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Small and Medium Scale Enterprises in Ghana and Withholding Tax Issues: Challenges, Effects and Solutions

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Abstract:

Every nation depends on taxes paid by individuals, businesses and institutions for running the affairs of the nation. One group of tax payers in Ghana is the Small and Medium Scale Enterprises (SMEs). It has been observed that most of the SMEs are not able to comply with the provisions of the Internal Revenue Act, 2000, ACT 592 with regards to withholding tax issues. In this study, an attempt is made to examine the challenges that SMEs encounter in complying with the provisions of sections 81-92 of ACT 592 which deals with withholding tax issues, the effects of non-compliance with the tax laws and offer suggestions on viable ways of dealing with the challenges to minimize the effects on the SMEs. The study was conducted using the case study approach. Data was collected by administering open-ended questionnaires to business owners and accounts staff of the selected SMEs. Additional data was collected by interviewing some external auditors and some officials of Ghana Revenue Authority. The results of the study show that some of the challenges that SMEs in Ghana encounter in compliance with the provisions on withholding tax are: Some of the owners of the SMEs do not have adequate knowledge of the tax laws in relation to withholding tax issues; Deliberate failure of owners of SMEs to comply with the provisions of the tax laws; Non – enforcement of the provisions sections 81-92 of the Internal Revenue Act 2000, ACT 592, which deals with withholding tax issues; Failure of withholding agents to give the tax credits issued by the commissioner general of GRA to those from whom tax was withheld; and Impracticability of withholding tax on payment for certain goods and services.

Keywords: *Small and Medium Scale Enterprise, withholding tax, tax credit certificate, third party, income tax returns*

1. Introduction

Taxation is a major source of revenue for the development of every nation including Ghana. As a major source of revenue, governments have enacted laws to regulate the imposition and payment of taxes. One of such laws in Ghana is the Internal Revenue Act, 2000 ACT 592. ACT 592 is organized into four chapters. Chapter 1 deals with Income Tax, chapter 2 deals with Capital Gains Tax, chapter 3 deals with Gift Tax and chapter 4 deals with General Provisions. Division III of chapter 1 of ACT 592 deals with provisions in relation to payment of tax. Two methods of payment of tax are prescribed in Division III as follows:

- a. Payment of tax by instalments and
- b. Withholding of tax at source

Section 81(1) of Internal Revenue Act, 2000, ACT 592 provides that ‘An employer shall withhold tax from the payment of an amount to be included in ascertaining the income of an employee from the employment as prescribed by Regulations made under section 114.’ Similarly, business entities are also enjoined to withhold taxes from payments made to a third party and remit same to the Ghana Revenue Authority (GRA), the institution mandated to administer the Internal Revenue Act, 2000. ACT 592, within a stipulated time period. There are sanctions for not withholding taxes or for not remitting taxes withheld to the GRA within the stipulated time period.

1.1. Statement of the Problem

A review of the tax assessment of a number of Small and Medium Scale Enterprises (SMEs) over a period of five years shows that most of them have been surcharged by the GRA for not withholding tax on payments made to a third party or for failing to pay the tax withheld to the GRA by the due dates.

1.2. Objectives of the Study

The main focus of the study is to identify the challenges facing SMEs in Ghana in dealing with issues relating to withholding taxes as stipulated by the Internal Revenue Act 2000, Act 592 and to recommend viable ways of dealing with the challenges.

The specific objectives of the study are:

1. To identify the challenges facing SMEs in Ghana in dealing with issues relating to withholding taxes.
2. To identify the effects of those challenges on the operations of the SMEs and the Ghanaian economy
3. To recommend viable ways of dealing with the challenges faced by SMEs in Ghana with regards to withholding tax issues

1.3. Research Questions

The following research questions will be addressed by the study:

1. What are the challenges that SMEs in Ghana face in dealing with withholding tax issues?
2. What are the effects of these challenges on the operations of the SMEs and the Ghanaian economy?
3. What are the viable ways of dealing with the challenges faced by SMEs in Ghana with regards to withholding tax issues?

1.4. Significance of the Study

The result of this study is expected to identify the challenges that SMEs in Ghana encounter with regards withholding tax issues. From a theoretical perspective, the study would give access to a theoretical framework to deal with issues relating to withholding taxes. From a practical perspective, the study would be useful to owners, directors and managers of SMEs to manage withholding tax issues efficiently. It would also help the tax authorities in Ghana to identify the practical difficulties that SMEs in particular encounter when dealing with issues relating to withholding taxes as stipulated in the Internal Revenue Act 2000, Act 592 to set the stage for a possible review of the provisions regarding withholding tax.

1.5. Scope and Limitation

The focus of this study is to identify the challenges that SMEs face in complying with provisions of ACT 592 in relation to withholding tax issues. Due to lack of time and financial resources, SMEs operating within the Tarkwa-Nsuaem Municipality were selected for the study.

2. Literature Review

2.1. Definitions and Classification of SME's in Global Context

The issue of what constitutes a small or micro enterprise is a major concern in the literature (Abor and Quartey 2010). Different writers have usually given different definitions to this category of business. SMEs have indeed not been spared with the definition problem that is usually associated with concepts which have many components. The definition of firms by size varies among researchers as well as writers. Others define SMEs in terms of their legal status and method of production. Some attempt to use the capital assets while others use labour and turnover level.

Bolton Committee (1971) first formulated an "economic" and "statistical" definition of a small firm. Under the "economic" definition, a firm is said to be small if it meets the following three criteria:

- a. It has a relatively small share of their market place;
- b. It is managed by owners or part owners in a personalized way, and not through the medium of a formalized management structure;
- c. It is independent, in the sense of not forming part of a large enterprise.

Under the "statistical" definition, the Committee proposed the following criteria:

- a. The size of the small firm sector and its contribution to GDP, employment, exports, etc.;
- b. The extent to which the small firm sector's economic contribution has changed over time;
- c. Applying the statistical definition in a cross-country comparison of the small firms' economic contribution.

The Bolton Committee applied different definitions of the small firm to different sectors. Whereas firms in manufacturing, construction and mining were defined in terms of number of employees (in which case, 200 or less qualified the firm to be a small firm), those in the retail, services, wholesale, etc. were defined in terms of monetary turnover (in which case the range is 50,000-200,000 British Pounds to be classified as small firm). Firms in the road transport industry are classified as small if they have 5 or fewer vehicles. There have been criticisms of the Bolton definitions. This center mainly on the apparent inconsistencies between defining characteristics based on number of employees and those based on managerial approach.

In Japan, small-scale industry is defined according to the type of industry, paid-up capital and number of paid employees. Consequently, small and medium-scale enterprises are defined as: those in manufacturing with 100 million yen paid-up capital and 300 employees, those in wholesale trade with 30 million yen paid-up capital and 100 employees, and those in the retail and service trades with 10 million yen paid-up capital and 50 employees. (Ekpenyong, 1992)

European Union (EU) Member States, traditionally have their own definition of what constitutes an SME, for example the traditional definition in Germany had a limit of 250 employees, while, for example, in Belgium it could have been 100. But now the EU has started to standardize the concept. Its current definition categorizes companies with fewer than 10 employees as "micro", those with fewer than 50 employees as "small", and those with fewer than 250 as "medium" By contrast, in the United States, when small business is defined by the number of employees, it often refers to those with fewer than 100 employees, while medium-sized business often refers to those with fewer than 500 employees. Canada also defines a small business as one that has fewer than 100 employees (if the business is a goods-producing business) or fewer than 50 employees (if the business is a service-based business), and a medium-sized business as fewer than 500. (Carsamer, 2009)

2.2. Definition of SME's In Ghanaian Context

In defining small-scale enterprises in Ghana, Steel & Webster (1991), and Osei et al (1993) used an employment cut-off point of 30 employees. Osei et al (1993), however, classified small-scale enterprises into three categories. These are: (i) micro -employing less than 6 people; (ii) very small -employing 6-9 people; (iii) small -between 10 and 29 employees. A more recent definition is the one given by the Regional Project on Enterprise Development Ghana manufacturing survey paper. The survey report classified firms into: (i) micro enterprise, less than 5 employees; (ii) small enterprise, 5 -29 employees; (iii) medium enterprise, 30 –99 employees; (iv) large enterprise, 100 and more employees (Teal, 2002)

There are various definitions for SMEs in Ghana but the most commonly used criterion is the number of employees of the enterprise (Kayanula and Quartey, 2000). In using this definition, issues arise in respect of the unpredictability and cut off points used by the various official sources. According to the National Board for Small Scale Industries (NBSSI, 1990) SME's is defined in Ghana by applying both the "fixed asset and number of employees" criteria. It defines a small-scale enterprise as a firm with not more than 9 workers, and has plant and machinery (excluding land, buildings and vehicles) not exceeding 10 million Ghanaian cedis and micro with employee less than five. As categorized by the Ghana Statistical Service (GSS), firms with less than 10 employees as small-scale enterprises and their counterparts with more than 10 employees as medium and large-sized enterprises. Ironically, the GSS in its national accounts considered companies with up to 9 employees as SME's (Kayanula and Quartey, 2000). The value of fixed assets in the firm has also been used as an alternative criterion for defining SME's.

The Ghana Enterprise Development Commission (GEDC), on the other hand, uses a 10 million Ghanaian cedis upper limit definition for plant and machinery. It is important to caution that the process of valuing fixed assets poses a problem. Secondly, the continuous depreciation of the local currency as against major trading currencies often makes such definitions outdated (Kayanula and Quartey, 2000).

2.3. Definition of Taxation

Dalton (1920) defined tax as "a compulsory contribution imposed by a public authority, irrespective of the exact amount of service rendered to the tax payer in return, and not as penalty for any legal offence".

Encyclopedia Britannica defines tax as "a body of rules under which the public authority has claim on tax payers requiring them to transfer".

The Collins English Dictionary defines tax as a compulsory financial contribution imposed by a government to raise revenue, levied on the income or property of persons or organizations.

The key aspect is that there is a legal compulsion to pay or to provide and one common element between taxes is that they are imposed by law.

The Internal Revenue Act 2000 (Act 592), does not define tax but offers the following provision:

Section 1(1) "a person who has a chargeable income shall pay, subject to this Act, for each year of assessment income tax as calculated in accordance with this Act. Sections 5 and 6 defines chargeable income as the person's total assessable income for the year of assessment from any business, employment or investment accruing in, derived from, brought into, or received in Ghana during any bases period of the person ending within the year of assessment but does not include exempt income.

Taxation is therefore a compulsory levy on private individuals and organizations made by governments to raise revenue to finance expenditure on public goods and services as well as to control the volume of private expenditure in the economy. Taxation can be defined as a compulsory payment by individuals and companies to the state. It is a compulsory levy imposed by authority of the law-making body of a country or by a decree that is enforceable by law (Nsor-Ambala, 2008).

2.4. History of Taxation in Ghana

Taxation was first started in Ghana, then Gold Coast, in September 1943 by the British colonial government at the time when World War II was raging. Before this several attempts had been made, for example, in April 1852, under the then Governor Major Hill, the poll tax ordinance was passed to raise money to finance the increased cost of British administration, (Abdallah, 2006). The first Income Tax Law was thus the Income Tax Ordinance (No.27), 1943. This Ordinance was modeled to a large extent on the general principles underlying the Income Tax Act then in force in the United Kingdom. It imposed the tax generally on incomes having its source in Ghana so that foreign source income was not liable unless it was remitted in Ghana. One characteristic feature of this ordinance was the numerous personal reliefs and deductions that it contained. Since then the Income Tax Law has seen several amendments culminating in the current Internal Revenue Act 2000 (Act 592) (GRA News, 2010).

Governments over the years have always found it expedient to use very simple and easy to collect methods to tax the citizens. It is no wonder that the first systems of tax were based on import and personal income since they were easier to identify and collect. During the governance of Major Hill in 1852, the British colonial masters had insisted that establishment of schools, improvement in the judicial system, basic health care and infrastructure had to be borne by the imposition of direct and indirect taxes. This was met with great resistance by the local people culminating in the withdrawal of the direct taxes (Agyeman, 2005)

Other taxes that have met initial protests during their introduction include the Value Added Tax (VAT), Ghana Education Trust Fund (GETFund), National Health Insurance Levy (NHIL) and the Communications Service Tax (CST).

2.5. Tax Administration in Ghana

The administration of taxes in Ghana was the responsibility of the Income Tax Department in 1943; the name was changed to Central Revenue Department in 1961. In May 1986, the name was again changed to the Internal Revenue Service under PNDC Law 143. In

1998 the Revenue Agencies Governing Board (RAGB) Act 558 was passed to manage the revenue agencies. It is the governing body for the Internal Revenue Service (IRS), the Custom, Excise and Preventive Service (CEPS) and the Value Added Tax Service (VATS). According to the GRA Act (2009), Act 791 the functions of the RAGB among others and not limited to:

- a. Ensure the effective, efficient and optimum collection of taxes, penalties and interest to the state under the enactments establishing the three revenue agencies and under any other tax
- b. Direct generally the revenue agencies on revenue related policies
- c. Ensure that all amounts collected by the revenue agencies are paid into the consolidated fund unless otherwise provided by an enactment
- d. Recommend to the Minister of Finance measures for effective collection of taxes and non- tax revenue
- e. Arrange for the training and manpower development for employees of the revenue agencies
- f. Initiate and sustain programs for the public education on tax payment.

2.6. Withholding of Tax at Source

One of the methods of paying tax as prescribed by the Internal Revenue Act 2000, Act 592, is withholding tax at source. Employers are required by law to withhold tax on the earnings of its employees every month. Similarly, companies are enjoined to withhold tax on payments made to third parties. Sections 82 to 86 of Act 592, stipulates the various rates of tax applicable to payments subject to withholding. Table 1 shows the summary of the various types of payments that companies are obliged to withhold tax.

Income	Rate of Tax (%)	Remarks
Resident Persons		
Interest (excluding individual and resident financial institutions)	8	Not final tax
Dividend	8	Final tax
Rent (for individual and as investment income)	8	Final tax
Fees to lecturers, invigilators, examiners and part time-teachers, and endorsement fees	10	Final tax
Commissions to insurance agents and sales persons, and fees to directors, board members etc.	10	Not final tax
Commission to Lotto agents	5	Not final tax
Supply of goods exceeding GH¢500	5	Not final tax
Non Resident Person		
Dividend	8	Final tax
Royalties, natural resources payments and rents	15	Final tax
Management, consulting and technical service fees and endorsement fees	20	Final tax
Repatriated branch after tax profit	10	Final tax
Interest Income	8	Final tax
Short-term insurance premiums	5	Final tax
Income from telecommunication, shipping, and air transport	15	Final tax

Table 1

Source: Internal Revenue Act 2000, Act 592

2.7. Payment of Tax Withheld

Section 87 of Act 592, prescribes the manner in which tax withheld is to be remitted to the Ghana Revenue Authority. S.87 (1) "Subject to subsection (2), a withholding agent shall pay to the Commissioner a tax that has been withheld or that should have been withheld under this Subdivision within fifteen days after the end of the month in which the payment subject to withholding tax is made by the withholding agent."

S.87 (2) "Where a person is required to withhold tax from a payment under subsection (2) of section 86, the tax shall be paid to the Commissioner at the time specified in the Commissioner's notice."

S. 87(3) "An amount withheld under this Subdivision is treated as if it were tax due and payable on the date referred to in subsection (1) or (2)."

S.87(4) "Subject to sections 10(2) and 84(4) a provision in an agreement which prohibits the deductions or withholding of a tax required to be deducted or withheld under this Act or any other enactment administered by the Commissioner is void."

2.8. Failure to Withhold Tax

A withholding tax agent, who fails to withhold tax in accordance with the provision of section 81 to 86 of Act 592, is personally liable to pay to the Commissioner the amount of tax which has not been withheld, but the withholding agent is entitled to recover this amount from the payee. The liability imposed by subsection (1) is treated as if it were tax due and payable on the date referred to in subsection (1) or (2) of section 87. (Internal Revenue Act 2000, Act 592).

2.9. Tax Credit Certificates

When a withholding agent pays the tax withheld to the GRA, the Commissioner upon receipt of the amount, issue to the withholding agent in favor of the payee a tax credit certificate in the form prescribed by the Commissioner stating the amount deducted. The withholding agent is required to deliver to the payee a tax credit certificate stating the amount of tax withheld and stating the amount from which tax has been withheld. The payee in furnishing a return of income is expected to attach to the return the tax credit certificate for the basis period.

2.10. Record of Payments and Tax Withheld

Section 90 of Act 592, enjoins withholding agents to maintain and make available for inspection by the Commissioner, records showing, in relation to each year of assessment,

- a. Payments made to a payee, and
- b. Tax withheld from those payments

The records shall be kept by the withholding agent for five years of assessment after the end of the year of assessment to which the record relates.

3. Methodology

The study used both primary and secondary data for the study. Primary data was collected through interviews and questionnaires administered to business owners, managers, accounts staff of SMEs, external auditors and some officials of GRA. Secondary data was collected from related literature, financial statements and annual tax assessment of the selected SMEs.

A total of 10 SMEs were selected from the case study area. The researches have had opportunity to interact with some of the accounts personnel and business owners before conducting the research. Therefore it was easy to collect data for the research.

Structured questionnaires were administered to the accounts officers, managers and business owners of the selected SMEs. In addition, interviews were granted to the external auditors and some personnel of the GRA. Statistical Package for Social Sciences (SPSS) used in analyzing the data collected.

4. Results and Discussion

4.1. Level of Education of Respondents

Asked to indicate their educational background, the results are presented in table 2. In terms of the level of education of the respondents, majority of the respondent have had education beyond secondary education level. 46.7% of the officers of the Small, Medium Scale Enterprises have obtained diploma certificates, 26.67% have had secondary education, 10% had degrees, 10% had a masters' degree and the remaining 6.7% had completed basic education. From this it could be deduced that since the respondents have had some form of education, they can understand the issues in the questionnaire and express a fair view on the subject of this research.

Level of Education	Number of Respondents	Percentage
Basic Education	2	6.7
Secondary Education	8	26.7
Diploma	14	46.7
Degree	3	10.0
Masters	3	10.0
Total	30	100.0

Table 2: Level of education of respondent

Source: Researchers' Survey 2015

4.2. Years of experience of respondents

Respondents were asked to indicate the number of years they have worked with the SME sector, their responses are presented in table 3. In terms of working experience, majority of the respondents (56.7%) have worked for a period between 1 to 5 years in the SME sector. 16.7% have worked for a period between 6 to 10 years, 13.3% have worked for more than 10 years. The remaining 13.3% have worked for less than a year. This means majority of the respondents especially the accounts officers and the managers have enough working experience in the SME sector and are conversant with the issues raised in the questionnaire or the interview, therefore can give a fair judgment on the subject matter.

Years of experience	Number of Respondents	Percentage
Below 1 year	4	13.3
1-5 years	17	56.7
6-10 years	5	16.7
10 years and above	4	13.3
Total	30	100.0

Table 3: Years of experience of respondents

Source: Researchers' Survey 2015

4.3. Number of Years in Operation

Asked to indicate the number of years the business has been in operation, the results are presented in table 4, most of the respondents indicated that their business has been in operation for than 2 years. 50% of the respondents indicated that their business has been in operation for 3 to 5 years, another 20% indicated they have been in operation for 6 to 10 years, another 20% had also been operation for more than 10 years. Only 10% of the respondent indicated that they have operated for 1 to 2 years. The number of years that the SME has been in business is relevant to the study since business entities are required by law to file annual tax returns to the GRA for assessment of their tax liability. The results shows that about 90% of the respondent have operated for more than two years hence have had encounter with officials of the GRA with regard to tax issues.

Number of Years in Operation	Number of Respondents	Percentage
1 to 2 years	3	10.0
3 to 5 years	15	50.0
6 to 10 years	6	20.0
More than 10 years	6	20.0
Total	30	100.0

Table 4: Number of years in operation
Source: Researchers' Survey 2015

4.4. Deduction of Pay –As- You –Earn (PAYE) Tax

Asked if their respective SMEs deduct PAYE as required by law, the result is presented in table 5a. About 80% of the respondents indicated that their institutions deduct PAYE from the monthly salary of their employees whereas the remaining 20% indicated that they do not deduct PAYE tax from the monthly salary of their employees. Those who did not deduct PAYE tax from the salary of their employees indicated that they were not aware that they had to deduct the PAYE tax.

Deduction of PAYE	Number of respondents	Percentage
Yes	24	80.0
No	6	20.0
Total	30	100.0

Table 5a: Deduction of PAYE Tax
Source: Researchers' Survey 2015

The respondents were asked if their institutions pay the withheld PAYE tax to GRA, and how often was it paid, the response is shown in table 5b. It was noted that 75% of those who withhold PAYE from the salary of employees pay it to the GRA whereas the remaining 25% do not pay the amount withheld to the GRA.

		Payment of PAYE to GRA		Total
		Yes	No	
Do you Deduct Tax	Yes	18	6	24
	No	0	6	6
Total		18	12	30

Table 5b: Do you Deduct Tax * Payment of PAYE to GRA Cross tabulation
Source: Researchers Survey 2015

It was further revealed that 33.33% of those who pay the withholding tax on PAYE do not pay it by the 15th of the following month as required by law, but rather pay as and when they have funds available. The result is presented in table 5c. The researchers found out that most of the accounts personnel of the SMEs were not well vexed with the tax laws hence their inability to convince the business owners to pay the PAYE on the due dates. In addition, it was noted that some business owners deliberately refuse to the PAYE on the due dates.

		How often do you pay PAYE to GRA			Total
		By 15th of every month	As and when we have money	We don't pay PAYE	
Payment of PAYE to GRA	Yes	12	6	0	18
	No	0	0	12	12
Total		12	6	12	30

Table 5c: Payment of PAYE to GRA * How often do you pay PAYE to GRA Crosstabulation
Source: Researchers Survey 2015

4.5. Withholding Tax on Third Party Payments

Asked to indicate if tax is withheld on payments to third parties, the responses are presented in table 6a. 70% of the respondents indicated that tax on payments to third parties was not withheld whereas 30% of the respondents indicated that tax was withheld on payments to third parties. A further probe as to why most SMEs do not withhold tax on payments to third parties, it was revealed that some of them were not aware that they were obliged to withhold tax on payments to third parties, others indicated that the third parties do not allow them to withhold taxes, if they did, they refuse to sell to them in future.

Tax Withheld on Payments to Third Parties	Number of Respondents	Percentage
Yes	9	30.0
No	21	70.0
Total	30	100.0

Table 6a: Tax withheld on payments to third parties

Source: Researchers Survey 2015

A further probe shows that 33% of those who withheld tax on payments to a third party paid the amount to GRA and submit the tax credits to the clients. This is depicted in table 6b

		Do You Give Tax Credits to Those from Whom Tax Is Withheld		Total
		Yes	No	
Apart from PAYE do you withhold tax on payments to third parties	Yes	3	6	9
	No	0	21	21
Total		3	27	30

Table 6b: Apart from PAYE do you withhold tax on payments to third parties

* Do you give tax credits to those from whom tax is withheld Crosstabulation

Source: Researchers Survey 2015

4.6. Sanctioned for Not Withholding Tax on Payments to Third Parties

Respondents were asked if they had been sanctioned by GRA for not withholding tax on payments to a third party, the responses are presented in table 7. The results show that 70% of the respondents have been sanctioned for not withholding tax on payments to third parties. The remaining 30% indicated that, they have not been sanctioned for not withholding tax on payments to a third party. The researchers deduced that those SMEs which have been sanctioned for not withholding taxes have made attempts to withhold taxes on future payments to third parties.

Sanctioned for not Withholding Tax	Number of Respondents	Percentage
Yes	21	70.0
No	9	30.0
Total	30	100.0

Table 7: sanctioned for not withholding tax on payments to a third party

Source: Researchers Survey 2015

4.7. Withholding Tax Deducted by Customers

Respondents were asked if their customers had withheld tax from payments due them, the responses are presented in table 8, 80% of the respondents indicated that tax has been withheld from payments due from their customers. It was clear that such SMEs transact business with government institutions and large scale business enterprises which comply strictly with the provisions of the tax law.

Tax Withheld from Payments Due from Customers	Number of Respondents	Percentage
Yes	24	80.0
No	6	20.0
Total	30	100.0

Table 8: Withholding tax deducted by customers

Source: Researchers Survey 2015

4.8. Receipt of Withholding Tax Credits

Respondents were also asked if they receive withholding tax credits from customers who withhold tax from payments due them, majority of the respondents indicated that they do not receive tax credits from their customers who withhold tax from payments due them. 25% of the respondents said they receive tax credits from customers who deduct tax from payments due them. The other 75% of the respondents said they do not receive tax credits. The results is presented in table 9

		Do you receive Tax credits from your customers		Total
		Yes	No	
Have your customers deducted withholding tax from payments due you	Yes	6	18	24
	No	0	6	6
Total		6	24	30

Table 9: Have your customers deducted withholding tax from payments due you

* Do you receive Tax credits from your customers Crosstabulation

Source: Researchers Survey 2015

4.9. Participation in Tax Education Seminar

Asked if respondents have participated in tax education seminar organized by GRA, the results are presented in table 10. Majority of the respondents representing 63.3% indicated that they have not participated in tax education seminar organized by GRA. The other 36.7% have participated in tax education seminar.

Participation in Tax Education Seminar	Number of Respondents	Percentage
Yes	11	36.7
No	19	63.3
Total	30	100.0

Table 10: Participation in tax education seminar

Source: Researchers Survey 2015

4.10. Filing of Annual Returns with GRA

Respondents were asked if they file annual returns with GRA, the results are presented in table 11. 80% of the respondents indicated that they file their annual returns with GRA whereas the remaining 20% indicated that they have never filed annual returns with GRA.

Filing of Annual Returns with GRA	Number of Respondents	Percentage
Yes	24	80.0
No	6	20.0
Total	30	100.0

Table 11: Filing of annual tax returns with GRA

Source: Researchers Survey 2015

4.11. Engagement of the Services of External Auditor

Asked if the respondents have engaged the services of an external auditor, the results are presented in table 12, about 57% of the respondents indicated that they have not engaged the services of external auditor whereas the remaining 43% indicated that they have engaged the services of external auditors. The researchers deduce the external auditors engaged by the SMEs advice their clients on the provisions of the Internal Revenue Act 2000, Act 592 including those regarding withholding taxes. This has led to a reduction in the incidence penalties imposed on them.

Engagement of External Auditor	Number of Respondents	Percentage
Yes	13	43.3
No	17	56.7
Total	30	100.0

Table 12: Engagement of external auditor

Source: Researchers Survey 2015

4.12. Discussion of Key Findings

This study reveals that most business owners in Ghana do not have adequate knowledge of the provisions of the Internal Revenue Act 2000, Act 592. Therefore were unable to comply with the provisions in relation to withholding tax. The study further reveals that most of the business owners do not participate in tax education seminars organized by the tax authorities. Some of the respondents were however conversant with the tax laws but failed to deduct PAYE tax at source because to them it will lead to a reduction in the salaries of their employees. Some the SMEs that withheld tax from payments to a third party however did not pay the amounts withheld to GRA on the due dates.

The study also reveals that most of the SMEs do not employ the right caliber of staff to manage the business. It was noted that salary levels are very low in this sector of the economy therefore most of the SMEs are unable to attract high caliber of staff. Most the accounts personnel of these SMEs are not well vexed with the Ghanaian tax law hence they are unable to advice the business owners and management on the implications for not withholding tax or not paying the tax withheld on the due dates. It was further revealed that some of the accounts personnel who have some knowledge about withholding tax, educated the business owners on the implications of not withholding tax on payments made to a third party, but their advice were ignored.

The study further reveals that most SMEs do not receive tax credit certificates from those who withheld tax on payments due them. This made it difficult for them to offset the tax withheld (if not a final tax) against their tax liability as required by law.

The study also finds that non enforcement of the tax laws by the GRA is a contributing factor for SMEs non adherence to the provisions on withholding tax. Section 87(1) of Act 592 stipulates that “Subject to subsection (2), a withholding agent shall pay to the Commissioner a tax that has been withheld or that should have been withheld under this Subdivision within fifteen days after the end of the month in which the payment subject to withholding tax is made by the withholding agent” It was noted that some SMEs withheld taxes but failed to pay same to GRA on the due date, however they were not sanctioned by the local tax authorities since they did not have files with the GRA.

The researchers also found that most of the SMEs studied do not engage the services of professional accountants or tax consultants to advise them on tax issues. Asked why they do not engage the services of external auditors, some of the respondents indicated that they do not have enough money to engage the services of external auditors others said they do not see the need to engage external auditors. However, the research reveals that those SMEs which engaged the services of external auditors complied with the provisions of ACT 592 with regards to withholding tax. Such SMEs were not sanctioned for not withholding tax or non- payment of tax withheld on the due dates

The study also reveals that in certain circumstances, it is impracticable for SMEs to withhold tax on payments made for goods and services in excess of fifty currency points (ie.GH¢500.00) as stipulated in section 87(2b) of ACT 592. It was noted that most of the SMEs purchase their goods from the open market hence unable to withhold tax on goods purchased. Whenever they attempt to do that the seller refuses to sell to them. Even if the seller agrees for tax to be withheld, the amount of tax is calculated and is added to the cost of the product or service. It is also difficult and impracticable to withhold tax on payments made for sand and gravels, nails and loose tools used in the construction process.

In addition, most of the SMEs studied were registered as limited liability companies but their structure and form do not depict a limited company. These SMEs are owned by one person and pseudo director. Decision taking is vested in one person; proper books of accounts are not kept hence they most times fail to comply with the tax laws.

The study reveals that as a result of non-compliance with the provisions of sections 81-92 of the Internal Revenue Act 200, ACT 592 which deals with issues relating to withholding tax, the SMEs have been surcharged for not withholding tax on payments to a third party, in addition they were made to pay penalty of between 5% to 30% on the amount of tax withheld but not paid to GRA on the due date. These penalty payments have led to the erosion of capital of some of the affected SMEs.

The study also reveals that some of the SMEs which did not receive tax credits from the institutions that withheld the tax were unable to offset their tax liability with the amount of tax withheld by a third party since there was no evidence that tax was withheld. This has to a loss of revenue of the affected SMEs

Finally, non-compliance with the provisions of the tax law on withholding tax has led to loss of revenue to the state. Those who are expected to withhold tax failed to do so, similarly those who withheld the tax failed to pay the amount of tax withheld to the state through the GRA.

5. Conclusions and Recommendations

One of the research objectives is to identify the challenges facing SMEs in Ghana in dealing with issues relating to withholding taxes. The Study reveals that some of the challenges facing SMEs in Ghana in dealing with withholding tax issues are:

- a. Inadequate knowledge about the tax laws relating to withholding tax issues in Ghana.
- b. Deliberate failure of owners of SMEs to comply with the provisions of the tax laws
- c. Non – enforcement of the provisions sections 81-92 of the Internal Revenue Act 2000, ACT 592, which deals with withholding tax issues
- d. Failure of withholding agents to give the tax credits issued by the commissioner general of GRA to those from whom tax was withheld
- e. Impracticability of withholding tax on payment for certain goods and services.

Another research objective is to identify the effects of those challenges on the operations of the SMEs. The study reveals that SMEs which did not withhold tax on payments to a third party were surcharged with the amount they failed to withhold. Similarly, those which withheld tax but failed to pay the amount of tax withheld to the GRA were made to pay between 5% to 30% penalty on the amount in addition to the amount withheld. SMEs which were faced with such situations suffered erosion of their capital leading to the collapse of some of them. Even though the tax law provides that in a case where a withholding agent is surcharged for not withholding tax on payments made to a third party, the amount could be recovered from the third party. In most cases it is not easy and sometimes not practicable for some of the SMEs to recover the amount from the third party.

The study also reveals that some of the SMEs could not get tax credit certificates for the amount of tax withheld at source by a third party therefore they could not use it to set off their tax liability for the basis period This to some extent led to an overpayment of tax by those affected SMEs.

The study also reveals that since most of the SMEs could not withhold tax on payments to a third party, or failed to pay the amounts withheld to the GRA, the state lost revenue for the period concerned.

The final research objective is to make recommendations on viable ways of dealing with challenges faced by SMEs in Ghana with regards to withholding tax issues. After a thorough analysis of the findings of this research, the researchers recommend the following measures for consideration:

- a. Continuous tax education on the provisions of the Internal Revenue Act 200, ACT 592
- b. Widening of the tax net to rope in all SMEs
- c. GRA should conduct tax audits at regular intervals so as to keep the withholding agents to be on their toes t
- d. Enforcement of the tax laws
- e. SMEs are encouraged to engage the services of external auditors and tax consultants since the benefits to be derived from engaging external auditors far outweighs the cost associated with it.
- f. SMEs are also encouraged to employ the right caliber of staff to manage their businesses
- g. Organization of in-service training for staff of SMEs
- h. SMEs that are registered as limited liability companies should improve upon their corporate governance structure and put in place proper management structure.

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