

Tax Dispute Resolution in The Quest to Enhance Domestic Revenue Mobilization in Ghana: The Need for Consistency in Protecting Taxpayer Rights

Dr. Gaduga Godwin, Esq

Lecturer at Accra Institute of Technology Adjunct Lecturer at Blue Crest University College

ABSTRACT	ARTICLE DETAILS
Ghana has committed itself to raising its tax-to-GDP ratio from the neighbourhood of fifteen per cent to a band of eighteen to twenty per cent, and the institutional programme built around that commitment has concentrated overwhelmingly on collection capacity, digital infrastructure and base expansion, while the architecture through which taxpayers contest the state assessments that generate the revenue has been treated as a secondary administrative concern rather than as a constituent element of the revenue project itself. This article argues that the arrangement is analytically mistaken and fiscally self-defeating, because the willingness of an economy that remains substantially informal to move into the formal tax net is conditioned far less by the coercive reach of the revenue administration than by the credibility of the promise that a disputed assessment will receive an impartial and reasonably prompt hearing. Taking as its point of departure the mandatory prepayment condition in section 42(5) of the Revenue Administration Act, 2016 (Act 915), the trilogy of Supreme Court decisions of 30 November 2022 that upheld it, and the belated operationalization of the Independent Tax Appeals Board on 1 January 2026, the article identifies a pattern of inconsistency running through the normative, institutional, temporal and distributive dimensions of Ghanaian tax justice, of which the most striking manifestation is the coexistence of a prepayment regime for domestic taxpayers alongside a suspensive and unconditional international dispute architecture available to foreign investors. Two original contributions are advanced. The first is the Doctrine of Reciprocal Fiscal Obligation, which holds that the constitutional duty to pay taxes under article 41(j) and the administrative duties owed under articles 23 and 296 are correlative aspects of a single fiscal relationship constituted by article 174, so that any condition imposed on the taxpayer as the price of access to a dispute forum generates an enforceable correlative obligation on the administration. The second is the Taxpayer Rights Consistency Framework, which converts that doctrine into a workable instrument of adjudication and legislative design through four dimensions of assessment, a six-stage consistency audit, five priority rules, three rebuttable presumptions and a duty of reasoned conditionality. The article concludes with a programme of statutory, regulatory and administrative reform intended to make consistency an operational discipline rather than an aspiration. KEYWORDS: Tax Dispute Resolution, Taxpayer Rights, Domestic Revenue Mobilization, Pay Now Argue Later, Independent Tax Appeals Board, Administrative Justice, Fiscal Constitution, Ghana.	Published On: 25 August 2026 Available on: https://ijiissh.com/

1. INTRODUCTION

The contemporary Ghanaian conversation about domestic revenue mobilization proceeds almost entirely in the register of collection. Successive budget statements, the Medium-Term Revenue Strategy for the period 2024 to 2027, and the accompanying programme of digitalization have converged on the proposition that the country collects too little of what it is owed, and that the remedy lies in a combination of broader coverage, better information and firmer enforcement (Ministry of Finance, 2023; Ministry of Finance & Institute for Fiscal Studies, 2024). That proposition is not wrong, and the numbers that support it are not seriously contested, since

Tax Dispute Resolution in The Quest to Enhance Domestic Revenue Mobilization in Ghana: The Need for Consistency in Protecting Taxpayer Rights

a tax-to-GDP ratio that stood at 13.8 per cent in 2022 and that had climbed only to approximately 15 per cent by 2025 leaves Ghana below the sub-Saharan African average and considerably short of the eighteen to twenty per cent band that the government has set for itself by 2027. What the collection register consistently omits, however, is any serious account of what happens when the taxpayer disagrees with the assessment that the collection machinery produces, and it is precisely in that omitted space that a substantial part of the explanation for Ghana's revenue underperformance is to be found.

The omission is not innocent, because the design of a dispute resolution system is among the most powerful signals a fiscal state sends about the character of the relationship it proposes to have with those it taxes. A revenue administration that can assess without meaningful constraint, that can condition the hearing of an objection upon the prior surrender of a substantial portion of the very sum whose legality is contested, and that can leave an appellate institution formally established in law but functionally dormant for nearly three years, communicates something quite specific to the trader in Makola, the professional in Airport Residential Area and the medium-sized manufacturer in Tema, and what it communicates is that the machinery of the state is oriented towards extraction rather than towards the adjudication of entitlement. Where that message is received and internalised, the rational response of an economic actor who retains the option of informality is to remain outside the net altogether, and the revenue consequences of that response are considerably larger than whatever short-term liquidity the state secures by insisting on prepayment.

1.1 The Central Claim

This article advances a claim that is at once jurisprudential and practical, namely that the consistent protection of taxpayer rights is not a constraint upon domestic revenue mobilization but is instead one of its indispensable instruments, and that the failure of Ghanaian tax administration to achieve such consistency represents a species of constitutional default which the courts, the legislature and the revenue administration each possess the means to cure. The claim is not the familiar liberal assertion that individual rights ought to be respected notwithstanding their fiscal cost, since that formulation concedes at the outset that rights and revenue stand in a relationship of trade-off, and it is the concession that this article means to resist. The relationship, properly understood, is one of mutual constitution, because the obligation to contribute and the entitlement to contest are two aspects of the same juridical arrangement, and a state that hollows out the second progressively undermines the moral and practical basis of the first.

Three features of the current Ghanaian arrangement supply the empirical material for the argument. The first is section 42(5) of the Revenue Administration Act, 2016 (Act 915), as amended by the Revenue Administration (Amendment) Act, 2020 (Act 1029), which requires a person objecting to a tax decision to have paid all outstanding taxes together with thirty per cent of the tax in dispute in the case of domestic taxes, and the entirety of the disputed amount in the case of import duties and taxes, before the objection will be entertained at all. The second is the trilogy of judgments delivered by the Supreme Court on 30 November 2022 in *Kwasi Afrifa v. Ghana Revenue Authority*, *Richard Amo-Hene v. Ghana Revenue Authority* and *Export Finance Company Ltd v. Ghana Revenue Authority*, in which the constitutionality of that condition was upheld against challenges founded upon articles 23, 125 and 296 of the 1992 Constitution. The third is the trajectory of the Independent Tax Appeals Board, which was created by Act 1029 in 2020, inaugurated with considerable ceremony in January 2023, and yet heard no appeal whatsoever until the Revenue Administration (Independent Tax Appeal Procedure) Regulations, 2025 (L.I. 2513) came into force on 13 November 2025 and rendered the Board operational with effect from 1 January 2026.

Read together rather than separately, these three features disclose a pattern which the article names inconsistency, and which it distinguishes carefully from mere severity. A tax system may be demanding without being inconsistent, and there is nothing constitutionally objectionable in a legislature that requires taxpayers to bear real burdens in the service of collective provision. What is objectionable, and what the article seeks to demonstrate is presently the case in Ghana, is a system in which the conditions imposed upon the taxpayer are justified by reference to safeguards that the administration has not in fact operationalised, in which the forum designed to relieve the pressure of prepayment arrived years after the condition it was meant to soften, and in which the sharpest procedural burdens fall upon the domestic taxpayers least able to bear them while foreign investors enjoy access to suspensive international mechanisms that require no prepayment at all.

1.2 Method, Scope and Structure

The method adopted here is doctrinal and jurisprudential rather than empirical, though it draws upon the empirical literature on tax morale and quasi-voluntary compliance where that literature bears upon the plausibility of the central claim. The primary materials are the 1992 Constitution, the Revenue Administration Act and its amending and subsidiary instruments, Order 54 of the High Court (Civil Procedure) Rules, 2004 (C.I. 47), and the decided cases, with comparative material drawn from South Africa, Kenya and the United Kingdom used not to establish that Ghana ought simply to import foreign solutions but to demonstrate that the particular combination of conditions presently in force in Ghana is not the only available means of protecting the revenue against dilatory objection.

Tax Dispute Resolution in The Quest to Enhance Domestic Revenue Mobilization in Ghana: The Need for Consistency in Protecting Taxpayer Rights

The argument proceeds in twelve further sections. Section 2 reconstructs the fiscal constitution of Ghana and locates within it the reciprocity upon which the later argument depends. Section 3 sets out the statutory and procedural architecture of tax dispute resolution as it now stands. Section 4 examines the Supreme Court trilogy of November 2022 with particular attention to the reasoning by which the prepayment condition was sustained. Section 5 offers an anatomy of the inconsistency that the preceding sections reveal. Section 6 places the Ghanaian arrangement alongside three comparators. Section 7 develops the legitimacy thesis that connects consistency to revenue. Sections 8 and 9 respectively state the Doctrine of Reciprocal Fiscal Obligation and the Taxpayer Rights Consistency Framework that operationalises it. Section 10 applies the framework to five contested questions. Section 11 confronts five substantial objections. Section 12 sets out a programme of reform, and Section 13 concludes.

2. THE FISCAL CONSTITUTION OF GHANA AND THE RECIPROCITY IT PRESUPPOSES

Any argument about taxpayer rights that begins from the Revenue Administration Act begins too late, because the statute is itself the creature of a constitutional arrangement that both authorises taxation and conditions the manner of its exercise, and the character of that arrangement determines what may properly be asked of the taxpayer and what must in return be guaranteed to him. The Ghanaian fiscal constitution is not gathered into a single chapter of the 1992 Constitution but is distributed across provisions concerned with the imposition of taxation, the duties of the citizen, the standards governing administrative action and the discipline of discretionary power, and it is the relationship among those dispersed provisions, rather than any one of them read alone, that yields the reciprocity upon which this article relies.

2.1 Article 174 and the Legality of Taxation

Article 174(1) of the 1992 Constitution provides that no taxation shall be imposed otherwise than by or under the authority of an Act of Parliament, and article 174(2) qualifies the permissible delegation of that power by requiring that any conferral upon another person or authority of power to waive or vary a tax be exercised in accordance with conditions prescribed by Parliament. The provision performs the classical function of the legality principle in fiscal matters, which is to ensure that the burden borne by the subject originates in the deliberative assent of the representative assembly rather than in the will of the executive, and it carries forward into the Ghanaian constitutional order the long historical struggle by which the taxing power was subordinated to consent (Schumpeter, 1991). Murphy and Nagel (2002) made the complementary philosophical point that pre-tax entitlements are themselves constituted by the legal order rather than existing prior to it, so that the question of what the taxpayer may justly be required to surrender cannot be separated from the question of what the legal order owes him in return.

The significance of article 174 for present purposes lies less in the familiar proposition that taxes require statutory authority than in what the provision necessarily presupposes about the character of a tax liability. A liability that exists only by virtue of an Act of Parliament is a liability whose existence and extent are questions of law, and questions of law are by their nature susceptible of authoritative determination by an institution competent to decide them. It follows that the assessment issued by the Commissioner-General is not the source of the liability but an administrative assertion about what the statute requires in the taxpayer's particular case, and the assertion may be right or wrong. A constitutional order that makes the liability depend upon statute while making the contestation of the administrative assertion practically difficult has, to that extent, subverted the very principle that article 174 was designed to secure, because the effective content of the tax burden comes to be determined by the assessing officer rather than by the enacted law.

2.2 Article 41(j) and the Duty to Contribute

Article 41(j) places upon every citizen the duty to declare income honestly to the appropriate and lawful agencies and to satisfy all tax obligations, and it does so within a chapter of directive principles that the Supreme Court has come to treat as presumptively justiciable and as informing the interpretation of the operative provisions of the Constitution. The placement is instructive, because the duty to pay is stated not as a subordination of the citizen to the administrative apparatus of the state but as an incident of citizenship itself, and it stands in the same catalogue as the duties to protect and preserve public property, to work conscientiously in a lawful calling and to promote the prestige and good name of Ghana.

A duty so conceived is owed to the political community rather than to the revenue authority as such, and this distinction, though it may appear at first to be merely conceptual, carries substantial consequences. If the obligation to pay were owed to the Ghana Revenue Authority in the manner of a debt owed to a creditor, then the authority might plausibly claim an unqualified entitlement to security for the debt pending the resolution of any dispute about its existence. Because the obligation is instead owed to the political community and is mediated through law, the revenue authority occupies the position of a fiduciary charged with ascertaining and collecting what the community is owed, and a fiduciary who insists upon payment of a sum whose legality is genuinely contested, while simultaneously controlling the machinery by which that contest is resolved, occupies a position which the law has always regarded with considerable suspicion.

2.3 Articles 23 and 296 and the Correlative Duties of the Administration

Article 23 requires administrative bodies and administrative officials to act fairly and reasonably and to comply with the requirements imposed on them by law, and it confers upon any person aggrieved by the exercise of such acts and decisions a right to seek redress before a court or other tribunal. Article 296 addresses discretionary power specifically, providing that such power shall be deemed to imply a duty to be fair and candid, that its exercise shall not be arbitrary, capricious or biased either by resentment, prejudice or personal dislike and shall be in accordance with due process of law, and that where the power is not conferred on a judge or other judicial officer the authority in whom it vests shall publish regulations by constitutional instrument governing its exercise.

These provisions are ordinarily invoked by taxpayers as shields, which is to say as grounds upon which particular administrative decisions may be impugned, and the Supreme Court in the November 2022 trilogy considered them precisely in that posture. The argument of this article is that they perform a further and more structural function, since they constitute the administrative half of the fiscal relationship whose taxpayer half is stated in article 41(j). Read in that way, article 23 does not merely furnish a remedy after the event but specifies the standard of conduct that the administration must satisfy if the citizen's duty under article 41(j) is to be discharged within a lawful relationship rather than extracted through an unconstrained one, and article 296 does not merely regulate the manner of discretionary decision-making but requires that the criteria governing discretion be reduced to published form so that the citizen may know in advance what the administration will and will not do.

2.4 Reciprocity in the African Political Tradition

The reciprocity that the foregoing provisions express is not an importation of liberal contractarian assumptions into an African constitutional order but has deep roots in African political thought, and the point deserves emphasis because taxpayer rights are sometimes dismissed in African policy discourse as a preoccupation of jurisdictions wealthy enough to indulge them. Gyekye (1997) developed at length a conception of the person as at once autonomous and communally embedded, and derived from it an account of obligation in which the individual's duty to the community and the community's duty to the individual are not competing claims to be balanced but reciprocal aspects of a single relational structure. Wiredu (1996) argued similarly that consensual decision-making in the traditional African polity rested upon the reasoned participation of those affected rather than upon the mere aggregation of power, and that the legitimacy of collective demands was understood to depend upon the availability of a forum in which those demands could be questioned.

The Akan and Ewe political traditions from which much of Ghanaian public morality descends made the point in institutional rather than theoretical form, because the levies and contributions demanded by a chief were understood to be conditioned upon the continued satisfaction of obligations owed by the stool to those who bore them, and the elaborate procedures by which grievances might be brought before the chief in council were not concessions to the aggrieved but constituent features of the arrangement that made the demand legitimate in the first place. Ubuntu philosophy, articulated in a Southern African idiom but expressing a widely shared African understanding, similarly locates personhood within relationship and treats the unilateral exercise of power over another as a diminution of the community rather than an assertion of its authority. The taxpayer who is required to pay before he may be heard therefore stands in a position that the African tradition would find no easier to justify than the liberal tradition does, and the framing of taxpayer rights as an alien imposition should be abandoned.

3. THE STATUTORY AND PROCEDURAL ARCHITECTURE OF TAX DISPUTE RESOLUTION

The Ghanaian system for the resolution of tax disputes is presently composed of four layers of authority which were enacted at different times, which respond to different anxieties, and which have never been comprehensively harmonised with one another. The layers are the objection procedure contained in Part IV of the Revenue Administration Act, 2016 (Act 915), the appellate structure introduced by the Revenue Administration (Amendment) Act, 2020 (Act 1029) and elaborated in the Fourth Schedule to the principal Act, the procedural regime established by the Revenue Administration (Independent Tax Appeal Procedure) Regulations, 2025 (L.I. 2513), and the judicial procedure governed by Order 54 of the High Court (Civil Procedure) Rules, 2004 (C.I. 47). An accurate account of each layer is a precondition of the argument that follows, because much of the confusion that attends public discussion of the prepayment rule arises from a failure to distinguish the conditions attaching to objection from those attaching to appeal, a distinction that the leading Ghanaian texts observe with care (Ali-Nakyaa, 2014; Kunbuor et al., 2017).

3.1 Objection to a Tax Decision under Sections 41 and 42 of Act 915

Section 41 of Act 915 confers upon a person dissatisfied with a tax decision the right to lodge an objection with the Commissioner-General, and section 42 prescribes the conditions and the consequences of doing so. The objection must ordinarily be lodged within thirty days of service of the notice of the decision, must state precisely the grounds upon which it is made and must be accompanied by such supporting documentation as the Commissioner-General may reasonably require, and the Commissioner-General is required to make an objection decision within a stipulated period, failing which the objection is in certain circumstances deemed to have

Tax Dispute Resolution in The Quest to Enhance Domestic Revenue Mobilization in Ghana: The Need for Consistency in Protecting Taxpayer Rights

been allowed. The structure is unremarkable and corresponds broadly to the internal review mechanisms found in comparable revenue statutes across the Commonwealth.

What is remarkable, and what has generated a decade of litigation and commentary, is subsection (5). That provision stipulates that the Commissioner-General shall not entertain an objection unless the person objecting has, in the case of import duties and taxes, paid all outstanding taxes including the full amount of the tax in dispute, and in the case of all other taxes, paid all outstanding taxes including thirty per cent of the tax in dispute. The condition is jurisdictional in form rather than merely procedural, since its effect is not to postpone the consideration of an objection but to preclude the very existence of a valid objection until payment has been made, and it applies without regard to the apparent merits of the taxpayer's position, without regard to the taxpayer's capacity to pay and without regard to whether the assessment under challenge was arrived at through the exercise of judgement rather than through arithmetic.

Subsection (6) supplies the countervailing element upon which the Supreme Court was later to place decisive weight, for it confers upon the Commissioner-General a discretion to waive, vary or suspend the payment required by subsection (5) where the Commissioner-General considers such relief appropriate in the circumstances of the case. The provision is drafted in the open-textured language characteristic of administrative discretion and specifies neither the criteria by which the discretion is to be exercised nor the procedure by which an application for relief is to be made, determined or communicated, and there has been no publication of criteria in the form contemplated by article 296(c) of the Constitution.

3.2 The Independent Tax Appeals Board

The Revenue Administration (Amendment) Act, 2020, which was gazetted on 6 October 2020, effected what was in principle a significant structural reform by removing from the Commissioner-General the function of hearing appeals from his own objection decisions and vesting that function in an Independent Tax Appeals Board whose composition, tenure, funding and procedure are set out in a newly introduced Fourth Schedule to Act 915. The Board is constituted of eleven members and is chaired by a retired Justice of the Court of Appeal, and its remaining membership comprises two retired officers of the Ghana Revenue Authority not below the rank of Chief Revenue Officer, two other persons holding qualifications equivalent to those of the chairman, two representatives of the Chartered Institute of Taxation Ghana, two representatives of the Institute of Chartered Accountants Ghana, and two women drawn from the private sector. Appeals are heard by panels of three, members serve for four years and are eligible for a single reappointment, and decisions of the Board bind the parties unless set aside by the High Court, to which a dissatisfied party may resort within thirty days of service of the decision.

Three features of this design deserve notice before the question of its operation is reached. The first is that the power of appointment is vested in the Minister responsible for Finance, which is to say in the political head of the very executive branch whose revenue arm is the respondent in every appeal that the Board will hear, and although the professional composition of the membership provides real ballast against capture, the appointment structure sits uneasily with the description of the Board as independent. The second is that the burden of proof before the Board rests upon the appellant taxpayer, which reproduces at the appellate level the evidential asymmetry that characterises the assessment stage, where the administration frequently proceeds upon information that the taxpayer has no means of interrogating. The third is that proceedings are conducted in camera, which protects the confidentiality of taxpayer affairs at the cost of foreclosing the accumulation of a public body of reasoned decisions from which taxpayers and their advisers might learn what the law is understood to require.

3.3 The Long Dormancy and the Regulations of 2025

The chronology of the Board is, for the purposes of this article, more instructive than its design. Act 1029 was passed in 2020 and the Board was inaugurated by the Minister for Finance on 22 January 2023, on which occasion the Minister charged its members to develop a dispute resolution system capable of supporting the revenue mobilization drive and observed that a tax-to-GDP ratio then standing at around thirteen per cent was among the lowest in West Africa. Notwithstanding that inauguration, the Board heard no appeal for almost three further years, because the procedural regulations necessary to enable it to receive and determine appeals had not been made. Those regulations, the Revenue Administration (Independent Tax Appeal Procedure) Regulations, 2025 (L.I. 2513), came into force on 13 November 2025, and it is only with effect from 1 January 2026 that taxpayers dissatisfied with an objection decision of the Commissioner-General have been able to lodge a notice of appeal with the Board upon payment of the prescribed fee.

The interval between the statutory creation of a remedy and its practical availability is not a matter of administrative housekeeping, since during the whole of that interval the taxpayer who had surrendered thirty per cent of a disputed assessment in order to have an objection entertained possessed no appellate forum other than the High Court, whose own procedural rules impose a further financial condition. It was, moreover, during precisely that interval that the Supreme Court considered and upheld the constitutionality of the prepayment condition, and the relationship between the reasoning of the Court and the state of the institutional landscape at the time of that reasoning is examined in Section 4.

3.4 Order 54 of C.I. 47 and the Judicial Layer

Order 54 rule 4(1) of the High Court (Civil Procedure) Rules, 2004 provides that a person appealing to the High Court against a tax decision shall pay twenty-five per cent of the tax in dispute, and the coexistence of that requirement with the thirty per cent condition in section 42(5) generated an obvious question about cumulation which the Supreme Court addressed by holding that the subsidiary legislation complements rather than supplements the parent statute, so that a taxpayer who has complied with Act 915 is not required to pay again in order to move the High Court. The resolution is sensible and avoids the manifest injustice of double payment, but the very fact that the question had to be resolved by the apex court demonstrates the incoherence of an architecture in which financial conditions of access are scattered across a principal enactment, an amending Act, a set of civil procedure rules made under a different statutory power and, since 2025, a further legislative instrument prescribing fees for appeal.

4. THE SUPREME COURT TRILOGY OF 30 NOVEMBER 2022

On 30 November 2022 the Supreme Court delivered three judgments which together settled, for the time being, the constitutional status of the prepayment condition. In *Kwasi Afrifa v. Ghana Revenue Authority and Another*, which reached the Court by way of a reference from the Court of Appeal sitting at Kumasi, the question was formulated as whether, upon a true and proper interpretation of article 23 of the 1992 Constitution, section 42(5) of Act 915 is inconsistent with and violative of the constitutional right to administrative justice. In *Richard Amo-Hene v. Ghana Revenue Authority, Attorney-General and Judicial Service* the Court exercised its original jurisdiction under article 2(1) upon a challenge that impugned both section 42(5) and Order 54 rule 4(1) of C.I. 47, and in *Export Finance Company Ltd v. Ghana Revenue Authority and Another* a differently constituted panel considered substantially the same issues in the context of a corporate taxpayer.

4.1 The Reasoning in Afrifa

The appellant in *Afrifa*, a legal practitioner, had been assessed to tax for the years 2012 to 2016, had objected, and had been compelled to pay the outstanding taxes together with thirty per cent of the disputed amount before the objection would be entertained, and his subsequent application for a tax clearance certificate met with further demands from the revenue authority. His constitutional argument was that section 42(5) fetters the right of a taxpayer to object to an assessment, and that a statutory provision which conditions the hearing of a grievance upon prior payment of the very sum in grievance cannot be reconciled with a constitutional guarantee of fair and reasonable administrative action.

Torkornoo JSC, delivering the judgment of the Court, accepted that section 42 of Act 915 confers upon the revenue authority an administrative power to determine a tax objection and that the law governing the exercise of such power must accordingly be fair and reasonable and in accordance with article 23. The Court nonetheless declined to hold the provision unconstitutional, and the structure of its reasoning may be reduced to four propositions. The first is that the collection of tax is essential to the functioning of the state and that a requirement of partial payment operates to deter objections lodged for the purpose of delay rather than for the vindication of a genuine legal position. The second is that section 42(5) does not stand alone but forms part of a broader dispute resolution framework which includes the discretion conferred by section 42(6) to waive or vary the payment required. The third is that the framework as a whole affords procedural safeguards sufficient to satisfy article 23 and the requirements of due process contained in article 296. The fourth is that the balancing of the public interest in revenue against the private interest in unimpeded access justifies a conditional rather than an unconditional right of objection. The Court drew support from the decision of the South African Constitutional Court in *Metcash Trading Ltd v. Commissioner for the South African Revenue Service* (2001), in which an analogous provision of the Value-Added Tax Act had been sustained.

4.2 Amo-Hene, Export Finance and the Question of Cumulation

In *Amo-Hene* the Court, by a majority of six to one, adopted the reasoning in *Afrifa* and dismissed the reliefs sought, having first disposed of a preliminary objection by the Attorney-General to the invocation of the original jurisdiction. The additional contribution of *Amo-Hene* and of *Export Finance* lies in their treatment of Order 54 rule 4(1), which the Court construed as complementary to and subordinate to Act 915, with the consequence that a taxpayer who has satisfied the statutory condition is not obliged to satisfy the rule as well. The Court emphasised that the intention of Parliament in Act 915 was to avoid subjecting taxpayers to double payment in respect of a single dispute, and the outcome is therefore protective of the taxpayer within the narrow compass of the question presented.

4.3 What the Court Decided and What It Presupposed

It is important to be precise about the ratio of these decisions, because they are frequently invoked in Ghanaian practice as though they had settled every question that the prepayment rule can generate. What the Court decided is that section 42(5), read together with section 42(6) and the remainder of the statutory scheme, is not inconsistent with article 23. What the Court did not decide, because it was not asked, is whether the exercise or the non-exercise of the section 42(6) discretion in any particular case satisfies article 296, whether the failure to publish criteria governing that discretion is itself a constitutional default, whether the condition

may lawfully be applied to an assessment made on a best-judgement basis in the absence of any determination of liability, or whether a system that offers unconditional and suspensive dispute resolution to foreign investors while imposing prepayment upon domestic taxpayers can be reconciled with the equality guarantee in article 17.

More importantly still, the reasoning of the Court is conditional in a manner that has not been sufficiently appreciated. The Court did not hold that a bare requirement of prepayment would be constitutional. It held that the requirement is constitutional *because* the statutory scheme contains a discretionary power to relieve against it, and the logical structure of that holding is that the availability of relief is a necessary condition of the validity of the burden. A holding of that form generates a corresponding obligation, since a discretion whose existence is relied upon to sustain the constitutionality of a burden cannot afterwards be treated as an unregulated indulgence which the administration may exercise, decline to exercise or ignore according to unpublished and unreviewable preference. The Court, in other words, supplied in its own reasoning the materials from which the argument of this article is constructed, and the task of Sections 8 and 9 is to draw out those materials into a doctrine and a framework.

There is a further and more uncomfortable observation to be made about the temporal setting of the trilogy. When the Court reasoned in November 2022 that section 42(5) sits within a broader dispute resolution framework, the Independent Tax Appeals Board, which is the institutional centrepiece of that framework, had been created in law but not yet inaugurated, and it would not receive its first appeal for more than three years. The Court was therefore sustaining a burden by reference to a scheme whose appellate component existed on paper alone, and while nothing in the judicial function required the Court to anticipate the pace of executive implementation, the passage of time has placed the reasoning under a strain that the Court itself could not have measured.

5. THE ANATOMY OF INCONSISTENCY

Inconsistency is a word that carries a mild connotation in ordinary usage, suggesting untidiness rather than injustice, and it is therefore necessary to state with some precision what is meant when it is asserted that Ghanaian tax dispute resolution is inconsistent. The term is used here to denote a condition in which the legal system asserts a principle and then acts, in materially similar circumstances, in a manner that the asserted principle cannot accommodate, and the objection to such a condition is not aesthetic but goes to the capacity of law to guide conduct at all. Fuller (1969) identified congruence between declared rule and official action as one of the eight requirements without which a system fails to constitute law properly so called, and Dworkin (1986) developed the related and more demanding idea of integrity, according to which the community must speak with a single voice and act upon a coherent set of principles even when it might secure short-term advantage by departing from them. The inconsistencies catalogued below are failures of congruence and of integrity in exactly these senses, and each of them can be traced to a specific and remediable feature of the present arrangement.

5.1 Normative Inconsistency

The first inconsistency lies between the principle that the Supreme Court articulated in order to sustain the prepayment condition and the administrative reality that has followed. The Court sustained the condition on the express footing that section 42(6) supplies a mechanism of relief, so that the burden is not absolute but conditional upon the failure of an application for waiver, variation or suspension. The administration has not published criteria governing the exercise of that discretion, has not prescribed a procedure by which an application may be made, has not committed itself to any period within which such an application will be determined, and does not as a matter of routine give reasons when relief is refused. The consequence is that the safeguard which alone renders the burden constitutional is, from the standpoint of the taxpayer who must rely upon it, indistinguishable from an absence of safeguard, since a right whose existence cannot be ascertained, whose conditions cannot be known and whose refusal cannot be explained is not in any practical sense a right at all.

The normative inconsistency is compounded by article 296(c), which requires an authority in whom a discretionary power vests, where that authority is not a judge or other judicial officer, to publish regulations by constitutional instrument governing the exercise of the power. Whatever view is taken of the precise reach of that provision in relation to statutory discretions of the section 42(6) type, the constitutional policy it embodies is unmistakable, and that policy is that discretionary power over the citizen shall be exercised according to publicly ascertainable standards rather than according to the unarticulated judgement of the official of the day. A revenue administration that relies upon the existence of a discretion to defend the constitutionality of a burden, while declining to reduce the criteria of that discretion to published form, has taken the benefit of the safeguard without accepting its cost. The comparative administrative law literature has reached broadly the same conclusion about fiscal discretion generally, Craig (2021) treating the structuring of discretion through published criteria as a core requirement of lawful administration, Freedman and Vella (2011) examining the boundaries within which a revenue authority may legitimately exercise managerial judgement, and Daly (2020) demonstrating that the publication of administrative guidance generates legitimate expectations which the courts will in appropriate cases protect.

5.2 Institutional Inconsistency

The second inconsistency concerns the relationship between the burdens imposed upon the taxpayer and the institutions provided to hear him. Parliament created the Independent Tax Appeals Board in 2020 in explicit recognition that it was unsatisfactory for the Commissioner-General to determine appeals against his own objection decisions, and the executive inaugurated the Board in January 2023 with public assurances about speed and fairness. Between that inauguration and the coming into force of L.I. 2513 in November 2025, taxpayers who had paid thirty per cent of a disputed assessment in order to be heard were heard, if at all, by the very officer whose assessment they contested, with the High Court as the only alternative and with its own financial threshold guarding the door. It is worth stating plainly what this meant in practice for a medium-sized enterprise assessed to an additional liability of, say, two million Ghana cedis on a basis it believed to be legally erroneous. The enterprise was required to surrender six hundred thousand cedis in order to obtain internal reconsideration by the administration that had made the assessment, and if that reconsideration was unfavourable, its only recourse lay in litigation whose cost, duration and evidential demands are beyond the reach of most Ghanaian businesses. The rational course for such an enterprise was frequently to abandon a meritorious position, and every such abandonment represents not a triumph of revenue administration but the collection of a sum that the law, properly applied, did not authorise.

5.3 Temporal Inconsistency

The third inconsistency is temporal and consists in a systematic asymmetry between the speed demanded of the taxpayer and the speed accepted from the administration. The taxpayer must object within thirty days, must appeal within thirty days, must pay before being heard, and suffers interest and penalties from the date on which the disputed liability is said to have fallen due. The administration determines objections within periods that are frequently exceeded without consequence, exercises the section 42(6) discretion within no period at all, took three years to make the regulations that would allow its appellate board to function, and where a taxpayer ultimately succeeds, refunds the prepaid amount upon a timetable and with a compensatory element that bear no relationship to the rigour applied in the opposite direction.

The asymmetry is not merely unfair in the abstract but has a precise economic content, because the prepayment condition transfers the time value of the disputed sum from the taxpayer to the state for the entire duration of the dispute, and it does so before any determination of liability has been made. If the taxpayer is right, the state has enjoyed an interest-free loan compulsorily extracted from a person who owed nothing, and unless the refund carries interest at a rate that genuinely compensates for the deprivation, the taxpayer bears a real loss as the price of having been correct about the law.

5.4 Distributive Inconsistency

The fourth and most serious inconsistency is distributive, and it consists in the operation within a single jurisdiction of two distinct systems of tax justice differentiated by the identity of the taxpayer rather than by the nature of the dispute. Domestic taxpayers contest assessments under the regime described above, in which payment precedes hearing. Foreign investors operating under investment agreements, stability clauses and double taxation treaties contest their liabilities through mutual agreement procedures, through the arbitration provisions of their contracts, and where those fail through international arbitral proceedings of the kind seen in the dispute between Tullow Ghana Limited and the Republic of Ghana. None of those mechanisms requires the investor to pay thirty per cent of the disputed amount as the price of admission, and many of them operate to suspend enforcement pending determination.

It is difficult to overstate the significance of this divergence for the argument of this article. The state has consistently justified prepayment on the ground that the revenue cannot be exposed to the risk of dilatory objection, and that justification, if it is sound, applies with at least equal force to the largest and most sophisticated taxpayers in the economy, who are precisely the persons capable of sustaining prolonged litigation and of structuring their affairs so as to place assets beyond reach. That the state has been content to forgo prepayment in exactly those cases, while insisting upon it against domestic enterprises of modest means, establishes two propositions at once. The first is that the state itself does not believe that dispute resolution without prepayment is unworkable. The second is that the burden has been allocated according to the bargaining power of the taxpayer rather than according to any principle that the fiscal constitution recognises, which is a failure of integrity in the strict Dworkinian sense and a matter that article 17 renders constitutionally cognisable.

6. COMPARATIVE PERSPECTIVES

The purpose of comparison in an argument of this kind is not to establish that Ghana should adopt the arrangements of any other jurisdiction, since the transplantation of institutional forms across fiscal systems with different administrative capacities and different compliance cultures has a poor record. The purpose is narrower and more probative, which is to test the assertion, frequently made in defence of section 42(5), that a revenue administration in a developing economy has no practical alternative to prepayment if it is to protect the revenue against objections lodged in bad faith. Three comparators bear directly upon that assertion.

Tax Dispute Resolution in The Quest to Enhance Domestic Revenue Mobilization in Ghana: The Need for Consistency in Protecting Taxpayer Rights

6.1 South Africa

South Africa has long applied a rule of the same family, expressed in the maxim that the taxpayer must pay now and argue later, and the constitutionality of that rule was upheld in *Metcash Trading Ltd v. Commissioner for the South African Revenue Service* (2001), the very authority upon which the Ghanaian Supreme Court drew. What the Ghanaian discussion has generally overlooked is that South African law has moved substantially since Metcash was decided. Section 164 of the Tax Administration Act 28 of 2011 now provides that the obligation to pay is not automatically suspended by objection or appeal but that a senior official may suspend payment upon application, and the section enumerates the factors that must be taken into account, including whether the recovery of the disputed tax will be in jeopardy, the compliance history of the taxpayer, whether fraud is prima facie involved, whether payment will result in irreparable hardship to the taxpayer not justified by the prejudice to the revenue authority, and whether the taxpayer has tendered adequate security. Keulder (2013) traced this development and observed that the introduction of published guidelines was a direct response to criticism that the earlier regime left the taxpayer without any ascertainable standard by which to assess the prospects of relief.

The South African position therefore differs from the Ghanaian position not in accepting the principle that payment may precede final determination, which it does, but in three respects that are decisive for the present argument. Suspension is available upon application in respect of the whole of the disputed amount rather than merely thirty per cent of it. The statutory criteria are enumerated in the legislation itself rather than left to unstructured discretion. Administrative guidance has been published so that the taxpayer may know in advance what considerations will bear upon the decision.

6.2 Kenya

Kenya has taken a different route. The Tax Procedures Act, 2015 establishes an objection procedure in which the Commissioner must make an objection decision within sixty days of receiving a valid notice of objection, failing which the objection is deemed allowed, and there is no requirement that the disputed tax be paid before the objection is entertained. Appeals lie to the Tax Appeals Tribunal established under the Tax Appeals Tribunal Act, 2013, whose procedure is public, whose decisions are published, and whose creation was accompanied by a deliberate policy of encouraging settlement, given further effect by the Tax Procedures (Settlement of Tax Disputes Out of Court or Tribunal) Regulations, 2020. Article 159(2)(c) of the Kenyan Constitution, which requires courts and tribunals to promote alternative forms of dispute resolution, has supplied a constitutional warrant for that policy. The Kenyan experience is instructive because it demonstrates that a revenue administration operating in an East African economy with an informality profile broadly comparable to Ghana has been able to combine the absence of a prepayment condition with an active programme of revenue mobilization, and because the deemed-allowance sanction shows how a legislature may impose upon the administration a temporal discipline symmetrical with that imposed upon the taxpayer.

6.3 United Kingdom

The United Kingdom occupies the opposite pole. Under the postponement machinery derived from section 55 of the Taxes Management Act 1970 and now supplemented by the direct recovery and accelerated payment provisions introduced in more recent Finance Acts, a taxpayer who appeals against an assessment may apply to postpone payment of the tax in dispute, and where agreement is not reached with the revenue authority the tribunal itself determines how much, if any, must be paid pending the appeal. The default position is thus that the amount payable pending appeal is fixed by an independent judicial body upon consideration of the merits and of the risk to the revenue, rather than by a fixed statutory percentage applied uniformly and without regard to circumstance. The accelerated payment regime, which reverses that default in defined avoidance situations, is a targeted exception whose scope is delimited by statute and whose introduction was accompanied by extensive parliamentary scrutiny.

6.4 Comparative Summary

Table 1: Conditions of Access to Tax Dispute Resolution in Four Jurisdictions

Feature	Ghana	South Africa	Kenya	United Kingdom
Payment required before objection is entertained	Yes, 30 per cent of disputed domestic tax and 100 per cent of disputed import duties	No automatic suspension, but suspension available on application for the whole amount	No payment condition	No payment condition; postponement may be applied for
Who decides on relief from payment	Commissioner-General, under an unstructured discretion	Senior revenue official, under enumerated statutory criteria	Not applicable	Independent tribunal where the parties do not agree

Tax Dispute Resolution in The Quest to Enhance Domestic Revenue Mobilization in Ghana: The Need for Consistency in Protecting Taxpayer Rights

Feature	Ghana	South Africa	Kenya	United Kingdom
Criteria published	No	Yes, in statute and administrative guidance	Not applicable	Yes, in statute and published guidance
Deemed outcome if the administration delays	Limited	Limited	Objection deemed allowed after sixty days	Postponement application determined by the tribunal
Independent first-instance appellate body	Independent Tax Appeals Board, operational from 1 January 2026	Tax Board and Tax Court	Tax Tribunal, operational since 2015	First-tier Tribunal, Tax Chamber
Decisions published	No, proceedings are in camera	Yes, subject to anonymisation	Yes	Yes

The table makes the essential point without elaboration. Ghana is not unusual in permitting the revenue to be secured in advance of final determination, and it would be misleading to present the prepayment condition as an aberration. Ghana is unusual, and among these comparators unique, in combining a fixed and substantial payment condition with an unstructured relief discretion, unpublished criteria, unpublished decisions and, until very recently, an appellate institution that existed only in the statute book.

7. THE LEGITIMACY THESIS: WHY CONSISTENCY MOBILIZES REVENUE

The argument so far has been internal to law, in the sense that it has measured the Ghanaian arrangement against standards of congruence and integrity that legal systems set for themselves. It is necessary now to show why a policymaker concerned exclusively with revenue, and indifferent to the elegance of the legal order, should nonetheless attend to the argument, and the answer lies in the substantial body of evidence connecting the perceived fairness of tax administration to the willingness of taxpayers to comply.

7.1 Quasi-Voluntary Compliance and Its Conditions

Levi (1988) introduced the concept of quasi-voluntary compliance to capture the observation that taxpayers comply not principally because they fear detection, whose probability in most systems is far too low to explain observed compliance rates, but because they regard the demand as legitimate and believe that others are complying as well. The concept has been elaborated over three decades of empirical work. Tyler (2006) established across multiple regulatory domains that perceptions of procedural fairness predict voluntary compliance more powerfully than perceptions of outcome favourability, so that a person who loses a dispute conducted fairly is more likely to comply thereafter than a person who wins a dispute conducted arbitrarily. Braithwaite (2003) and the Australian research programme associated with her demonstrated that taxpayers adopt identifiable motivational postures towards the revenue authority, and that postures of resistance and disengagement are generated by administrative conduct experienced as disrespectful or arbitrary rather than by the level of the tax burden as such. Torgler (2007) assembled cross-national evidence linking tax morale to trust in state institutions, and Alm (2019) and Slemrod (2019) surveyed the accumulated literature and concluded that enforcement and legitimacy operate as complements rather than as substitutes.

The African evidence points in the same direction with additional force. Fjeldstad and Semboja (2001), examining the development levy in Tanzania, found that willingness to pay was associated with perceptions of the fairness of the collection process and of the accountability of those collecting rather than with the intensity of enforcement, and that coercive collection generated resistance which persisted beyond the immediate encounter. Bräutigam et al. (2008) developed the broader argument that taxation and state-building are mutually constitutive, and that the bargaining process through which a state secures consent to taxation is the mechanism by which accountable governance emerges. Prichard (2015) tested that argument across sub-Saharan African cases and found the connection between tax bargaining and responsiveness to be real though contingent upon the existence of channels through which taxpayers can press claims. Moore (2004) had earlier argued that states which raise revenue through negotiated taxation of their own citizens develop institutional capacities that states dependent upon aid and resource rents do not.

7.2 Application to the Ghanaian Case

If this body of work is even approximately correct, the implications for Ghanaian revenue policy are direct. A very large proportion of the revenue gap in Ghana lies not in the evasion of known liabilities by taxpayers already within the net but in the persistence of informality among enterprises that have never entered it, and the decision to enter the formal net is one that a proprietor makes prospectively, on the basis of what he expects the relationship with the revenue authority to be like. What such a proprietor observes

is that formalisation brings assessment, that assessment may be made on a best-judgement basis where records are found wanting, that disagreement with an assessment requires the surrender of thirty per cent of the disputed sum before it can even be considered, and that the officer who will consider it is the officer who made it. The expected cost of entry, so computed, includes not only the tax properly payable but a risk premium reflecting the probability of an erroneous assessment multiplied by the cost of contesting it, and the prepayment condition raises that premium substantially.

The state, in insisting upon prepayment, therefore secures a certain and immediate cash flow from the disputes of taxpayers already within the net, and pays for it with an uncertain and deferred reduction in the rate at which new taxpayers enter. Because the first effect is visible in monthly collection statistics and the second is not visible at all, the institutional incentives of a revenue administration under pressure to meet targets will always favour the condition, and it is precisely for that reason that the matter is properly one of constitutional rather than merely administrative regulation. The function of a fiscal constitution is to hold the administration to a horizon longer than the collection cycle.

7.3 Integrity, Congruence and the Limits of Instrumental Argument

It would nonetheless be a mistake to rest the case wholly upon this instrumental foundation, because an argument that consistency should be observed on account of its revenue yield invites the reply that it should be abandoned wherever the yield is shown to be small. The deeper ground is the one identified at the beginning of Section 5. A legal system that declares a right of objection and then conditions it upon a payment that many of those entitled to object cannot make has not merely adopted an inefficient policy but has failed to be congruent with its own declared rules, and a state that offers one system of justice to those who can negotiate for it and another to those who cannot has failed to treat its citizens as entitled to equal concern and respect. Bingham (2010) placed access to adjudication among the constitutive elements of the rule of law, and Waldron (2011) argued that the procedural dimension of the rule of law, which entitles a person affected by a determination to contest it before an impartial forum, is not an optional refinement but part of what makes the exercise of power legally intelligible. Galligan (1996) and Mashaw (1983) supplied the administrative counterpart of that argument, the former in demonstrating that fair procedures are constitutive of the legitimacy of administrative determinations rather than instrumental to their accuracy alone, and the latter in showing that bureaucratic systems processing large volumes of individual claims can achieve justice only where the internal norms of the administration are aligned with the entitlements the law confers. These considerations would retain their force even if the revenue consequences of consistency were neutral, and it is on them that the doctrine developed in the next section principally rests.

8. THE DOCTRINE OF RECIPROCAL FISCAL OBLIGATION

The materials assembled in the preceding sections permit the statement of a doctrine which, so far as the present writer is aware, has not previously been formulated in these terms in Ghanaian or in comparative African fiscal jurisprudence, and which is offered here as the organising principle from which the analysis of taxpayer rights in a revenue mobilization context should proceed.

8.1 Statement of the Doctrine

The Doctrine of Reciprocal Fiscal Obligation. The duty of the citizen to declare income honestly and to satisfy tax obligations under article 41(j) of the 1992 Constitution, and the duties of the revenue administration to act fairly and reasonably under article 23 and to exercise discretionary power candidly, non-arbitrarily and according to published criteria under article 296, are not independent obligations that happen to arise in the same field. They are correlative aspects of the single fiscal relationship constituted by article 174, and they stand or fall together. It follows that where the state imposes upon the taxpayer a condition as the price of access to a forum in which the lawfulness of an assessment may be contested, the imposition of that condition generates a correlative obligation upon the administration which is enforceable at the instance of the taxpayer, and the constitutional validity of the condition is contingent upon the performance of that correlative obligation.

The doctrine has three limbs, each of which requires separate defence. The first is the claim of unity, namely that article 41(j), article 23 and article 296 operate upon a single relationship rather than upon two relationships that intersect. The second is the claim of correlativity, namely that a burden lawfully imposed upon one party to that relationship generates an obligation upon the other. The third is the claim of contingency, namely that the constitutional validity of the burden depends upon the performance of the correlative obligation, so that a condition initially valid may become invalid through administrative default.

8.2 The Claim of Unity

The claim of unity rests upon the structure of article 174 itself. Because taxation may be imposed only by or under the authority of an Act of Parliament, the relationship between the state and the taxpayer is constituted by law rather than by executive fiat, and a relationship so constituted necessarily has two sides, since a legal relation that binds one party only is not a relation but a power. Article 41(j) specifies what the citizen owes within that relationship. Articles 23 and 296 specify the standards that the administrative party must observe within it. To treat these as separate bodies of law, so that the taxpayer duty is enforced through the machinery of assessment and recovery while the administrative duties are relegated to occasional judicial review, is to fragment a relationship

Tax Dispute Resolution in The Quest to Enhance Domestic Revenue Mobilization in Ghana: The Need for Consistency in Protecting Taxpayer Rights

that the Constitution constitutes as a whole, and the fragmentation is precisely what produces the inconsistencies catalogued in Section 5.

The unity claim also draws support from the placement of article 41(j) among the directive principles of state policy, since those principles are addressed in the first instance to the organs of state and articulate the ends that public power is to serve, and it would be a curious reading of Chapter Six that extracted from it a justiciable duty upon the citizen while treating the correlative expectations upon the administration as merely hortatory. The Supreme Court has for two decades resisted a reading of Chapter Six that would render it a repository of unenforceable aspiration, and the interpretive posture developed in that jurisprudence, traced in detail by Bimpong-Buta (2007) and situated within the wider African constitutional movement by Prempeh (2006), supports the reading advanced here.

8.3 The Claim of Correlativity

The claim of correlativity is Hohfeldian in inspiration though not in every detail. Hohfeld (1913) demonstrated that jural relations are irreducibly relational, so that a right in one person entails a duty in another, a privilege entails a corresponding absence of right, and a power entails a liability. The analytical discipline that Hohfeld imposed exposes the incoherence of describing the taxpayer as being under a duty to pay while describing the administration as possessing a discretion to relieve, because if the taxpayer has no right correlative to the discretion then the discretion is, in the strict sense, a power to which the taxpayer is merely liable, and a power of that character cannot support the constitutional weight that the Supreme Court placed upon section 42(6).

The Court reasoned that the prepayment condition satisfies article 23 because the scheme includes a discretion to waive, vary or suspend. That reasoning is intelligible only if the taxpayer stands in some jural relation to the discretion beyond bare liability, which is to say only if he possesses at minimum a right that the discretion be exercised, that it be exercised upon relevant considerations, that the considerations be ascertainable in advance, and that the outcome be communicated with reasons sufficient to permit review. The correlativity claim does no more than make explicit what the Court necessarily assumed, and it is for that reason not a judicial innovation but an articulation of the ratio.

The African philosophical materials discussed in Section 2.4 converge upon the same conclusion by a different route. In a conception of the person as constituted through relationship, an obligation owed by the individual to the community is intelligible only within a structure in which the community also stands obliged, and the unilateral demand that admits of no reciprocal claim is understood not as an exercise of authority but as a rupture of the relational order upon which authority depends. Gyekye (1997) developed this point with particular care in his treatment of the moderate communitarian position, and it supplies the Ghanaian legal order with an indigenous foundation for a proposition that Hohfeldian analysis reaches through formal logic.

8.4 The Claim of Contingency

The third limb is the most consequential in practice and the most likely to be resisted. It holds that a condition upon access which is constitutionally valid at the moment of enactment may become constitutionally invalid, or may become inapplicable in a particular case, through the failure of the administration to perform the obligation correlative to it. The proposition is not novel in constitutional adjudication, for courts in many jurisdictions have recognised that a statutory scheme sustained by reference to safeguards may be impugned where the safeguards prove illusory, and the Ghanaian Supreme Court has itself accepted that the constitutionality of a provision may depend upon the manner of its operation as well as upon its terms.

Applied to section 42(5), the contingency claim yields a conclusion of some sharpness. The provision was upheld because section 42(6) exists. Section 42(6) has not been reduced to published criteria, is not attended by any prescribed procedure, is exercised without any published timetable and is refused without reasons. On the doctrine here advanced, the administration has not performed the obligation correlative to the burden, and the burden therefore lacks, at present, the constitutional support upon which the Supreme Court placed it. The appropriate response is not necessarily the striking down of section 42(5), which would be a blunt instrument, but rather a declaration that the exercise of the power conferred by section 42(5) is unlawful in any case in which the taxpayer has applied for relief under section 42(6) and has not received a determination upon published criteria within a reasonable and specified period.

8.5 What the Doctrine Does Not Assert

It is important to be clear about the limits of the doctrine, since an over-extended principle invites dismissal. The doctrine does not assert that taxpayers possess a constitutional right to withhold payment of tax pending the resolution of a dispute, and it is entirely consistent with the doctrine that a legislature should provide for security, for the giving of a bond, for the payment of an amount fixed by an independent body upon consideration of the merits, or for the acceleration of payment in defined circumstances of avoidance or of jeopardy to the revenue. The doctrine does not assert that every administrative failing renders a tax assessment void, and it is concerned with conditions upon access to adjudication rather than with the substantive correctness of assessments. Nor does the doctrine assert that the revenue is subordinate to the taxpayer's interest, since the whole burden of Section 7 was that the two interests converge over any horizon longer than the immediate collection cycle. What the doctrine asserts is a single proposition

Tax Dispute Resolution in The Quest to Enhance Domestic Revenue Mobilization in Ghana: The Need for Consistency in Protecting Taxpayer Rights

of constitutional structure, which is that the state may not take the benefit of a safeguard in argument while declining to supply it in administration.

9. THE TAXPAYER RIGHTS CONSISTENCY FRAMEWORK

A doctrine that cannot be applied is an ornament, and the purpose of this section is to convert the Doctrine of Reciprocal Fiscal Obligation into an instrument usable by a judge deciding a case, by a draftsman preparing an amendment and by an administrator designing a procedure. The Taxpayer Rights Consistency Framework accordingly comprises four dimensions of assessment, a six-stage consistency audit, five priority rules for the resolution of conflict among the dimensions, three rebuttable presumptions that allocate the burden of justification, and a duty of reasoned conditionality that operates specifically upon the section 42(6) discretion. The framework is designed to be compatible with the international taxpayer rights literature, and in particular with the systematic treatment in Bentley (2007) and with the comparative administrative benchmarks periodically published by the Organisation for Economic Co-operation and Development (2021), while remaining anchored in the specific provisions of the Ghanaian fiscal constitution rather than in a generalised catalogue of rights.

9.1 The Four Dimensions

The framework assesses any condition, procedure or practice within the tax dispute system along four dimensions, which correspond to the four species of inconsistency identified in Section 5 and which together exhaust the ways in which a fiscal system may fail to be congruent with itself.

The normative dimension asks whether the justification offered for a rule is matched by the administrative reality that accompanies it, and it is failed wherever a burden is defended by reference to a safeguard that the administration has not operationalised.

The institutional dimension asks whether the forums provided for the determination of disputes are independent of the party whose decision is contested, are accessible in fact as well as in law, and are capable of granting effective relief, and it is failed wherever a remedy exists in the statute book without existing in practice.

The temporal dimension asks whether the periods within which the taxpayer must act and the periods within which the administration must act are symmetrical in stringency and in consequence, and it is failed wherever default by the taxpayer is sanctioned and default by the administration is not.

The distributive dimension asks whether taxpayers similarly situated in respect of the nature of the dispute are subjected to similar conditions of access, and it is failed wherever the conditions vary according to the bargaining power, the nationality or the political salience of the taxpayer rather than according to any characteristic of the dispute itself.

9.2 The Six-Stage Consistency Audit

The audit is designed to be conducted by a court upon a constitutional challenge, by the Attorney-General upon the settling of a Bill, or by the revenue administration upon the design of a procedure, and its six stages proceed from characterisation to remedy.

Stage one, characterisation. Identify precisely what the impugned measure requires, of whom, at what point in the dispute cycle, and with what consequence for non-compliance, distinguishing carefully between conditions upon the existence of a right, conditions upon its exercise and conditions upon the enforcement of a determination.

Stage two, justification. Identify the justification actually advanced by the state for the measure, taking it at its highest and in the terms in which the state has advanced it rather than in terms reconstructed by the court, since the doctrine operates upon the state's own reasoning.

Stage three, correlative identification. Determine what obligation upon the administration is entailed by the justification advanced, applying the principle that a justification which relies upon the availability of relief entails an obligation to make that relief genuinely available.

Stage four, performance inquiry. Ascertain whether the correlative obligation has in fact been performed, by reference to published criteria, prescribed procedures, evidence of decisions made and reasons given, and the practical experience of taxpayers rather than the formal existence of a power.

Stage five, dimensional assessment. Test the measure against each of the four dimensions, recording the dimensions upon which it fails and the specific respect in which each failure occurs.

Stage six, calibrated remedy. Select the least intrusive remedy capable of restoring congruence, ranging in ascending order of intrusiveness from a declaration of the content of the correlative obligation, through an order requiring the publication of criteria within a specified period, through the disapplication of the measure in the individual case, to a declaration of invalidity where no lesser remedy can restore congruence.

9.3 Five Priority Rules

Conflict among the dimensions is inevitable, since a measure may promote institutional consistency at the cost of temporal consistency or may achieve distributive uniformity by levelling down. The following rules order the dimensions and resolve such conflicts.

Rule one. Where a measure fails the normative dimension, no degree of success upon the remaining dimensions cures the failure, because a system that does not do what it says it does has forfeited the basis upon which any of its other claims might be evaluated.

Rule two. Distributive failures that operate to the disadvantage of taxpayers with the least capacity to bear procedural burdens are to be treated as more serious than distributive failures of equal magnitude that operate elsewhere, since the practical effect of a condition upon access varies inversely with the resources of the person subject to it.

Rule three. Where institutional and temporal considerations conflict, so that the provision of an independent forum would delay determination, institutional independence prevails, because delay before an impartial body is a cost while speed before an interested one is not a benefit.

Rule four. A measure that has been justified by reference to a safeguard may not be re-justified upon a different ground once the safeguard is shown to be unperformed, since to permit substitution of justifications after the event is to deprive the original justification of any disciplining function.

Rule five. Where consistency may be achieved either by extending a protection enjoyed by one class of taxpayer to another or by withdrawing it from the class that enjoys it, extension is to be preferred unless the state demonstrates that extension is impracticable, because the existence of the protection in the favoured class is itself evidence that its provision is workable.

9.4 Three Rebuttable Presumptions

The framework allocates the burden of justification through three presumptions, each of which may be displaced by evidence but each of which operates until displaced.

The presumption of correlativity. Where the state justifies a burden upon the taxpayer by reference to a discretion, power or procedure available to relieve against that burden, it is presumed that the taxpayer possesses an enforceable right that the discretion be exercised upon published criteria, within a reasonable period, and with reasons upon refusal.

The presumption against unstructured fiscal discretion. Where a discretionary power that affects access to a dispute forum has been exercised without published criteria, it is presumed that the exercise fails to satisfy article 296, and the burden lies upon the administration to demonstrate that publication was impracticable or that the criteria applied were otherwise ascertainable by the taxpayer in advance.

The presumption of distributive suspicion. Where two classes of taxpayer contesting liabilities of the same legal character are subject to materially different conditions of access, it is presumed that the difference is unconstitutional under article 17, and the burden lies upon the state to identify a distinguishing feature of the disputes rather than of the disputants.

9.5 The Duty of Reasoned Conditionality

The framework culminates in a specific duty which the present writer terms the duty of reasoned conditionality, and which operates directly upon the section 42(6) discretion. The duty may be stated as follows. Where the entertainment of an objection is conditioned upon payment, and where the statute confers a power to waive, vary or suspend that payment, the administration is under a duty to publish the criteria governing the exercise of the power, to prescribe and publish the procedure by which relief may be sought, to determine each application within a period specified in advance and not exceeding what is reasonable in the circumstances of tax administration, to give written reasons for any refusal that are sufficient to enable the applicant to understand why relief was withheld and to consider whether that withholding is amenable to challenge, and to maintain and publish in anonymised aggregate form a record of applications received, granted and refused.

The elements of the duty are not exotic and correspond closely to what South African law already requires of the equivalent discretion under section 164 of its Tax Administration Act, but their significance in the Ghanaian setting is that they convert a power presently exercised in conditions of complete opacity into an administrative function capable of the ordinary disciplines of review. The duty is, moreover, precisely the obligation that the reasoning of the Supreme Court in the November 2022 trilogy entails, and its recognition would therefore not disturb the trilogy but would complete it.

10. APPLICATIONS OF THE FRAMEWORK

The value of an analytical framework is tested by what it decides, and this section applies the Taxpayer Rights Consistency Framework to five questions that arise or will shortly arise in Ghanaian practice. In each case the audit is conducted compendiously rather than stage by stage, but the reasoning follows the sequence set out in Section 9.2.

10.1 The Unanswered Application for Waiver

Consider a taxpayer assessed to an additional liability who applies to the Commissioner-General under section 42(6) for a waiver or suspension of the thirty per cent condition, supporting the application with audited accounts demonstrating that payment would compel the cessation of trading, and who receives no response of any kind. On the orthodox view, the taxpayer has no remedy other than to pay or to abandon the objection, since the discretion is the Commissioner-General to exercise and non-exercise is not a decision capable of challenge. On the framework advanced here the analysis is different at every stage. The justification advanced by the state for the burden is the availability of relief. The correlative obligation entailed by that justification is a duty to determine applications for relief within a reasonable period upon ascertainable criteria and with reasons. The obligation has not been performed. The measure fails the normative dimension, and by rule one no other consideration cures the failure. The calibrated remedy is not the invalidation of section 42(5) but an order in the nature of mandamus requiring determination within a specified period, coupled with a declaration that the objection stands validly lodged and time does not run against the taxpayer pending determination.

10.2 Best-Judgement Assessments and the Import Duty Condition

The second application concerns the sharpest edge of section 42(5), which is the requirement that the whole of the disputed amount be paid in the case of import duties and taxes, and its interaction with assessments raised upon the best judgement of the assessing officer where the taxpayer records are considered inadequate. In such a case the amount in dispute is not derived from an admitted transaction but from an administrative estimate, and to require payment of the entirety of an estimate as the condition of contesting the estimate is to make the administrative figure conclusive in every case in which the taxpayer cannot fund it. The dimensional assessment records failures upon the normative dimension, since the relief mechanism remains unoperationalised, upon the institutional dimension, since the estimating officer and the reviewing officer belong to the same administration, and upon the distributive dimension, since the burden falls most heavily upon smaller importers. The framework indicates that the hundred per cent condition should not be applied at all to assessments raised on a best-judgement basis, and that the appropriate legislative solution is to distinguish between disputes about the application of law to admitted facts and disputes about the facts themselves.

10.3 Rights Accrued During the Dormancy of the Appeals Board

A taxpayer whose objection was determined adversely between January 2023 and December 2025 was entitled by Act 1029 to appeal to the Independent Tax Appeals Board and was prevented from doing so by the absence of procedural regulations. Whether such a taxpayer may now appeal, notwithstanding the expiry of the thirty day period computed from the service of the objection decision, is a question that L.I. 2513 does not squarely address and that will shortly require resolution. The framework answers it without difficulty through the temporal dimension and rule three. A limitation period is a device for protecting a respondent against stale claims and cannot be permitted to extinguish a right of appeal during a period in which the appellate forum was, through the default of the state, incapable of receiving the appeal. The proper construction of the transitional position is that time did not begin to run until the Board became capable of receiving appeals on 1 January 2026, and any other construction would allow the executive to extinguish a statutory right by declining to make regulations.

10.4 Compensation for Successful Taxpayers

Where a taxpayer succeeds in an objection or appeal after having prepaid thirty per cent of the assessment, the sum prepaid must be returned, but the framework indicates that simple restitution is insufficient. The taxpayer has been deprived of the use of money that was never lawfully due, at the instance of an administration whose assessment has been shown to be wrong, and in circumstances where the deprivation was the price of access to adjudication. The temporal dimension is failed by any arrangement in which interest runs against the taxpayer from the date of assessment but does not run in his favour from the date of prepayment, and the distributive dimension is failed by an arrangement in which the compensatory rate is below the rate at which the taxpayer would have had to borrow to replace the funds. The framework supports a statutory entitlement to interest on refunds at a rate not less than the rate charged upon unpaid tax, running from the date of payment.

10.5 The Two-Track Problem and Article 17

The fifth application is the most consequential. A domestic manufacturer disputing a transfer pricing adjustment must prepay thirty per cent before the objection is entertained. A foreign investor disputing an adjustment arising under the same legislation, in respect of the same transaction and turning upon the same question of law, may invoke the mutual agreement procedure of the applicable double taxation treaty, or the dispute resolution provisions of an investment agreement, without prepayment and frequently with suspension of enforcement. The presumption of distributive suspicion places upon the state the burden of identifying a distinguishing feature of the disputes rather than of the disputants, and the state cannot discharge that burden by pointing to the international character of the investor, since the character of the party is a feature of the disputant. Rule five then determines the direction of the remedy, since consistency may be achieved by extending suspensive treatment to domestic taxpayers or by withdrawing it from

investors, and the existence of the protection in the favoured class establishes that its provision is workable. The framework therefore supports the conclusion that the availability of unconditional access for investors is itself the strongest available argument for extending comparable access to domestic taxpayers, and that article 17 furnishes a justiciable route to that conclusion which has not yet been argued before the Supreme Court.

11. OBJECTIONS AND REPLIES

11.1 The Objection from Revenue Protection

The most obvious objection is that the removal or attenuation of the prepayment condition would expose the revenue to a flood of objections lodged for no purpose other than the deferral of payment, and that a fiscal system operating under the pressures that Ghana presently faces cannot afford such exposure. The objection deserves respect because the risk it identifies is real, and any responsible proposal must address it. The reply is threefold and does not depend upon denying the risk. The framework does not require the abolition of security for the revenue but requires that the amount and incidence of security be determined upon criteria related to the risk presented rather than by a uniform percentage applied without regard to circumstance, which is the model that the United Kingdom postponement machinery and the South African suspension criteria both instantiate. The empirical premise of the objection, namely that objections would multiply, is not supported by the Kenyan experience, in which the absence of a payment condition has coexisted with an active revenue programme. And the objection compares the wrong quantities, since it weighs the revenue at risk from dilatory objection against nothing at all, when the correct comparison is against the revenue foregone through suppressed formalisation, which Section 7 suggests is the larger figure.

11.2 The Objection from Separation of Powers

It may be objected that the design of fiscal machinery is a matter for Parliament and the executive, that the courts lack the institutional competence to evaluate the trade-offs involved, and that the doctrine advanced here invites the judiciary into a domain that the Constitution has entrusted elsewhere. The reply is that the doctrine does not require any court to determine the appropriate level of security for the revenue, which is indeed a legislative question, and does not authorise a court to substitute its own view of fiscal policy for that of Parliament. What the doctrine requires is that the administration perform the obligations entailed by the justifications upon which the legislation was sustained, and the supervision of administrative performance against legal standards is the classical judicial function rather than an incursion into policy. A court that orders the publication of criteria under article 296(c) is enforcing the Constitution, not making fiscal policy.

11.3 The Objection from Precedent

A third objection is that the November 2022 trilogy has settled the constitutionality of section 42(5) and that the argument advanced here is foreclosed by authority. The reply has been indicated in Section 4.3 and may be restated compactly. The trilogy determined that section 42(5) is not inconsistent with article 23 when read with section 42(6) and the remainder of the scheme. It did not determine the content of the obligations that section 42(6) generates, the constitutional consequences of a failure to publish criteria under article 296(c), the position of best-judgement assessments, the transitional position arising from the dormancy of the Appeals Board, or the application of article 17 to the two-track problem. The argument of this article is not that the trilogy was wrongly decided but that its reasoning has implications which have not been drawn, and a submission of that character is not foreclosed by stare decisis but is invited by it.

11.4 The Objection from Administrative Capacity

It may be said that a revenue administration operating with limited human and technological resources cannot realistically be expected to publish criteria, determine waiver applications within fixed periods and give reasons for refusals, and that the framework imposes obligations disproportionate to the capacity available. The reply is that the obligations proposed are considerably less demanding than those the administration already discharges, since the Ghana Revenue Authority processes millions of returns, operates an electronic invoicing regime and administers a customs management system of considerable complexity, and the publication of a document setting out the considerations relevant to a waiver application is not a project of comparable difficulty. It should also be observed that a capacity argument advanced by the state cuts against the state in this particular context, because the entire justification for the prepayment burden was the availability of relief, and an administration that pleads incapacity to operate the relief mechanism has conceded that the justification is unavailable to it.

11.5 The Objection that the Doctrine Proves Too Much

The final objection is analytical rather than practical, and holds that if every justification advanced for a burden generates an enforceable correlative obligation, then the doctrine will destabilise a very wide range of legislation, since legislatures routinely justify measures by reference to safeguards whose operation is imperfect. The reply lies in the limiting conditions built into the doctrine. The correlative obligation arises only where the justification is relied upon by a court in sustaining the constitutionality of

Tax Dispute Resolution in The Quest to Enhance Domestic Revenue Mobilization in Ghana: The Need for Consistency in Protecting Taxpayer Rights

the burden, only where the safeguard is one that the administration rather than the taxpayer controls, and only where the burden operates as a condition upon access to adjudication rather than as a substantive liability. These conditions confine the doctrine to a narrow and identifiable class of case, of which section 42(5) is the paradigm, and they exclude the general run of legislation in which safeguards are mentioned in debate without bearing the weight of constitutional justification.

12. A PROGRAMME OF REFORM

The analysis supports a programme of reform in four registers, and the programme is set out here in a form sufficiently concrete to be acted upon rather than as a statement of desirable ends.

12.1 Legislative Reform

Amend section 42(5) of Act 915 to replace the fixed percentages with a requirement that the Commissioner-General may require security in an amount related to the risk presented by the particular dispute, and to provide expressly that no security shall be required in respect of an assessment raised upon best judgement until the factual basis of the assessment has been determined.

Amend section 42(6) to enumerate the criteria governing waiver, variation and suspension, adopting as a model the enumeration in section 164 of the South African Tax Administration Act 28 of 2011 and adding a criterion directed to the apparent strength of the taxpayer's position on the law.

Insert a new provision imposing upon the Commissioner-General a duty to determine an application for relief within twenty-one days and providing that an application not determined within that period shall be deemed granted, thereby importing the temporal symmetry that the Kenyan deemed-allowance provision achieves.

Insert a provision entitling a taxpayer who succeeds in an objection or appeal to interest upon any amount prepaid, at a rate not less than that charged upon unpaid tax, running from the date of payment to the date of refund.

Amend the Fourth Schedule to provide that appointments to the Independent Tax Appeals Board shall be made by the Minister acting upon the advice of the Judicial Council and the two professional institutes, and to permit the publication of anonymised decisions notwithstanding the confidentiality of proceedings.

12.2 Subsidiary Legislation

Make a constitutional instrument under article 296(c) governing the exercise of the discretion conferred by section 42(6), prescribing the form of application, the evidence required, the considerations to be taken into account, the period for determination and the manner in which reasons are to be given.

Amend Order 54 of C.I. 47 to remove rule 4(1) altogether, the Supreme Court having established that it cannot operate cumulatively with section 42(5), so that the financial conditions of access are stated in one place.

Amend L.I. 2513 to provide expressly for the transitional position of taxpayers whose rights of appeal accrued during the period between the inauguration of the Board and the coming into force of the Regulations.

12.3 Institutional Reform

Provide the Independent Tax Appeals Board with a funding line that does not depend upon the revenue administration, together with a secretariat, a registry and a published cause list.

Establish and publish service standards for the determination of objections and appeals, with quarterly reporting of performance against those standards to Parliament through the Finance Committee.

Create within the Ghana Revenue Authority an office charged with the independent review of assessments raised on a best-judgement basis, staffed separately from the assessing function.

12.4 Administrative Reform

Adopt and publish a taxpayer charter stating in ordinary language the rights of the taxpayer in the dispute process, the obligations of the administration, and the routes by which failures of those obligations may be raised.

Publish annually an anonymised statistical account of objections lodged, determined, allowed and refused, of applications for relief under section 42(6) and of their outcomes, and of appeals to the Board and their disposal.

Institute a programme of training for assessing officers directed specifically to the giving of reasons, since the quality of first-instance reasoning is the single most effective determinant of the volume of downstream disputes.

12.5 Sequencing

The measures are not of equal urgency and their sequencing matters. The constitutional instrument under article 296(c) and the publication of waiver criteria require no primary legislation, could be accomplished within a single quarter, and would immediately cure the most acute of the normative inconsistencies identified in Section 5.1. The transitional amendment to L.I. 2513 is similarly urgent because rights are presently being lost through inaction. The legislative reforms may properly await the next revenue administration amendment cycle, and the institutional reforms depend upon budgetary provision. A government that wished to

Tax Dispute Resolution in The Quest to Enhance Domestic Revenue Mobilization in Ghana: The Need for Consistency in Protecting Taxpayer Rights

demonstrate seriousness about the connection between taxpayer rights and revenue mobilization could accomplish a great deal before the end of the present financial year at negligible cost.

13. CONCLUSION

The argument of this article may be compressed into a single proposition. Ghana has organised its pursuit of domestic revenue around the assumption that the taxpayer is an obstacle to be overcome, and has designed its dispute resolution machinery accordingly, with the result that the machinery secures immediate cash flow from those already within the tax net while depressing the rate at which those outside it are willing to enter. The assumption is mistaken, and the fiscal constitution of Ghana contains within itself the materials for its correction, since article 174 constitutes taxation as a relationship of law, article 41(j) states the duty that the citizen owes within that relationship, and articles 23 and 296 state the standards that the administration must observe within it.

The Doctrine of Reciprocal Fiscal Obligation draws those provisions together and holds that a condition imposed upon the taxpayer as the price of access to adjudication generates an enforceable correlative obligation upon the administration, so that the state may not take the benefit of a safeguard in argument while declining to supply it in administration. The Taxpayer Rights Consistency Framework converts that doctrine into an instrument of adjudication and design, through four dimensions of assessment, a six-stage audit, five priority rules, three presumptions and a duty of reasoned conditionality operating upon the section 42(6) discretion. Applied to the present Ghanaian arrangement, the framework identifies failures upon every dimension, and identifies as the most serious of them the operation of two systems of tax justice differentiated by the identity rather than the dispute of the taxpayer.

It is worth observing, in closing, that the reforms proposed here are not concessions extracted from the revenue in favour of the taxpayer but investments made by the revenue in its own long-term yield. A system in which a disputed assessment is heard promptly by an independent body, in which the criteria for relief from prepayment are published and applied, in which the administration is bound by periods as strict as those it imposes, and in which the domestic manufacturer and the foreign investor contest the same question upon the same terms, is a system to which entry is less costly and within which compliance is more readily given. The Supreme Court, in sustaining section 42(5) by reference to the relief that section 42(6) promises, has already stated the premise from which that system follows. What remains is for the administration to supply the relief, for Parliament to structure it, and for the courts, when the question is next presented, to draw from their own reasoning the conclusion that reasoning entails.

REFERENCES

- 1) Ali-Nakyee, A. (2014). *Taxation in Ghana: Principles, practice and planning* (3rd ed.). Black Mask.
- 2) Alm, J. (2019). What motivates tax compliance? *Journal of Economic Surveys*, 33(2), 353-388. <https://doi.org/10.1111/joes.12272>
- 3) Bentley, D. (2007). *Taxpayers' rights: Theory, origin and implementation*. Kluwer Law International.
- 4) Bimpong-Buta, S. Y. (2007). *The role of the Supreme Court in the development of constitutional law in Ghana*. Advanced Legal Publications.
- 5) Bingham, T. (2010). *The rule of law*. Allen Lane.
- 6) Braithwaite, V. (Ed.). (2003). *Taxing democracy: Understanding tax avoidance and evasion*. Ashgate.
- 7) Bräutigam, D., Fjeldstad, O.-H., & Moore, M. (Eds.). (2008). *Taxation and state-building in developing countries: Capacity and consent*. Cambridge University Press.
- 8) Constitution of the Republic of Ghana, 1992 (Ghana).
- 9) Craig, P. (2021). *Administrative law* (9th ed.). Sweet & Maxwell.
- 10) Daly, S. (2020). *Tax authority advice and the public*. Hart Publishing.
- 11) Dworkin, R. (1986). *Law's empire*. Harvard University Press.
- 12) Export Finance Company Ltd v. Ghana Revenue Authority and Attorney-General (Supreme Court of Ghana, 30 November 2022) (unreported).
- 13) Fjeldstad, O.-H., & Semboja, J. (2001). Why people pay taxes: The case of the development levy in Tanzania. *World Development*, 29(12), 2059-2074. [https://doi.org/10.1016/S0305-750X\(01\)00081-X](https://doi.org/10.1016/S0305-750X(01)00081-X)
- 14) Freedman, J., & Vella, J. (2011). HMRC's management of the UK tax system: The boundaries of legitimate discretion. In C. Evans, J. Freedman, & R. Krever (Eds.), *The delicate balance: Tax, discretion and the rule of law*. IBFD.
- 15) Fuller, L. L. (1969). *The morality of law* (Rev. ed.). Yale University Press.
- 16) Galligan, D. J. (1996). *Due process and fair procedures: A study of administrative procedures*. Clarendon Press.
- 17) Gyekye, K. (1997). *Tradition and modernity: Philosophical reflections on the African experience*. Oxford University Press.
- 18) High Court (Civil Procedure) Rules, 2004 (C.I. 47) (Ghana).

- 19) Hohfeld, W. N. (1913). Some fundamental legal conceptions as applied in judicial reasoning. *Yale Law Journal*, 23(1), 16-59. <https://doi.org/10.2307/785533>
- 20) Keulder, C. (2013). “Pay now, argue later” rule: Before and after the Tax Administration Act. *Potchefstroom Electronic Law Journal*, 16(4), 124-158. <https://doi.org/10.4314/pelj.v16i4.4>
- 21) Kunbuor, B., Ali-Nakyea, A., & Demitia, W. K. (2017). *Law of taxation in Ghana*. Type Company Limited.
- 22) Kwasi Afrifa v. Ghana Revenue Authority and Attorney-General, Reference No. J6/02/2022 (Supreme Court of Ghana, 30 November 2022) (unreported).
- 23) Levi, M. (1988). *Of rule and revenue*. University of California Press.
- 24) Mashaw, J. L. (1983). *Bureaucratic justice: Managing social security disability claims*. Yale University Press.
- 25) Metcash Trading Ltd v. Commissioner for the South African Revenue Service, 2001 (1) SA 1109 (CC) (South Africa).
- 26) Ministry of Finance. (2023). *Medium-term revenue strategy, 2024-2027*. Government of Ghana.
- 27) Ministry of Finance & Institute for Fiscal Studies. (2024). *Survey of the Ghanaian tax system*. Institute for Fiscal Studies.
- 28) Moore, M. (2004). Revenues, state formation, and the quality of governance in developing countries. *International Political Science Review*, 25(3), 297-319. <https://doi.org/10.1177/0192512104043018>
- 29) Murphy, L., & Nagel, T. (2002). *The myth of ownership: Taxes and justice*. Oxford University Press.
- 30) Organisation for Economic Co-operation and Development. (2021). *Tax administration 2021: Comparative information on OECD and other advanced and emerging economies*. OECD Publishing.
- 31) Prempeh, H. K. (2006). Marbury in Africa: Judicial review and the challenge of constitutionalism in contemporary Africa. *Tulane Law Review*, 80(4), 1239-1323.
- 32) Prichard, W. (2015). *Taxation, responsiveness and accountability in sub-Saharan Africa: The dynamics of tax bargaining*. Cambridge University Press.
- 33) Revenue Administration Act, 2016 (Act 915) (Ghana).
- 34) Revenue Administration (Amendment) Act, 2020 (Act 1029) (Ghana).
- 35) Revenue Administration (Independent Tax Appeal Procedure) Regulations, 2025 (L.I. 2513) (Ghana).
- 36) Richard Amo-Hene v. Ghana Revenue Authority, Attorney-General and Judicial Service, Writ No. J1/08/2021 (Supreme Court of Ghana, 30 November 2022) (unreported).
- 37) Schumpeter, J. A. (1991). The crisis of the tax state. In R. Swedberg (Ed.), *Joseph A. Schumpeter: The economics and sociology of capitalism*. Princeton University Press. (Original work published 1918)
- 38) Slemrod, J. (2019). Tax compliance and enforcement. *Journal of Economic Literature*, 57(4), 904-954. <https://doi.org/10.1257/jel.20181437>
- 39) Tax Administration Act 28 of 2011 (South Africa).
- 40) Tax Appeals Tribunal Act, 2013 (Kenya).
- 41) Tax Procedures Act, 2015 (Kenya).
- 42) Tax Procedures (Settlement of Tax Disputes Out of Court or Tribunal) Regulations, 2020 (Kenya).
- 43) Taxes Management Act 1970 (United Kingdom).
- 44) Torgler, B. (2007). *Tax compliance and tax morale: A theoretical and empirical analysis*. Edward Elgar.
- 45) Tullow Ghana Ltd v. Republic of Ghana, ICC Case No. 26579/AB/CPB.
- 46) Tyler, T. R. (2006). *Why people obey the law*. Princeton University Press.
- 47) Waldron, J. (2011). The rule of law and the importance of procedure. *Nomos*, 50, 3-31.
- 48) Wiredu, K. (1996). *Cultural universals and particulars: An African perspective*. Indiana University Press.

NOTE ON SOURCES AND VERIFICATION

The primary Ghanaian materials relied upon in this article, namely the Revenue Administration Act, 2016 (Act 915), the Revenue Administration (Amendment) Act, 2020 (Act 1029) and its Fourth Schedule, the Revenue Administration (Independent Tax Appeal Procedure) Regulations, 2025 (L.I. 2513), and Order 54 rule 4(1) of C.I. 47, together with the composition and inauguration of the Independent Tax Appeals Board and the dates upon which the Regulations came into force and the Board became operational, have been checked against publicly available sources. The following particulars should nonetheless be confirmed against the Gazette and the official law reports before publication, since they are matters upon which secondary sources are not uniform.

First, the exact short title and the fee schedule contained in L.I. 2513, which is variously described in commentary as the Revenue Administration (Independent Tax Appeal Procedure) Regulations and as the Revenue Administration Regulations. Second, the consolidated subsection lettering of sections 42, 43 and 45 of Act 915 as amended, since the amendments effected by Act 1029 and by subsequent revenue Acts have altered the numbering relied upon in earlier commentary. Third, the writ, reference and report citations for the three judgments of 30 November 2022, which are variously given in the literature as Reference No. J6/02/2022,

Tax Dispute Resolution in The Quest to Enhance Domestic Revenue Mobilization in Ghana: The Need for Consistency in Protecting Taxpayer Rights

Writ No. J1/23/2021 and Writ No. J1/08/2021, and which remain formally unreported. Fourth, the current edition and imprint of Kunbuor, Ali-Nakyea and Demitia. Fifth, the procedural history and present status of the arbitration between Tullow Ghana Limited and the Republic of Ghana. Sixth, the precise wording of the deemed-allowance provision in the Kenyan Tax Procedures Act, 2015 and the corresponding period, which has been amended since enactment.