Webinar notes

Compiled by ICTD's [DIGITAX Research Programme]

1 Panellists

- *Seth Terkper*, former Minister of Finance, Ghana; Advisor and Senior Consultant, African Development Institute, African Development Bank; chartered accountant
- *Abdallah Ali-Nakyea*, Lecturer, School of Law, University of Ghana; member of Ghana's Bar Association, Institute of Chartered Accountants Ghana, Institute of Internal Auditors Ghana, Fellow of the Chartered Institute of Taxation Ghana
- *Eileen Rafferty*, Regional Tax Advisor, West Africa; UK's Foreign Commonwealth and Development Office; member of ICTD's Digital Financial Services (DFS) and Tax Working Group

Chair: Chris Wales, Senior Research Advisor, DIGITAX

Background: There has been much debate around the implications of the e-levy since it was implemented in May 2022. But so far, much less examination of the process through which the tax came about. The webinar examined:

- how this policy was designed
- how it compares with taxes imposed elsewhere on digital financial services, and
- how it could be improved.

New tax, new behaviour. Recommended pre-reading to rapidly get you up to speed on the essentials that pertain: Blogpost – *Ghana's new e-levy: the sour, sweet and switches so far*

2 Introduction

- Opening remarks by Phil Mader, Leader, DIGITAX Research Programme, who briefly introduced the programme. DIGITAX aims to generate knowledge and evidence to advise and support governments and other stakeholders on overcoming challenges and identifying opportunities at the interface of digital financial services (DFS), digital IDs and tax, with a particular focus on Africa. Funded by the Bill & Melinda Gates Foundation.
- Chris: Taxes and levies don't happen by accident. They are there because governments need them. Ghana has introduced an e-levy on money transfer. The questions:
    - How was that decision made?
    - Who was involved?
    - What analysis preceded the decision?
    - What shaped the design of the e-levy? Why did it take this particular form? Its targets of transactions? Rates? Exemptions/exclusions? Unusual dependence on technology?
    - Webinar will explore these issues, split into four sections:
        1. **Design** of the e-levy: how does it work? What is it intended to achieve? What are the strengths and weaknesses of the levy's design?
        2. **Process:** how did we get here? Is the design an inevitable reflection of the process that produced it?
        3. **Q&A** from participants
        4. **What could be different?** Can we learn from local knowledge? From similar levies in other countries?

The panellists then shared their thoughts with the audience, as reported below.

3 Design of the e-levy

- Rationale: to shore up government revenue collection and broaden tax net through a new handle. In West Africa, best-performing countries have a 20% tax GDP ratio. Ghana is at 12–13%. Funds from this new handle to be channelled to developing entrepreneurship, youth employment, road infrastructure. Consequently, road levy was abolished.

3.1 Design challenges

- Rate: initially 1.75%, reduced to 1.5% after agitation/protest. And 1.5% is still too high, adding to the market distortion and drives incentive to avoid. A poor introduction. Could have started with, say, 0.5% which would have covered a wider base for more progress towards meeting revenue target.
- Coverage: What kind of tax is it? Is it on income? Consumption? Investment? Tax is imposed any time there is a transfer, resulting in a scramble to thereafter exclude certain transactions that were found to be difficult, e.g., loans.
- Tax justice: Is it a fair tax when applied to monies already subjected to PAYE (pay as you earn) when the same does not apply for direct cash transactions using disposable/post-income tax? Beyond VAT which applies to all purchases, why should e-wallet transactions attract digital costs

that physical wallet transactions don't? Why should money transfer to employees and service providers be subjected to taxation? Taxing loans and investments is a low point. Since dealing with a mere transfer, this is what led to the challenge of what to include and what to exclude, which narrowed the base

- E-levy is not an isolated levy. Ghana has about 12 levies. Includes state levy used for the National Health Insurance Fund (NHIF), which used to be in the value-added tax VAT base, operating on credit and refunds. Has now been made a levy and is therefore cascading (understood by those familiar with VAT). Resulting in blocking refunds and conventional credit that comes with the invoice–credit method. There are also environmental levies, temporary taxes brought in when there are crises, but are not thereafter removed. Finsec [Financial Sector Recovery Levy] is one such. And the e-levy was triggered by COVID and the Russia–Ukraine war. Is the policy now to use levies? And if so, to achieve what purpose?
- Historically, Ghana used to have various levies. Rationalisation removed the inherent distortions in that regime, resulting in 4–5 pillars: income tax, PAYE, self-employed taxes, corporate income tax, plus VAT. There were 12–13 services including digital TV and mobile phone. All these were aggregated in an all-inclusive VAT. Are we regressing to the old regime? It will re-introduce distortions.
- Market distortions have come up in other jurisdictions, e.g., Uganda, where the perception was that it did significant damage because it only taxed a section of money transfers but not the wider market.
- Nurture: Digital is an emerging and very significant industry that deserves incentives and nurture, not punitive taxes. More so when there are significant incentives for established industries that have existed for 30–40 years (e.g, finance). Taxing e-commerce which is part of a new emerging economic order creates even more distortions than already exist.
- Policy perspective: Tax is confusing, thereby encouraging evasion and avoidance. Consequently, the target of 6.9b Ghanaian cedi (GHC) not achieved (currently at 7% of target), which is no surprise.
- Exemptions
    - Threshold: transactions at or below GHC 100 per day
    - Some of the exemptions were essential and necessary to make the levy work. Such as payments to government where one should not have to pay tax when effecting tax payments.
    - Some of the exemptions have made it relatively easy to avoid the tax, particularly if you're banked or operate on cash, but not exclusively.
- Overall, the levy a combination of a high rate and a lot of exemptions. A stronger design might have been a lower percentage and a more broad-based application which would perhaps have been fairer. But there are inherently many difficult design challenges in introducing such a levy.

3.2 Rationale for excluding international/cross-border remittances from the levy, and the GHC 100/day threshold

- A problem of flawed design, with a **mix-up of e-commerce and e-levy**. 'Electronic' does not necessarily equate to business. If target is those earning an income from e-commerce or trading on social media, tax point should be at the receiving end not transfer point. The recipient should be the one to be subjected to the levy. Hence why international transfers were excluded.

Because the levy is at the transfer point, i.e., the party effecting the transfer, and not the party receiving the transfer. Were the levy on the recipient, then international remittances would be captured. But in this case, the party transferring is in another jurisdiction, and is therefore not captured in the design. Therefore the reason for the zero-rating for transaction tax is born of the practical impossibility to 'export' the tax to remittance, and not by an act of policy design. Destination rules is where valuation happens, subject to the regime for supply of services. This is where the difficulty with digital arises. You're then dealing with e-commerce. Once the levy is on a transaction, it is mimicking VAT. Therefore the place of supply and related issues come into play. Hence the difficulty of applying/retrofitting VAT principles.

- Threshold leading to a series of piecemeal transfers spread across several days indicates the **GHC 100/day cap/threshold is too low**, and a policy-design failure; 500 would have been more appropriate.
- Transactions sector is dominated by small-scale operators, hence the informal monikers of *momo tax* and *umbrella tax*, reflective of the agents in street corners who act as transfer intermediaries. Again, as a design principle, VAT regimes are designed to leave out small-scale businesses. Otherwise the cost of compliance becomes very high. What is GRA's capacity to bring into the tax system? Mimicking VAT and is a consumption tax: what is the difference between the e-levy and the VAT on non-core financial services that was already introduced? Design is flawed and hence running into difficulties that had previously been encountered.
- Key difference with broader VAT: the e-levy is implemented by a small number of highly and automatically regulated people. Perhaps that was part of the attraction for government. New and relatively easy to implement for the revenue authority, by dint of reduced number of people and automation. But it is complex since on transfer, which brings policy-design challenges. The merchants are the aggregators of the small businesses, resulting double taxation by cascading. Tax should only be at this aggregation level, leaving out the small-scale operators, and the threshold should be much higher.

4 Process: how the e-levy was designed

Did the e-levy follow the standard process for designing new taxes in Ghana? The usual stakeholder/participant consultations? Was it fast-tracked through a shorter process?

- Was a response to revenue deficit. Process initiated by Ministry of Finance which then submits it to Parliament as no other authority can impose the tax. In between there is consultative process. Industry reaction appears to indicate that consultation was limited/rushed, and should have been deeper. Merchants and banks pointed out difficulties and issues, with titans in industry opposing it. This is not good for policy-making.
- Design was a knee-jerk reaction to the gaping hole in revenue base. Many stakeholders, including telcos, learnt of the levy when the budget was read. That did not give telcos and banks adequate time to reconfigure their systems. The e-levy is not limited to mobile money: it applies for bank transfers above GHC 20,000. The e-levy did not look at tax equivalencies, where else revenue can come from and what needed adjusting. The rate is too high. And should be on transfer charges, not on amount transferred. Applying as it does on post-tax disposable income/money in one's wallet, the lack of clarity on whether this tax is on income or services is what brings about resistance, avoidance and non-compliance. It also results in multiple taxation

when parties who receive also transfer, with tax again applied. It also means projections are flawed for tax base, as the same money being transferred across parties is counted multiple times. This is how the target revenue is not met, since projected on a flawed tax base, hence hindering its performance

- Projection/estimates: while most people thought it was a new tax, the reality was that the tax was already factored into the budget. It was part of efforts to increase total revenue from16% to 20%. 1.4% of GDP across three years was being attributed to the e-levy. GDP is not a constant, is in part based on consumption, and therefore nominal value too varies when expressed as a percentage of GDP. Had industry and GRA been consulted, they might have pointed out that this target was ambitious.
- Internal consultation: There may have been a paucity of data (Bank of Ghana, GRA) at the beginning to enable very good estimates. Also, sometimes it is difficult for people to speak truth to power and challenge upwards. Governments sometimes don't listen to tax officials. A good policy process allows for robust exchange internally so that all the problems are explored before implementation.
- Generally, as a matter of policy and politics, when any government is bringing in a significant new tax which it knows is likely to be unpopular, they often make a calculated decision. If consultation precedes implementation, the backlash might be such that the policy is never implemented. So, sometimes governments just make decisions as a matter of public politics without consultation to get the policy through. This might have been part of the case for Ghana. The ideal is external consultation to get a better understanding of what will happen in the real world. A new tax is a bad tax. Best to use existing framework where possible because the political reaction to a new tax is more severe than an adjustment to an existing tax.

5 Q&A

Q: What's the tax base for the levy? How does it compare to other countries? Is it reasonable and fair to have a levy at transfer point and on the amount rather an excise duty on transfer fees?

Tensions in the tax were already well-covered. Mobile money is a strong feature across Africa, with a considerable proportion of the population unbanked. Too early to assess the tax's impact. The Bank of Ghana monthly statistics show number of transactions has held up but there was a reduction in value of transactions, after which these stabilised. Could suggest it's a regressive tax but real evidence is needed, digging deeper beyond these 'headline figures'. The rate is high. Countries that tax the amount transferred have rates between 0.2% and 0.5%. Those taxing at 1% and above do so on the transfer charges. As currently structured, the tax base results in multiple taxation with no value addition. The levy compromises the digitalisation agenda to move from a cash economy to a cash-light economy. It could also lead to other drawbacks such as:

- an underground economy with people finding innovative ways of remitting to others without paying the tax.
- limiting and distorting the government's financial inclusion agenda. People would rather hold money in their pockets than on mobile money and banks to avoid taxation on transfers from GHC 100 and GHC 20,000, respectively.

Q: Is there a difference between a 1.5% levy and a 1.5% increase on VAT? Suppose the government had increased VAT by 1.5%? Would it have created similar issues?

> Rate is immaterial. Drumming up revenue to block fiscal holes is not new. Usually through two tax handles: temporary import duty and fiscal stabilisation imposed on profits of profitable sectors such as telcos and banks, with a sunset clause once the crisis is over. Is the e-levy a sector tax? What is being taxed and where is the added value? With Ghana having discovered oil, are oil services going to be subjected to a tax? If it is services being targeted, then rope the commission that is earned into the VAT base, which is all-inclusive for goods and services. Unless the sector is exempted. In which case the law can be changed. Before it was a listing of goods and services to be taxed. This was changed to unless exempted, goods and services will be taxed. Any time a new sector comes in, consumption and expenditure are examined and roped into the VAT base. Bank commissions, including for ATM use, would be a perfect substitute. And would probably bring in more revenue and less nuisance. With the advantage of businesses getting into tax credit. In the current scenario, they are not getting tax credit. Instead, it is cascading and increasing and part of the current inflation. Irrespective of rate, the e-levy is not necessary. For fiscal exigencies, it can be a temporary tax with a low rate and a sunset clause. Unfortunately, governments have a poor track record of sticking to rules, and temporary taxes tend to be more permanent than temporary.

Q: It's often said that this kind of tax stunts use and extended use of DFS. Experience in some countries (e.g., Uganda) suggest that when a tax like this is introduced, it has a temporary effect, then rebounds. Is there anecdotal or empirical evidence of people reverting to cash as a result rather than mobile/electronic means of payment? Is there a strong influential sectoral lobby group in this area of taxation? More than in other areas such as fuel or other services?

> Financial inclusion has been on the agenda of the Ministry of Finance for a while, e.g., the DFS policy and the cash-light roadmap. Result was an increasing migration from cash to digital services. Rollout of e-pharmacy for medicines is a case in point. If this now attracts additional costs due to e-levy, consumers may prefer to go to the pharmacy instead, thus compromising digitalisation. There hasn't yet been a comprehensive study on the impact (Bank of Ghana). But if one of the objectives of the e-levy is to create jobs, it is also leading to unemployment because the aggregators/agents are losing customers and going out of business. Yet the rationale for the e-levy is that the government is raising revenue to create jobs to build entrepreneurship. The other challenge is for loanees who had borrowed money through mobile networks. With payment of e-levy and re-registration of SIM cards, most people decided not to heed the registration and thereby be untraceable for loan recovery. Previously, and as part of financial inclusion, people could borrow on their mobile network. E-levy curtails this. With loanees going underground. Consequently, fintech companies could suffer a serious setback. These challenges need to be addressed and studies undertaken on the quantum reduction in the digital financial services space, as well as the resultant unemployment triggered by the e-levy.

6 What should be done?

What steps need to be taken? Are detailed studies to identify what is happening in the market and impact on financial inclusion the next step? If so, what should the government do in terms of changing or withdrawing the levy or looking in other directions for sources of funds? What's the next course of action given the reaction by the public and industry, the risks to market development and financial inclusion? What are the recommendations for the government of Ghana given that the levy is significantly under-performing?

> Basic principle: where there is already an instrument that can do the job, a new one is not needed. New instruments entail administration costs to GRA, adapting systems, new forms, new compliance systems and enforcement. If what is being targeted is income, expenditure, consumption or property gain, does it do the job? If it is the sector being targeted, VAT is all-inclusive and can do the job. Financial inclusion and digitalisation are both high on the government agenda. As a middle-income country but substantively a developing country, Ghana should keep its tax regime simple, and not make it complex for both taxpayers and administration. Studies on cost of compliance and on drivers of evasion and avoidance would be helpful. As well as better intra-government internal coordination and consultation with relevant ministries, agencies and departments, a number of which were taken by surprise by the announcement. This lack of necessary coordination does a degree of reputational damage to the government.
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> Policy-making: Having a robust debate at the beginning and anticipating challenges pays off. As does strengthening data collection and analytical skills.
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> Stakeholder engagement is part of the policy-making process. Townhall meetings were held after the introduction of the e-levy. Question and analogy: does marriage precede marriage counselling or vice versa? Here we are, married, after which we are going for marriage counselling. What if the priest says this marriage cannot stand? Will the government withdraw the e-levy? To date, the government has not communicated on the outcomes of the townhall meetings and stakeholder engagements. Ideally, the feedback from these fora should be used to revise the e-levy and to determine future direction. The rate must come below 1%, the threshold is too low and needs to be raised, plus the concerns from the stakeholder engagements. The Ministry of Finance had introduced VAT on financial services. When it was picking up, it was abolished. This is not necessarily a case to abolish another tax handle. But the e-levy needs review, revision (taking on board stakeholder concerns) and re-introduction. The same happened with VAT in 1994. It was withdrawn, consultation done, repackaged and re-launched in 1998, and still in place to date, and performing. Ghana could then serve as a model to other countries. The government abolished 16 taxes but failed to show where the resultant shortfall in revenue would come from, while at the same time rolling out 16 flagship expenditure programmes. So the fiscal hole has been there, will be there, and a sound solution needs to be found.

WEBINAR VIDEO: Raw Zoom recording: Passcode – $4G0dCXQ | YouTube video

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