This is different from the monies, levies we take from our constituents.
3. We should not "in our present dispensation involve ourselves in tax collection, no way".
4. "In our area we collect cattle and human tax and sometimes when the District Assembly officials go to collect taxes the people refuse to pay if they are not accompanied by a chief's representative".

⁷⁹ This is a term used to address chiefs or refer to chiefs in most of the Southern parts of Ghana. It is sometimes applied to all Chiefs in Ghana although most major ethnic groups have a corresponding term.

5. When the tax man comes to town he is ineffective without our assistance. He asks the chiefs to beat the “gong gong”⁸⁰ for the purpose of informing and encouraging people to pay their taxes.
6. Chiefs have to be resourced to do the job of helping mobilize taxes. “We can facilitate but not collect and manage taxes”.
7. “Chiefs have always collaborated with revenue collectors”.
8. “The traditional ruler elects somebody to go with tax collectors to help identify who should pay taxes e.g. tenant farmers, owners of houses etc”.
9. We encourage the “active involvement of chiefs in tax matters but not in collection and management of taxes”.
10. We feel cheated as Nananom because of the various tax deductions from revenues generated from natural resources within our domain. This includes revenue from minerals and forest products from our constituencies. We will like to get involved in tax matters in order to protect the interests of our citizenry.
11. Generally, respondents thought that the role of traditional rulers should be limited to tax information, tax education, aspects of tax mobilization and tax dispute resolution. It was also recommended by the chiefs themselves that they should be remunerated for their role in improving tax revenues and that at least 50% of taxes should be used to improve the lives of the people in the area from where the taxes were raised.

⁸⁰ Local drum used to attract the attention of people in a town or village in order to relay a message from the chief.

5. RECOMMENDATIONS FOR IMPROVING GHANA'S TAX CULTURE

5.1 INTRODUCTION

It is critical that steps are taken to improve the tax culture of Ghanaians. This can be done by working to transform the tax system in Ghana into one that has a wider tax net, is equitable and is better governed. It is hoped that the recommendations outlined below will generally lead to an improvement in the tax culture of Ghanaians.

This last part of the report is very short. This is deliberate. The idea is to propose very effective, low-cost measures for improving Ghana's tax culture. This will include ideas for broadening the tax net, for better tax administration, measures for better customer satisfaction, ensuring voluntary tax compliance, better governance of the tax system, better systems of protecting the rights of tax payers, and better processes for dispute resolution.

The measures proposed are to ensure that improving the tax culture of Ghana is cost-effective. It is true that the broader dividends to governance and democracy that will inure with an improved tax culture are incalculably beneficial. Yet, in the face of resource constraint, we need to limit the interventions we seek to make to those which are practically beneficial and not gigantically costly.

Second, the leanness of the recommendations affords the chance for the stakeholders identified in the report to flesh them out in ways that they alone can. Flowing from this, we recommend not only subjecting the report to thorough review by tax administrators, traditional authorities and the general public, but also a process for working with these three segments of stakeholders in the further development and implementation of the recommendations arrived at.

5.2 IMPROVING THE TAX CULTURE OF GHANA

5.5.1 TAX MOBILIZATION

There is the need to increase the number and or competence of capacity of the personnel employed to collect taxes. This is especially so for the huge informal sector that is a part of Ghana's tax paying public. The colonial government was successful in the crude collection of taxes mainly because they used chiefs and teachers who could be found at every part of the country. This suggestion will automatically widen the tax net. Today, state agencies use teachers and other professionals who are very geographically spread in the country for national mobilization efforts related to the registration of voters, voting and the national census. The current Asantehene has also used students during holidays to assist the Municipal Assembly in Kumasi to collect annual land rates.

Those who assist in tax mobilization should be well remunerated according to a scheme that motivates them to collect more and more taxes. In the system of revenue generation used by the chiefs of old in the Asante kingdom, the *ahenkwas*⁸¹ who executed the revenue generation mandate of the chief were appropriately remunerated. In the Asantehene's exercise mentioned

⁸¹ A *Twi* term which means "Servants of the Stool".

above, the agreement was that the more a student collected in taxes, the higher the percentage of the commission paid to him.

From our interviews, there is a strong dislike for the taxman. Because of the colonial policy of making chiefs the collectors of taxes, the appointment of chiefs-without due regard for tradition-specifically for the collection of taxes and related matters, and the endorsement of crude and undemocratic processes of tax collection, the taxman and taxation have come to carry a certain public disapproval and loath. Some methods of tax collection and enforcement currently being used by the revenue agencies and the District Assemblies are reminiscent of the colonial tax collection processes and this has not helped matters. It is therefore important, for the purpose of improving tax mobilization, to improve the status of the taxman. This should be done both at the macro and the micro level. Some have suggested that the Chief Taxman should have a position equivalent to that of a minister of state. There are other ways of doing this. In the past, various governments have elevated the status of offices or thematics (such as “governance”) by associating them with the office of the President. At the micro level, the use of respectable professionals in aid of tax collection, at least some of the time, and other such measures will greatly improve the status of the tax man. In this regard it is not completely objectionable to have chiefs do actual tax collection some of the time in order to improve the status of the taxman at the local level. This way, the respect that most Ghanaians still have for their chiefs will rub off on the tax men and hopefully remain. Further, this will be a practical exercise through which chiefs will have a fair sense of tax mobilization issues to better act as mediators in tax disputes and to better protect the rights of their citizens vis-à-vis the tax administration.

If any of these suggestions are agreed for implementation, there will be the need to institute mechanisms for ensuring that the process is well managed to avoid all the issues of corruption and sub-optimality that are the bane of the current processes of tax mobilization. In the case of raising the status of the chief tax man, care must be taken not to over politicize the position especially as Ghanaians currently think that tax revenues are mostly used to enrich government officials. In the case of the recommendation on using chiefs some of the time for tax collection, potential issues of conflict of interest (related to other proposed roles in tax dispute settlement and protecting the tax rights of their citizens) will have to be ironed out as a condition precedent.

5.5.2 TAX INFORMATION AND TAX EDUCATION

There is overwhelming evidence that tax information and tax education are lacking even to the fairly sophisticated. This can be improved through publicity and tax education. Many consultancy and NGO recommendations focus heavily on education. These are, however, usually not targeted and customized enough. The idea is to get a precise sense of the particular information and educational needs of the various types of tax payer (large tax payer, individual formal sector tax payer, individual informal sector tax payer etc) and direct information and education to address the particular needs that are assessed. And in a manner and via media that will fully address the actual needs as determined. The determination of these needs and the mechanisms for addressing them should form part of the second phase of the tax culture project. An intelligent observer we interviewed had this to say:

“Modern taxation is a foreign concept so you need to familiarize the average tax payer with the reasons for carrying out taxation. When I talk of publicity, I do not mean adverts on the radio and television. Neither do I mean seminars. These are governmental

concepts that don't work. People attend them for the sake of collecting the per diems that will be given. Thereafter, they do nothing with the information gained. This kind of publicity has to involve the chief and *Odikro*⁸² to be effective. During *Akwaside*⁸³ and other such festivals for instance, Nananom will be willing to publicize the notion of taxation. But with all this must come a sufficient allowance to carry out all these tasks”.

It is clear that any effort at tax information and education must address the historical nature of taxation, the transition to a modern tax system, the interface of the traditional and the modern systems, and ways in which they may contradict, obstruct and complement each other. In the light of the traumatic experiences of taxation that was experienced during colonial rule, and some of the rough experiences some tax payers complain of today, it is critical that any effort at tax information and tax education carry an image of the tax man and of tax enforcement that is as distant as possible from the colonial and neo-colonial experience.

Finally, there is an issue as to who to focus on in terms of tax information and tax education. From a results oriented, quantum of tax analysis point of view, it makes sense to focus on the big fishes. From a tax culture point of view and from the point of view of widening the tax net, this may not be true and it may make sense to focus on the average, ordinary tax payer.

5.5.3 TAX PAYER SATISFACTION

As noted earlier, the way in which tax is imposed, collected and used by the state mirrors the governance of a state. Above all, the tax payers perception of how tax is generated and used directly impacts tax morality, tax compliance and tax revenue levels. Tax payer satisfaction is therefore a crucial factor for the public perception of tax administration. It is therefore important to make recommendations for improving tax payer satisfaction.

The section on tax payer satisfaction in the findings of this report, (and other findings) contains a long list of matters to be addressed in order to ensure tax payer satisfaction. Some of the suggestions are even contradictory. It is important to interrogate those suggestions further, streamline the suggestions, identify linkages between various suggestions, and then prioritize them for implementation.

Higher voluntary compliance means higher revenue and lower collection costs. Even if citizens do not like to pay taxes, tax authorities can use their control over the instrument of customer service to begin to change this. Customer service has proven to have an enormous impact on the willingness of tax payers to meet their obligations. Our interviews showed that many people hate to queue to pay taxes and are happy when the tax man comes around to collect them. The tall list of concerns in the customer satisfaction section of the findings in this report, are mostly related to customer service. The only way to offer first-quality service is to find out the wishes and the needs of your customers. It is therefore important to institute regular tax surveys to generate this information.

⁸² This is a *Twi* term which means “headman”.

⁸³ A festival in honour of the Ashanti Chief and ancestors, it also commemorates the date the Ashanti Golden stool was magically brought down from heaven.

5.5.4 TAX LEGISLATION

Ghana's tax culture is peculiar to Ghana. This means that Ghana's tax laws, to have effect, must be peculiar to Ghana to some extent. A few examples of Ghana's tax peculiarity are worth mentioning here. Tax men are less visible in the rural areas. One respondent says he moved from Kumasi to set up shop in Tamale in order to avoid the myriad of tax authorities in the former town. And tax men are seen as oppressive (reminiscent of courts, bailiffs, barricading businesses, prisons). In an economy where people live from hand to mouth, and where there is a low savings rate,⁸⁴ it is difficult to require people to save up their taxes and pay up at the end of the month unless it is deducted at source. It was for this reason that the GPRTU arranged to pay taxes weekly. Again, Ghanaians store up wealth or save in things other than money, such as real estate. All these peculiarities of Ghana's tax culture requires that legislative measures be put in place to ensure a tax system that is culturally friendly and more capable of generating voluntary tax compliance.

Culturally friendly rules do not have to occasion a legislative change at the Parliamentary level. These could be done as rules and regulations or as administrative instructions issuing from the Ministry of Finance or the revenue agencies. Some respondents asked for simple, illustrative manuals to guide them in meeting their tax obligations. Such manuals could be configured to take account of all the factors that make Ghana's tax culture unique. This way, voluntary tax compliance and ultimately revenue levels could be improved.

5.5.5 TAX TRANSPARENCY

Next to tax information and tax education is tax transparency. Here the key concerns relate to ensuring information flow from tax administrators to tax payers and achieving accountability for tax revenues collected.

Tax payers will want to be informed about tax reliefs of various kinds which they know exist but of which they have no details. They will want that rules, processes and forms for tax reliefs are readily available. Tax payers will also need to have clear and practical guides for how taxes are assessed.

Tax payers will also need simple statements on what monies paid as taxes are being applied to. Regular publications on what proceeds of taxation are used for, without tax payers demanding for these will be most appropriate.

5.5.6 TAX DISPUTE RESOLUTION

Using the regular courts for tax dispute resolution does not seem to be very popular with Ghanaians. As noted earlier, very very few tax cases are resolved in the regular courts. And this in the face of a brand new commercial court with enhanced court processes and oversight that lists tax cases as part of a broader list of cases that may be tried in the commercial court. This means that the bulk of tax disputes are resolved at the administrative level only. In any case, the cost of litigation, relative to the quantum of tax charged for most ordinary tax payers, means that it is

⁸⁴ Gross National Savings as a percentage of GDP was 23.5% for 2004 and 22.9% for the first 3 quarters of 2005. See 2004 Annual Progress Report of the GPRS.

economically wiser to accept slightly higher assessments and fight these at the administrative level, than to take the matter to court.

In the light of this, it is proposed to strengthen the dispute resolution mechanisms with the revenue agencies to make them easily assessable, fast and effective at resolving tax disputes.

It is also proposed to enhance the dispute resolution roles of the chiefs to cover local tax disputes. It is also possible to maintain a roster of chiefs who may act as mediators in tax disputes at the pre-trial stage in those tax disputes that make their way to the court.

We should note, however, that given the willingness of chiefs to assist in some aspects of tax mobilization and administration, conflicts of interest may arise where the chiefs also engage in dispute resolution relating to taxes collected and administered with their active assistance.

5.5.7 THE ROLE OF TRADITIONAL AUTHORITY IN TAXATION

The aim of the recommendations in this section is meant to see how good practices in the traditional modes of resource mobilization could be brought to bear on taxation and tax administration in Ghana. How can traditional authorities, working within the current legal framework for tax administration, assist in the mobilization of tax revenues? A parallel example is the role chiefs perform today in the HIV/AIDS campaign. It is fairly possible to cast formal taxes in the light of traditional revenue mobilization philosophies, processes and tactics.

Nearly half of the individual respondents do not think chiefs and traditional leaders should be involved at some level in the tax system of Ghana. The other half thinks they should. The balance in the responses betrays a certain conflation of the issues by the respondents. Some respondents equated the involvement of the chieftaincy institution in the tax system to tax collection. When they were prodded, however, they recognized other roles that chiefs could play in the tax system.

We have already suggested above that chiefs should do some amount of symbolic tax collection in order to improve the image of the tax man at the local level, encourage voluntary tax compliance and have a sense of the issues in tax mobilization, the better to resolve tax disputes and protect the tax rights of their citizenry.

Chiefs could limit their intervention in tax mobilization to encouraging their citizenry to pay taxes, although in our research we have come across at least one instance, in the Upper West Region, where a chief successfully collected taxes for the District Assembly.

Chiefs could also disseminate tax information and engage in some forms of tax education of their citizenry. This type of education could be through the medium of regular community gatherings.

Chiefs could be involved in tax dispute resolution at the level of the chiefs' courts, which they hold with their elders. Alternatively, the jurisdiction of the Traditional Councils could be expanded to include tax dispute resolution. As noted under the findings of this research, this latter option might get tax dispute resolution stymied in all the problems of delays and technicalities of the regular courts. The former suggestion is preferable save that the phenomenon of the "absentee

chief”, also noted in the findings of the research, may make the operation of the chiefs’ courts less effective and efficient than it could have been.

There is a strong case for the expansion of the jurisdiction of the chiefs’ courts. Some of the compelling reasons are:

1. Use of the local language in which parties and adjudicators are at ease and well versed;
2. The absence of technical jargon;
3. Simple understandable procedures; and
4. Nearness in location to the parties.

Chiefs may need to be introduced to new techniques in adjudication and alternative dispute resolution.

Chiefs should also work on making the processes of tax collection, tax administration and the utilization of tax resources at the District Assembly level more transparent, accountable and user-friendly to their peoples. Most District Assemblies work closely with the chiefs in their jurisdiction and many chiefs are members of the District Assemblies. This will facilitate (for the chiefs) the process of ensuring clean governance in local level taxation. All this can be done in the broader context of the protection of the rights of tax payers by traditional authorities.

At least one chief expressed the often undeclared fears of the tax payer when she is reluctant to involve chiefs in tax administration. He cautioned that there should be some monitoring to prevent some chiefs from using up tax revenues for their personal needs.

The awe and reverence for chiefs is not always completely positive. Chiefs have wide discretion in shifting revenues gotten from their citizens to what in their opinion is the best use of those resources. Some chiefs have described the portion of stool land revenue that goes to the stool⁸⁵ as an “unaccountable imprest”. Yet it is difficult to hold chiefs accountable in Ghana in the regular courts. We have a “Head of Family Accountability Law” in Ghana⁸⁶ but not a Chiefs Accountability Law. Although the judges have created some openings for assailing the solid customary rule that it was not possible to hold chiefs accountable by judicial means for revenues collected by him, this is yet to be effectively tested.

Despite these concerns, “the future of Chieftaincy depends on its ability to adapt itself effectively to changing conditions without losing its basic attributes.”⁸⁷ Chiefs are aware of this and know that their involvement in developmental issues-such as taxation-has the potential to further this goal.

⁸⁵ See Article 267 (6) (a) of the 1992 Constitution.

⁸⁶ 1985, (PNDCL 114).

⁸⁷ Oseadeeyo Addo Dankwa III, Paramount Chief of Akuapim Traditional Area, *The Institution of Chieftaincy In Ghana – The Future* (Published with the support of Konrad Adenauer Foundation Accra, Ghana December, 2004), p.vi.

5.5.8 *PROCESS RECOMMENDATIONS*

CONSULTATIONS

Consultations should be held with the following key institutions before the recommendations in this report are finalized:

1. The Ministry of Finance
2. The IRS
3. The CEPS
4. The VAT Service;
5. The RAGB
6. Ministry of Local Government and Rural Development and Select District Assemblies
7. The National House of Chiefs
8. Interested Members of the General Public, Civil Society Groups and the Media.

The consultations with the first seven groups should be a one-day seminar at which the research methodology and process, findings, and recommendations are presented for a thorough discussion. This way the expertise of these institutions and their personnel will be brought directly to bear on the findings and the recommendations. Also, the recommendations can be turned into action plans which contain what is doable according to the key stakeholders. This will create the relevant background and goodwill for the implementation of the revised recommendations.

For really qualitative discussions, the groups should not exceed 30 members at any one time unless a larger group is further broken down into smaller focus groups with enough facilitators during the deliberations on the recommendations. The draft report should be circulated in advance for the seminar attendees to study before the seminar.

The second consultation involving the general public, civil society groups and the media should be more open and should involve a presentation of the main findings of the study followed by no more than two hours of comments and discussion from the audience. The discussion should be moderated to deal only with general issues such as the involvement of chiefs in tax administration, the general processes of effective tax education etc.

THE WAY FORWARD

1. As mentioned above, the first step will be to conduct the process of aggregating the views of key stakeholders on the tax culture report and input these into the action items of the recommendations of the report. This will involve doing a comprehensive list of stakeholders, circulating the draft report to them, receiving any written comments, conducting seminars to document oral comments on the draft report, aggregating and synthesizing the comments and inputting these into the final report; eliciting the support of the stakeholders in implementing the recommendations; facilitating the formation of Working Groups of stakeholders to address the implementation of aspects of the recommendations.
2. The next step will be to facilitate the first meetings of the working groups; conducting team-building for the working groups; conduct training on basic project design, implementation and

monitoring and evaluation for working groups (including training on working group leadership, administration, documentation and reporting); facilitate initial action oriented reporting from the working groups; and provide ongoing facilitation and support of working group meetings, action planning and implementation of recommendations.

Please forward any queries and comments by **31st March 2006** to one of the following addresses:

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