TAXATION OF LANDED PROPERTY TRANSACTIONS AS A POTENTIAL FOR REVENUE MOBILIZATION TOWARDS NATIONAL DEVELOPMENT: PROSPECTS AND CHALLENGES

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DECLARATION

I hereby declare that this submission is my own work towards the MSc. Development Policy and Planning and, to the best of my knowledge; it contains no material previously published by another person or material which has been accepted for the award of any degree of the university, except where acknowledgement has been made in the text.

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DEDICATION

Dedicated to the Domestic Tax Division (DTRD) of Ghana Revenue Authority Kumasi,. To the memory of my late father Joseph Brookman-Amissah my mother Charlotte siblings Joseph, Harold, Charles, my dear husband Dr Thomas Dennis and children Joyce, Thomas, Miguel and Anniece. Lastly my bosom friend Mercy Hammond.

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ABSTRACT

All governments the world over function on revenue raised from taxes. Taxes are therefore important to the existence and prosperity of a nation. Among the form of taxes are a group of taxes which are collectively termed as landed property transaction taxes. Over the years, revenues from these taxes have failed to meet their collection targets and also failed to make any significant contribution to total tax revenue in Ghana. It was on the basis of this that this study was undertaken to unravel the potentials and challenges that exist in the assessment and collection of these taxes in the country using Kumasi as the test ground.

As a result, the study adopted the cross-section research design in undertaking this systematic enquiry. This was adopted to help acquire knowledge on the current situation with regards to the phenomenon under consideration. Both primary and secondary data were collected and used for the study. Respondents were drawn from the land sector agencies, Internal Revenue Service, private valuation firms and property owners for the purposes of data collection.

The study revealed that the level of awareness of the landed property transaction taxes and the legal frameworks among the property owners was generally low although it was relatively high among the institutions. Again it was revealed that although there are well established institutions for the collection of landed property transaction backed by strong legal frameworks, revenue from property transaction is insignificant. This is as a result of lack of enforcement of laws, negative public attitude toward payment of taxes and poor collaboration between and among institutions.

The study therefore recommended the strengthening of the institutional actors and sensitization of the taxpayers on the taxes and their responsibilities to improve compliance. Again, it is recommended that in the long term the private sector must be actively involved in the assessment and collection of the transaction taxes on commission basis.

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LIST OF ABBREVIATIONS

CGT	-	Capital Gains Tax
ERP	-	Economic Recovery Programme
GDP	-	Gross Domestic Product
GPRS I	-	Ghana Poverty Reduction Strategy I
GPRS II	-	Growth and Poverty Reduction Strategy II
GRA	-	Ghana Revenue Authority
IRS	-	Internal Revenue Service
LCS	-	Lands Commission Secretariat
LTR	-	Land Title Registry
LTU	-	Large Tax Unit
LVB	-	Land Valuation Board
MDGs	-	Millennium Development Goals
NRCD	-	National Reform Council Decree
OMV	-	Open Market Value
PNDC	-	Provisional National Defense Council
RAGB	-	Revenue Agencies Governing Board
TCC	-	Tax Clearance Certificate
TIN	-	Tax Identification Number
VAT	-	Value Added Tax

CHAPTER ONE

BACKGROUND TO THE STUDY

1.0 Introduction

All governments the world over function on revenue raised from taxes. Taxes are therefore important to the existence and prosperity of a nation. Dalton (1951 pg: 9), defined a tax as “a compulsory contribution imposed by public authority, irrespective of the exact amount of service rendered to the tax payer in return”. Again, Jhingan (1997, pg: 4) defines tax “as a compulsory contribution from a person to a government to defray the expenses incurred in the common interest of all without reference to special benefits conferred”. The World Bank goes beyond the traditional definition of a tax and defines it to include involuntary fee levied on corporations or individuals as well as unrequited payments to general government (Djankov, et al, 2009, pg:7).

Taxation is a macroeconomic policy that is of prime concern to all nations, a tax is usually a percentage levied on incomes, sale prices, property values and so on. Taxation, apart from generating revenue for government expenditure, can also be used as a fiscal tool to alter the workings of the market forces. Where it serves as a fiscal policy; it operates to ensure the efficient allocation or distribution of resources, which may not be generated under the free operations of the market. Taxation is also used to protect indigenous industries, restrain consumption of harmful products and also control certain aspects of a country’s economy (Djankov, et al, 2009, pg: 7).

In recent times, governments have resorted to intensification of the tax collection as a mean of fixing their economies in the face of the global economic meltdown. As such various methods have been put in place to mobilize internally generated funds through taxation such as landed property tax or wealth tax. Available statistics from the Internal Revenue Service (IRS) indicates that government obtains 75% of its revenue for expenditure from taxes including landed property transaction taxes IRS (2006).

From a historical perspective, property tax was an ancient way of taxing wealth. Land tax was considered as a means of personal taxation. In primitive economics, which were agricultural in nature, land values or produce was the best available measure of the taxpaying capacity of a citizen. But as modernization sets in, land tax gradually lost its place as the main source of revenue due to lack of attention. With proper attention, property transaction tax can, regain its significance as major source of revenue. The study therefore seeks to examine ways in which landed property transaction tax administration could be made more effective and efficient to raise more revenue for the government IRS (2006).

1.1 Problem Statement

Over the years revenue from these taxes have failed to meet their collection targets and also failed to make any significant contribution to total tax revenue. Records from IRS indicate that from the period 2004 to 2008, a period of four years, property transaction taxes contributed a total of 0.98% to total revenue mobilized Internal Revenue Service (2008). Expectations from total tax revenue keeps rising from a target of Gh¢ 635,000,000.00 in 2005 to Gh¢1,122,430,687.00 in 2008, but the contributions of property transaction taxes remains negligible IRS (2008).

The poor contribution of landed property transaction taxes to total revenue may be attributed to an inefficient land administration system in Ghana, which is plagued by a poor data base on accurate land ownership records of registered lands and land property transactions. There are poor mapping systems and unregulated laws governing land use which inhibit easy identification of properties added to this is the issue of people acquiring lands in un schemed areas. These factors have negative implications for efficient landed property transaction tax administration IRS (2008).

Coupled with the above factors is the issue of an inefficient land market, which produces distorted and inaccurate land values, indicating that for the same parcel of land, multiple values could be identified, this could give conflicting information on land values as cost centers/tax bases for raising revenue at the national and local authority levels. Other inhibiting issues are institutional problems, which may be due to the fact that property/land transactions attract taxes at different stages of ownership (identified as acquisition, holding and realization stages) a number of institutions are therefore involved in their administration. This leads to duplication of functions and delays between institutions IRS (2008).

There is also a lack of institutional capacity, where the IRS lacks the adequate human resource and logistics to collect these taxes. Indeed until about a decade and half ago, there was only a unit stationed in Accra with three qualified Valuer's with formal training in taxation pursuing these taxes nationwide. This is further compounded by inadequate publicity on tax laws to the taxpaying public, and the inability of the tax payer to pay the said taxes, with inference to tax rates imposed. Lastly there has been a lack of institutional will on behalf of the compliance unit IRS to institute punitive measures under provisions of the IRS law on recalcitrant tax payers IRS (2008).

In spite of the afore-mentioned setbacks, efforts have been made over the years to help improve the mobilization of property transaction taxes. In attempts to enhance collection, a second Valuation unit with two trained Valuer's was established in Kumasi in 1994, to administer these taxes within the Northern sector. This saw a marked improvement in the collection of property transaction taxes types as indicated by collection returns. However due to policy change, all functions of both units have been reverted to mainstream operations unit of the Internal Revenue Service, which has more logistical support, but poor technical expertise IRS (2008) .

To encourage voluntary compliance a self assessment form (IT 30B) has been introduced as a measure to encourage tax payers to voluntarily offer information yearly on returns in respect of property transactions. In addition, tax education campaigns have been carried out nation-wide to educate the public. Revenue tax forces have been deployed to mobilize these taxes albeit the presence of several challenges especially from the informal rental sector. Monitoring and control units have also been established to monitor the administration of these taxes.

In spite of these several attempts mentioned, property transaction tax collection still falls far below expectations. The concern here is why property transaction taxes contribute very little to total tax revenue. Is the problem from the Internal Revenue Service, Statutory Provisions, poor land administration systems or the unwillingness of tax payers to honor their tax obligations? With reference to the above issues raised this study was undertaken to examine why property transaction taxes continue to contribute very little to tax revenue in the country IRS (2008).

1.2 Research Questions

- What are the institutional and legal frameworks governing the administration of property transaction taxes.
- What are the existing potentials in the assessment and collection of these taxes?
- What are the challenges in the assessment and collection of property transaction taxes?
- What should be the administrative response to expanding landed property transaction taxes?

1.3 Objectives of the Study

The general objective of the study is to assess the potential and challenges of landed property transaction as a tool for revenue mobilization towards national development.

The specific objectives of the study are to:

- examine the institutional and legal framework for the administration of landed property transaction taxes.
- assess the potentials in the assessment and collection of these taxes.
- assess challenges in assessment and collection of property transaction taxes.
- make recommendations for the purpose of expanding revenue mobilization from landed property transactions.

1.4 Scope of the Study

The study analysed four tax regimes relating to property transactions, which over the years have not been given much attention but have the potentials of contributing immensely to National Revenue. These taxes are Capital Gains Tax, Gift Tax, Rent Tax and Stamp Duty.

The study was limited to these property transaction taxes mobilized for national revenue. This is because of landed property transaction tax potential to generate more revenue to be mobilize to carry out developmental activities. Stamp duty, until recently (2006) was administered by two agencies the IRS and land valuation board. Currently, the Land Valuation Board has full responsibility to assess, Stamp and collect Stamp duties on all land transaction instruments as agents of the Commissioner of the IRS, monthly returns are mandatorily submitted to the IRS to determine revenue mobilized for the period.

Other taxes are rent tax, capital gains tax and gift tax; these taxes are accessed and collected in all district offices of the IRS. Spatially, the study was limited to the operations of IRS offices in the Kumasi Metropolis. This is because the centrality of location of Kumasi and the type of development that have been taking makes it an ideal location for the study. The IRS offices in the Kumasi metropolis was used as a case study, also the LVB, and other relevant land agencies in the metropolis were contacted for the collection of data and information. In terms of content however' the study examined the problems, militating against the performance of the IRS in respect of mobilizing these taxes.

1.5 Justification of the Study

At the Millennium Summit in September 2000, the largest gathering of world leaders in history (189 UN member countries, including Ghana) adopted the *Millennium Declaration*, committing their nations to reduce poverty; improve health; and promote peace, human rights, and environmental sustainability Terkper (1993).

The Millennium Declaration articulates in a single framework, the major development "challenges facing humanity at the threshold of the new millennium" and measures designed to achieve them. The Millennium Development Goals, the main point of discussion are a set of crosscutting, mutually reinforcing goals which are time bound with quantitative targets and verifiable indicators. In Ghana, the MDGs have been harmonized into Medium Term National Policy Frameworks such as the Ghana /Growth and Poverty Reduction Strategy (GPRS I& II) and these have been translated into sector and district plans Terkper (1993).

Per the standard set under the Ghanaian Economy, the gross domestic product needs to grow by more than 7% annually. This growth will ensure that real poverty reduction will take place as per (GPRS I and II) targets. Giving the magnitude of funding required in implementing the entire programs and projects under the (GPRS I and II), it has become necessary to priorities them to ensure financing can be secured and good progress made towards meeting major social and economic goals e.g. Such as poverty reduction targets as set out in the GPRS kapur et al (1991).

The priority programs and projects which span the five thematic areas, are infrastructure development and modernized agriculture based on rural development to ensure increased production and employment, investment in education, health and sanitation, enhancing delivery of basic social services , upholding the rule of law, respect for human rights and attainment of social justice and equity to enhance good governance; and private sector development through macro-economic stability and streamlining of public bureaucracy. One important factor that will help ensure the economic sustainability of these programs is the country's ability to generate domestic revenue, and the effective and efficient mobilization of resources internally to reduce its dependency on external resources kapur et al (1991)..

The aim of government is to widen the tax net. A Tax Practitioner, Austin (2009) in a caption "calls for efficient revenue collection" (The Ghanaian Chronicle, August 6 2009 pg: 10) challenged tax agencies to work at measures to broaden the tax base of existing tax types and revenue sources rather, than increasing the existing tax levels/rates as this will help increase domestic revenue in the country and lessen the burden on the few known tax payers.

One key issue and policy area under the macro- economic framework of the GPRS amongst the three areas adopted for fiscal policy management is resource mobilization. The revenue mobilized should be perpetually strengthened with a tariff structure to maximize revenues and minimize unfair competition. Strategies adopted to improve fiscal discipline are; improved debt management, improved public expenditure management and improved fiscal resource mobilization.

For the study attention was given to efforts under the, GPRS focused on improving resource mobilization, improvement in the use in government funds complemented by measures to strengthen the capacity of government to mobilize revenue. To this end the strategy focuses on increasing taxes by instituting measures that widen the tax base. This involves minimizing revenue leakages, reducing the incidence of tax avoidance and strengthening the capacity of revenue collecting institutions (including District Assemblies) and ensuring cost recovery pricing kapur et al (1991).

A justified potential source that needs to be explored for revenue generation to assist the government achieve its social and economic and developmental targets under the MDGs is the area of landed property transaction taxes. Landed property by virtue of its fixity, is particularly vulnerable to taxation, this is because the property owner cannot hide the property from tax authorities. This study helps acknowledge some lapses in the tax system, problems inhibiting tax collection, and possible suggestion to correct them, with the ultimate aim of enhancing revenue mobilization for national development, planning objectives, resource allocation and social justice.

Finally, the study is a contribution to the wide range of literature and scholarly works and research in taxation in general. As such, the researcher's knowledge in the subject matter has been deepened by the end of the study. The study also provided the framework and sets the stage for further empirical studies to be conducted into the taxation in Ghana for field of academia.

1.6 Organization of the Study

The study is organized into five chapters. Chapter One of the study focused on general overview of the property transaction taxes in Ghana. In essence, the chapter presents background to the study, statement of the problem that has necessitated the research. The chapter also presents justification of the study, research questions and objectives, and the research scope of the study.

Chapter Two of the research contains a review of relevant related literature that provided the theoretical framework and backbone for empirical studies. The chapter therefore, presents and discusses relevant terms, concepts and pertinent issues in taxation and property transaction taxes specifically.

The research methodology is discussed in Chapter Three of the report. The chapter discusses the research approach, sampling procedure and techniques used as well as the data collection and sources for the research. It explains the techniques for data analysis and presentation of the research findings.

Chapter Four deals with the analyses and discussion of the data collected from the field. It analyses the field data to make meaningful deductions that also contributes to answering the research questions and meeting the objectives of the research.

Chapter Five of the research presents a summary of the major findings of the research and recommendations based on the findings. It also contains the concluding section of the study.

CHAPTER TWO

UNDERSTANDING TAXATION AND ITS ROLE IN NATIONAL DEVELOPMENT

2.0 Introduction

Tax is a central but neglected element of development policy. Both pluralist or corporatist and capitalist democracies have had to search for revenue to pay for Big Government. "This is not the invisible hand, they quip, but grasping hand" Mellows (1978, pg: 2). This implies that taxation is part and parcel of every economy irrespective of the ideology by which it is ran.

This chapter is therefore dedicated for review of literature on the taxation with special emphasis on areas of property transaction taxes. The chapter explains the concept of taxation, history of taxation and the benefits associated with taxation as afar as the socio-economic development of a country is concerned. The chapter also discusses Ghana tax administration system with special attention to the land related ones. All these are done to establish the theoretical framework for the study.

2.1 Concept of Taxation

Tax has been defined in various ways by different authors. A quote by one author described taxes as "Taxes not only helping create the state, they helped form it ,the tax system was the organ, the development of which entailed other organs, tax bill in hand, the state penetrated the private economies and won the increasing dominion over them" Sommerfield et al, (1992 pg: 2). According to Mellows (1978, pg: 4-6), taxation or confiscation consists of direct seizure of private money or private money on property by the state backed by the threat of force. From this definition, a number of important features can be identified. These are that taxes are monies withheld from private use, by government enforceable by law with coercive power.

Chapman (1963), also defined a tax to mean a payment, which by law is to be made in certain specific circumstances and for which the government offers the particular taxpayer, no specific services directly in return. Taxation is therefore a powerful tool in the hands of government in raising the ratio of savings to national income or mobilizing resources needed for economic development, placing emphasis on financing public expenditure Chelliah(1960, pg: 16). Dalton (1951 pg: 9), defined a tax as "a compulsory contribution imposed by public authority, irrespective of the exact amount of service rendered to the tax payer in return". Again, Jhingan

(1997, pg: 4) defines tax "a compulsory contribution from a person to a government to defray the expenses incurred in the common interest of all without reference to special benefits conferred". The World Bank goes beyond the traditional definition of a tax and defines it to include involuntary fee levied on corporations or individuals as well as unrequited payments to general government (Djankov, et al, 2009, pg: 7).

All the above definitions postulate the fact that taxes entail monies that are taken from the citizens by the government. Drawing from the above definitions, taxes are defined as "the involuntary transfers from individuals and corporate organisations to the government which they do not earn any direct benefits" for the purposes of this study. In other words, tax is a compulsory and non-quid pro quo (unrequited) World Bank (1986).

2.2 Classification of Taxes

Traditional classification of taxes rests on the administrative mechanisms; that is the way by which the taxes are paid (Atkinson, 1997). Based on these classification, two main forms of taxes are identifiable, namely, Direct and Indirect taxation or Direct and Indirect taxes.

2.2.1 Direct Taxes

In the general sense, a direct tax is one paid directly to the government by the persons (juristic or natural) on whom it is imposed (often accompanied by a tax return filed by the taxpayer) (Atkinson, 1997 pg: 590-592). Examples include some income taxes, some corporate taxes, and transfer taxes such as estate (inheritance) tax, capital gains tax, stamp duty, property income/rent tax and gift tax. In revenue terms, corporate taxes and individual income taxes comprise almost identical shares of the total tax base. Arguably the most glaring weakness of the direct tax system is the total failure to tax property or rental income. While this failure is common across most of Sub- Sahara Africa, it nonetheless represents a major revenue loss and erodes the distributive capacity of the tax system (Foster, 1995 pg 415-423).

2.2.2 Indirect Taxes

In the colloquial sense, an indirect tax (such as sales tax, a specific tax (a tax per unit), value added tax (VAT), or goods and services tax (GST) and excise tax is a tax collected by an intermediary (such as a retail store) from the person who bears the ultimate economic burden of the tax (such as the consumer). The intermediary later files a tax return and forwards the tax proceeds to government with the return (Atkinson, 1997). In this sense, the term indirect tax is contrasted with a direct tax which is collected directly by government from the persons (legal or natural) on which it is imposed. Some commentators have argued that "a direct tax is one that cannot be shifted by the taxpayer to someone else, whereas an indirect tax can be (Financial Dictionary Online, 2011). An indirect tax may increase the price of a good so that consumers are actually paying the tax by paying more for the products (Atkinson, 1997, pg: 590-592).

2.3 Principles of Taxation

The paramount function of taxation is to raise money for core government functions but not to direct the behavior of citizens or to close the gaps created by overspending. Taxation always imposes some damage on an economy's performance, but the harm can be minimized if policy makers resist the temptation to use the tax code for social engineering, class warfare and extraneous purposes.

All classical economists, Ricardo, John Stewart Mills, and Marshall agreed that the science of taxation comprises two main subjects; to which in the character of pure theory may be described as laws of incidence and the principle of equal sacrifice. Subject to this, the fundamental principles of any tax system should provide for a fair and effective tax system; one that raises revenue for core government functions, while minimizing the burden on citizens. It should have features such as:

- **Simplicity:** -The tax code should be easy for the average citizen to understand, and it should minimize the cost of complying with tax laws.
- **Accountability:** -The tax system should be accountable to citizens; changes in tax policy should be highly publicized and open to public debate, not push through a legislatives session without broad public input.
- **Economic Neutrality: -** The tax system should exert minimal impact on the spending and business decision of individuals and businesses.
- **Equity and fairness: -** Fairness means all taxpayers should be treated the same. The government should not use the tax system to pick winners and losers in society, or unfairly to shift the tax burden onto one class of citizens. The tax system should not be used to punish success.

- **Competitiveness: -** Low tax burden can help economic development by retaining and attracting productive business activity, however a revenue system should be responsive to competition from other tax jurisdictions.
- **Balance**: - An effective tax system should be broad –based avoid special exemptions and utilize a low overall tax rate with a few loopholes.
- **Reliability: -** A stable tax system is better than an unstable one. Revenue sources that grow faster than the economy in good times or sink faster in bad times should be avoided. Since taxes lower the economic welfare of citizens, policymakers should try to minimize the economic and social problems that taxation imposes. The benefits of a low tax burden include faster economic growth, greater wealth creation and also ends-micromanagement and political favoritism.

To achieve these objectives of the principles of taxation property transaction taxes should adopt guiding principles of taxation based on simplicity, accountability, equity and economic neutrality. Landed property transaction taxes must satisfy these principles which include the concepts of Horizontal equity, Vertical equity and the Benefit principles synonymous to taxation (Auguste, 2000).

Horizontal equity means that, the tax must fall equally on those who have the same liability, implying that if the basis of the tax is the open market value (OMV) then properties with the same open market value must pay the same tax. Vertical equity means that the tax must fall heavily on those properties that enjoy better services. This is sometimes interpreted to mean that people's ability to pay must be the criterion used to determine their tax-liability which may not be fair as it leads to progressive scale of taxation (Auguste, 2000).

The Benefit principle on the other hand, seriously contradicts the two earlier ones. It states that those who benefit directly from services for which tax revenue is used, must pay the tax that go into its provision. Many economist agree that some government spending brings direct benefits to specific people the idea of this principle is that the more benefits one receives from some programmes, the more taxes the person should pay to support that program me. So it could be said that people with more valuable property benefit more from services rendered by local authorities such as policing , street lighting to mention a few , and therefore by this principle should pay more taxes.

The difficulty arises in assessing landed property transaction tax policies when it comes to the issue of measuring efficiency of the tax. To achieve these objectives in these principles Auguste (2000), pointed out these factors as the backbone for the smooth implementation of a good property transaction tax system:

- Accurate land ownership records,
- Efficient mapping systems,
- Good town and country planning systems,
- Efficient tax collection machinery,
- Valuation expertise and adequate logistics,
- Laws relating to land use,
- Appeal procedures,
- Taxpayer's ability to pay,
- Adequate publicity.

2.4 Landed Property Transaction Taxes

A property tax (or millage tax) is an ad valorem tax levy on the value of property that the owner of the property is required to pay to a government in which the property is situated. Multiple jurisdictions may tax the same property (Datta, 1992). There are three species or types of property: land, improvements to land (immovable man-made objects, such as buildings), and personal property (movable man-made objects). Real property (also called real estate or realty) means the combination of land and improvements. Property taxes are usually charged on a recurrent basis. The imposition of landed property transaction taxes becomes necessary when the property changes hands from one person to another. The three most common types of property transaction or event driven property transaction taxes which are also the focus of this study are stamp duty, rent tax, capital gains tax and gift tax (The Tax Foundation, 2009).

- Capital Gains Tax

A capital gains tax (CGT) is a tax charged on capital gains, the profit realized on the sale of a non-inventory asset that was purchased at a lower price (Datta, 1992). The most common capital gains are realized from the sale of stocks, bonds, precious metals, and property.

- Gift Tax

In economics, a gift tax is the tax on money or property that one living person gives to another (O'Sullivan and Steven, 2003). Thus gift tax constitute a tax that is imposed on any transfer to an individual, either directly or indirectly, where full consideration (measured in money or money's worth) is not received in return (The Tax Foundation, 2009 and Datta, 1992).

- Stamp Duty

Stamp duty is charged upon change of ownership. Stamp duties are usually levied on the title documents of the property. Traditionally, this includes the majority of legal documents such as cheques, receipts, military commissions, marriage licenses and land transactions (The Tax Foundation, 2009).

- Rent Tax

This is the tax paid by a landlord on the rent charged for leasing a property to someone. The tax is paid on rent from a building or land. In this regard the letting out of properties is regarded as a business for which the tax must be paid on the profit earned (The Tax Foundation, 2009 and Datta, 1992).

In Ghana all the above taxes are assessed and collected by the Internal Revenue Service and the Land Valuation Board. They can be reclassified into three distinct groups as follows:

- Acquisition Taxes- Statutory fees and duties paid by purchasers and developers of property in the process of acquiring good title to the property. Included are Stamp duty, Gift tax, Building and Planning permit fees, and Registration fees.

- Holding Taxes -Taxes that the owner or occupier of property pays while in occupation or enjoying ownership. Taxes on income from rents and property rates are the main taxes here.

- Realization Taxes- Taxes paid on profits made from disposal of chargeable assets. The tax paid on profits is Capital Gains Tax.

2.5 Objects and Importance of Property Transaction Taxes

The primary objective of property transaction tax administration is to redistribute the tax burden equitably among properties in accordance with their market values. Apart from the general objectives of taxation which apply in equal strength to land taxation, Asiamah (1982 pg: 2-31, 49) listed four objectives of landed property transaction taxation which are discussed as follows.

- Mobilizing Revenue- Revenue mobilization is the most obvious and direct objective of landed property transaction taxation (Asiamah, 1982, pg: 2-31). The purposes of raising revenue from property transaction include the need to address immediate problems of human development, the need for investment to address less pressing but equally important human development issues and the creation and/or long-term maintenance of the institutions and governance structures (Román-Zozaya, 2005, pg: 20-22). Torrance and Lochery (2005, pg: 1-10) indicate that these demands must one day be met from domestically-generated revenue such as property transaction taxes as that is the only alternative to postulating permanent self-dependence. According to them revenue from taxation is what literally can sustain the existence of the state, providing funding for everything from social programmes to infrastructure investment.

- Resource Allocation- Landed property transaction taxation can be geared towards the efficient allocation of resources. It has been argued by Torrance and Lochery, (2005 pg: 1-10) that where a society has wealth sufficient to meet the first demand on revenues above, inequality may form the obstacle to widespread human development. As such to enhance the quality of life of the general populace effective taxation system including landed property transaction taxes are instituted help in lifting its poorest members out of (poverty (Cobham, 2007, pg: 21-28) through redistribution and reallocation of resources.

- Achieving Social Justice- Some landed property transaction taxes have the achievement of social justice as a prime objective. The ownership of land may mean wealth and political power, therefore the concentration of land estates in the hands of a few individuals gives them unequal share of power and wealth. Proposals have been made to break this system of monopoly. Again it is argued that land values increase due to government activities, and as a way of achieving social justice, increased land values in a community due to government activities and other private investments must be captured and properly taxed for the benefit of the community (Asiamah, 1982, pg: 1-9).

- Planning Objectives- For planning motives high taxes on land compels landowners to develop their lands or release them to other developers to develop them. Again taxation can be governments' main tool by which to influence the behaviour of their individual and corporate citizens. In using it to address externalities for example, increasing the costs of polluting behaviour of certain land properties can deliver substantial benefits (Cobham, 2007, pg: 21-28).

Of these four aims, the first two have the most straight forward macroeconomic interpretation; these are the most clearly linked to human development. This last provides less generalisable results, and is also-generally-more concerned with marginal improvement than great structural change.

2.6 Brief Overview of Ghana's Tax System

In Ghana central government, through its tax administration agencies, administers direct and indirect taxes that will affect the nation as a whole these taxes include income taxes, property transaction taxes mineral royalties, import and excise duties and value added taxes. There are also locally administered taxes that cater for local needs. Section 86 of Ghana's Local Government Act 1993 (Act 462) authorizes the various local governments to collect certain levies including Permits, Licenses, Registration fees, Tolls and Property taxes among others. The mode of collection varies from one local government administration to the other and this is done by Rating Authority which levies general or special rates of such amount as it considers necessary (Local Government Act, Act 462, 1993).

At the beginning of the 1980's during the ERP era, the tax system in Ghana was deeply in crisis. Central government taxation amounted to less than 5% of GDP, while the government relied on heavy exactions from the agricultural sector, and cocoa producers in particular through pricing policies in order to raise enough revenue to maintain the most basic functions of government.

A study of the tax system reveals that in 1961 Ghana's tax system operated on the current year basis of assessment for all employees. However companies and the self-employed continued to be assessed on the preceding year basis. In 1983 the current year basis of assessment was changed to 1st January – 31st December of the same year to coincide with the Governments fiscal year (Terkper, 1993). It was later realized that the current year basis of assessment, resulted in delays in finalization of assessments and therefore the accounting year basis of assessment was introduced in 1988; this reduced considerably the delays associated with previous regimes (Pricewaterhouse Coopers, 2008).

The years since then have witnessed a dramatic reversal, as Ghana has become one of the most effective tax collectors measured by tax per GDP ratios in Sub-Saharan Africa trailing only South Africa and Kenya. During the years 2004-2007, tax revenue averaged greatly than 20% of GDP, and reached Gh¢3.2 billion (Cedis). Growth in tax revenue has been driven by large increases in both direct (income and corporate) taxes and indirect taxes on goods and services, including a large expansion following the introduction of VAT in 1998 (Internal Revenue Service, 2002).

Trade taxes, the third major component of tax revenue have remained relatively stable since the late 1980’s, this marks a significant shift as export taxes have been virtually eliminated, while tariff revenues has grown largely owing to expanding trade and improved customs administration. As with most tax systems in the region there has been a growing reliance on goods and services taxes as a share of revenue, and declining reliance on trade taxes.

2.7 The Landed Property Transaction Tax and Duty Regime in Ghana

Due to the characteristic peculiarities of landed property, it becomes an easy access for taxation. The fixed nature of land means it cannot be carried away or hidden from tax authorities. Landed property therefore becomes a convenient tax base. It is therefore no wonder that landed property transactions attract quite a number of taxes.

Currently there are five major duty and tax charges that any property transaction or document may attract in Ghana. These are Stamp duty; Normal rent income tax, which is tax on Rent income, Capital Gains Tax and Gift tax and other Administrative Taxes and Charges (Internal Revenue Service, 2009). These however do not apply in all cases to the parties involved. In the case of the vendor what normally applies is Capital gains tax (where it is a sale of property) in the case of rental, a landlord will pay Rent income tax, in the case of the purchaser, depending on the nature of transaction (if it is purely a sale transaction) he is bound to pay Stamp duty and Normal tax on income. If it is a gift transaction the donee (whose position is comparable to that of the purchaser) pays in addition Gift tax.

Property taxes have for ages been very relevant in our tax system. Terkper (1993) noted that, property taxes (in colonial times) on land and improvements were the most important part of the tax structure and in first half of the nineteenth century was broadened to include improvements on land, tangible personal property bonds and even intangible property, such as the stocks and bonds of corporations. In Ghana taxes that have emanated from property transaction from the period 2004 to 2008 have contributed an abysmal total average of 0.98% to total national revenue (Internal Revenue Service, 2009).

2.8 Institutional Framework for Landed Property Tax in Ghana

The institutional framework for landed property tax administration in Ghana depicts varied levels and functions. It involves institutions which have both vertical and horizontal relations. There are currently two ministries and four independent agencies playing various roles in the administration of landed property tax in Ghana. The two ministries are Ministry of Finance and Economic Planning and Ministry of Lands and Natural Resources. These ministries supersede the activities of the agencies involved in the collection and assessment of property transaction taxes in the country.

The four agencies are Lands Commission Secretariat, Land Title Registry, Land Valuation Board and Internal Revenue Service. While the first three agencies work under the Ministry of Lands and Natural Resources the, fourth agency is under the Ministry of Finance and Economic Planning. These four agencies collaborate to ensure effective collection and assessment of the landed property transaction taxes in the country. It is important to indicate that assessment and collection of capital gains tax gift tax and rent tax is the sole responsibility of the Internal Revenue Service now Domestic Tax Revenue Division following its integration VAT by the Ghana Revenue Authority Act (Act 791) of 2009. This function was conferred on it by the Revenue Agencies (Governing) Board Act, 1998 (Act 558) and Internal Revenue Service Act 2000 (Act 592).

Section 27 of the Stamp Act 1965 (Act 311) places the care and management of the duty in the hands of the Commissioner to delegate any function imposed on him to an officer appointed by the service or to any other public officer as may be considered necessary. Section 29 further directs that monies received in respect of Stamp duty be paid to the Commissioner. In view of this the IRS and Land Valuation Board till 2007 were responsible for its administration. However, structural / internal policy changes in the IRS in later 2006 saw the merger of the Valuation Units and the Estate units to form the General Services Unit. The former Southern and Northern sector Valuation units, lost their core functions of assessment and collection of Stamp duty these were fully ceded to the Land Valuation Board whiles the administration of Capital gains tax, Gift tax and Rent tax reverted to mainstream operations work in the various Tax district offices.

Aside these formal institutions there are other stakeholders who are involved in the assessment and collection of landed property transaction taxes in the country. They are Private Estate and Valuation Firms and individual developers. The activities all the above stakeholders in the assessment and collection of have been investigated and analysed in the chapter four of this study.

2.9 An Assessment on the Systems for Landed Property Transaction Tax Administration in Ghana

This section of the review focuses on the various landed property transaction taxes that are administered in Ghana. The landed property transaction taxes which include Capital Gains Tax, Gift Tax and Rent Tax and Stamp Duty have been assessed from various dimensions. The areas in which these taxes have been discussed are their meanings, legal basis, assessment methods and contribution to revenue.

2.9.1 Capital Gains Tax

- Meaning and Legal Basis

Capital Gains Tax is imposed on a person who has accruing to him or derives a capital gain on realization of a chargeable asset owned by him. Chapter 2 of IRS Act 592, states that Capital Gains Tax, is payable on the disposal of all forms of chargeable assets including freehold and leasehold property. The Section 97 of the Act identifies the assets with respect to which gains realized by a person are subject to capital gains tax. The chargeable assets include buildings of permanent or temporary nature, business and business assets including goodwill, land, shares in company and part of, or any right or interest in, to or over any assets already mentioned. An asset may be disposed of by sale, exchange or gift. The Chapter tends toward self-assessment with taxpayers being required to report any capital gains and tax arising from, if any, within thirty days of realization of a chargeable asset.

Capital gains tax was first introduced in 1965 with the passing of the Capital Gains Tax Act of 1965, Act 289. This was in the same year amended by the Capital Gains Tax (Amendment) Act 1965, Act 304. These were soon after repealed by PNDC Law 197 of 1967. The principal enactment imposing Capital Gains Tax until the passage of Internal Revenue Act 2000 (Act 592) was the Capital Gain Tax Decree 1975 (NRCD 347). This has been amended three (3) times by SMCD 46 of 1976, PNDC Law 232 of 1990 and PNDC law 267 of 1991. However, as stated earlier, under section 169 of Act 592, the repealed Decree will continue to apply to transactions that occurred before the year 2001.

- Assessment and Contribution to Revenue

The level of revenue obtained from capital gains tax depends on the availability of information on transactions and the rate of compliance. Fiscal Policy change in 2007 saw a reduction of the tax rate from 10% to 5% with a threshold for chargeable assets being raised to GH¢50.00 and above. Information on which the tax can be assessed can be obtained from various sources which include Voluntary information from vendors or agents such (accountants, solicitors, estate surveyors etc). District offices of the Internal Revenue Service's, which come across such information when examining income tax returns, until 2007, referred all such information to the valuation units in the southern sector i.e. Accra and that of the northern sector i.e. Kumasi.

Information can also be obtained from the media, news paper advertisements or from land documents which by obligation or statutorily need Tax Clearance Certificates (TCCs) prior to registration at the various land registries. Also section 102 (1) of Act 592 requires that all persons who realize any chargeable asset to within thirty days of realization, furnish the commissioner with information as to

- The description and location of the chargeable asset,
- The cost base of the asset immediately prior to realization,
- The consideration received by that person from the realization etc

The provision in the act for voluntary compliance or submission of information by tax payer's especially private individuals to the tax authorities is normally flouted. Statistics from IRS indicates that over the years the limited liability companies' and multinationals are those who comply mostly with this provision. Table 2.1 presents revenue realised from Capital Gains Tax for 2000-2009 period.

Table 2.1: Revenue from Capital Gains Tax (2000-2009)

Year	Actual collection (GH¢)	Budget/Target (GH¢)	Deviation (GH¢)	Percent Deviation (%)
2000	121,551	918,474	-796,923	-87
2001	17,310,721	6,930,000,	10,380,721	150
2002	1,451,495	10,975,428	-9,523,933	-87
2003	13,275,903	2,100,000	11,175,903	532
2004	7,502,670,	24,099,236,	-16,596,566	-69
2005	8,349,431,	7,975,503	373,928	5
2006	26,400,672,	13,748,045	12,652,627	92
Year	**Actual**	**Budget/Target**	**Deviation**	**Percent**

	collection (GH¢)	(GH¢)	(GH¢)	Deviation (%)
2007	332,008.77	200,321.84	131,686.93	66
2008	310,172.52	246,438.50	63,734.02	26
2009	222,416.95	395,966.16	-173,549.21	-44

Source: Internal Revenue Service Annual Report, (January, 2010)

From the Table 2.1 it can be deduced from the high percentage deviations that capital gains tax contribution to national revenue has been quite disappointing. With exception of 2001, 2003, 2006 and 2007 which recorded very high collection rates of 150%, 532%, 92% and 66% respectively, these windfalls attributed to the disposal of less profitable assets by some multi-national companies (Internal Revenue, 2010).

2.9.2 Stamp Duty

- Meaning and Legal Basis

Stamp duties are duties imposed by an Act of Parliament on certain instruments which have legal effect. Stamp Duty is essentially a tax on documents or deeds and not on transactions, companies, individuals, or activities. It is a tax on 'instruments'', which means anything in writing or in print to give that document evidentiary value. Stamp duty is imposed by legislation on certain instruments or documents, which have legal effect for the purposes of raising revenue for the state, giving documents legal backing in cases of litigation in a court of law and conforming to section 14 of the Stamp, Act 2005 (Act 689).

Stamp duty was the first tax introduced in the country. It is unfortunate therefore that it still remains the least known among the taxpaying public. It had its origins in Holland and was introduced there in 1624. It was introduced in the United Kingdom in 1694 and in Ghana in 1889, by enactment of the stamp duty Ordinance (No.12) of 1889 (Government of Ghana, 1977). This was followed by a series of amendments (16 in all) before the ordinance was incorporated in Cap 168 of the laws of the Gold -Coast. The law governing this is regulated by the Stamp Act 1965 (Act 311) Stamp Act Amendment Decree 1967 (NLCD 160) Stamp Act Law 1988 PNDCL 204.

Ghana is currently operating on the Stamp Duty Act, 2005 (Act 689) a revision and re-enactment of Act 311. This new Act came into force on 1st January 2005. Act 689 is a modern document, divided into parts for ease of reading and referencing, consistent with modern tax legislation, the laws focus attention on the imposition of duty chargeable in the first part. Assessment, Substantive and procedural issues follow in the other parts.

For avoidance of doubt, section 27 of the law places the care and management of stamp duty, with the commissioner of the internal revenue who may under sub-section (b) appoint any other public officer to perform any function under the Act as may be necessary. Currently, the Land Valuation Board (LVB) assesses and collects stamp duty (Stamp Duty Act, 2005).

- Assessment and Contribution to Revenue

The assessment and computation of stamp duty, to a greater extent depend on the facts stated in the instruments /documents to be stamped. This is emphasized by section 6 of Act 689. Such essential facts to be fully and truly disclosed include the consideration received, the true identities of parties and so on. As earlier stated a Stamp duty is a tax on documents or instruments. The Stamp Duty Act, 2005 (Act 689) a re-enactment of the Stamp Act 1965 Act 311, specifies that the parties must first execute the documents before stamping.

The instrument is then submitted to the stamping authority for assessment of duty payable. The stamping officer will first determine whether, it is chargeable with a fixed duty or ad valorem duty or an exemption is to be given. If an ad valorem duty is applicable, then the value on which the assessment will be based is determined .The next stage is to determine the rate applicable. The various rates include 0.25%-1% for transfers (gift, assignments, and conveyances), 0.25%-1% for leases, GH¢2 for statutory declaration not transferring title and agreements, 0.5 for mortgage, GH¢1 for indemnity and 0.25% for debentures, bonds, covenants, lien, guarantees, and promissory notes.

In assessing leases, the law specifies that tax should be on the annual rent as well as the term of the lease, but does not indicate how the rent should be assessed. But the Commissioner under section 7 (2) of the Act quoted earlier, has discretion to disregard the rent stated in the instrument that is if he has cause to believe that it is deliberately understated. In practice the Rack Rent is often used as a basis of assessment. The yields from the stamp duty for 2000-2009 are presented in Table 2.2.

Table 2.2: Stamp Duty Collection as Against Targets for 2000-2009

Year	**Actual Collection (GH¢)**	**Budget Target (¢)**	**Deviation (GH¢)**	**Percent Deviation (%)**
2000	7,440,982	6,360,129	1,080,853	17
2001	10,805,752	10,021,175	784,577	8
2002	19,163,810	14,823,103	4,340,707	29
2003	20,322,207	20,000,000	322,207	2
2004	28,085,701	27,295,485	790,216	3
2005	27,237,875	30,490,360	-3,252,485	-11
2006	38,234,419	51,860,519	-13,626,100	-26
Year	**Actual Collection (GH¢)**	**Budget Target (GH¢)**	**Deviation (GH¢)**	**Percent Deviation (%)**
2007	7,449,131.77	5,404,722.59	2,044,409	38
2008	7,234,457.42	750,000.00	6,484,457	865
2009	10,645,636.32	8,341,618.97	2,304,017	28

Source: Internal Revenue Service, (2010).

From Table 2.2 one can see that revenue from stamp duty comparatively with other transaction taxes makes a significant contribution to national revenue. The significant percentage deviations from the budget and actual collections in 2005, and 2006, reveals unexplained overstretched percentile projections in the IRS analyses of expected collections depicting occasional flaws in the analyses of projected targets.

2.9.3 Gift Tax

- Meaning and Legal Basis

When one receives an asset without consideration or for inadequate consideration, the person is deemed to have received a gift. Any person who receives a gift of any kind, which exceeds Fifty

Ghana Cedis (GH¢ 50.00), is liable to pay Gift Tax on the gift or gifts respectively. The types of gifts that attract this tax are building of permanent nature, land, shares, bonds and other securities, money, including foreign currency, business and business assets and any means of transportation (land or sea) and goods or chattels.

The principal enactment imposing the Gift Tax was the Gift Tax Decree 1975 (NRCD 348), until it was repealed with the passing of ACT 592. Chapter Three sections 105-110 of the internal revenue act 2000, (ACT 592) provides for the imposition of the Gift tax. Like the capital gains tax the provisions continue to apply to taxable gifts received before 2001. Provisions of the law show clearly that the objectives of the tax are to raise revenue for the state. It can be also be used to break up large estates and there by achieve social justice in a way.

- Assessment and Contribution to Revenue

The law enjoins a person who receives a gift exceeding Fifty Ghana Cedis (GH¢50.00) to inform the Commissioner of the (IRS) in writing providing the following information: the description and location of the taxable gift, the value of the gift and how it is calculated, amount of tax payable with respect to the gift, full name and address of donor of the gift and any other information required by the Commissioner.

Gift tax is arrived at by applying a specific percentage to the Open Market Value (OMV) of the gift at the time of transaction or receipt of gift. Under the repealed law, if the tax exceeded One Hundred Ghana Cedis (GH¢100.00) then the tax rate applicable was 15%. From January 2001, gifts with value above Fifty Ghana Cedis (GH¢50.00) attracted a tax rate of 10%. In 2007, the tax rate was reduced to 5% in conformity with that of capital gains tax. The revenue realised from 1999 to 2009 is depicted in Table 2.3.

Table 2.3: The Performance of Gift Tax for the Period 1999 – 2009

Year	Actual Collection	Budget Target	Deviation	Percent

	(GH¢)	(GH¢)	(GH¢)	Deviation
1999	24,806	18,770	6,036	32
2000	22,833	35,193	-12,360	-35
2001	53,923	33,942	19,981	59
2002	10,065	35,193	-25,128	-71
2003	27,245	15,171	12,074	80
2004	46,660	87,067	-40,407	-46
2005	28,560	81,377	-52,817	-65
2006	63,865	57,802	6,063	11
Year	**Actual Collection (GH¢)**	**Budget Target (GH¢)**	**Deviation (GH¢)**	**Percent Deviation**
2007	18,780.70	8,955.29	9,825	110
2008	13,022.94	23,917.01	-10,894	-46
2009	58,329.79	17,985.04	40,345	224

Source: Internal Revenue Services, (2010).

Comparing the figures in the Table 2.3 with that of the other taxes you realize that gift tax collection is very low this could be attributed to the simple reason that people will only pay taxes when they receive gifts.

The figures from Table 2.3 reveal an interesting trend where the years preceding general elections in the country show very high gift tax collection such as (+32% in 1999, + 80% in 2003, and a + 110% in 2007). This may be attributed to the fact that politicians make more accounts/reports of gifts received when filing returns on their incomes to the IRS, to make them eligible on the political field, this gives a fair idea of the amounts of revenue lost in non election years. Also, the 2009 collections showed a record high of 224 percent the reduction in rate of tax from ten percent to five percent , which may have encouraged people to comply to pay.

2.9.4 Rent Tax

- Meaning and Legal Basis

The law on taxation of rent income in Ghana has had a chequered history. At one time, rent was included as input in the income of a taxpayer in determining the tax payers assessable income. At another time, a separate law was passed to deal with rent income alone, isolated from other incomes in separate rates of taxation. Rent tax is treated as an investment income, under Section 9 of the Internal Revenue Act, 2000 (Act 592). The mode of taxation under this section as well as section 5 and 6 of Act 592, have been simplified with the coming into force of other amendment Acts such as (Act 622, and Act700) and in August, 2001 (L.I1675) and L.I1698.

Section 9 (1) states that "A person's income from an investment, is that persons gains or profits from any investment ".Section 9 (2) states that "The gains or profits of a person from any investment include any dividends from a non-resident company, interest, charge, annuity, royalties, rent natural resource payment, or other income accruing to or derived by that person from the investment other than an amount included in ascertaining that persons income from a business or employment. Rent is therefore income from investment and rent is taxable under the Internal Revenue Act 2000 (Act 592).

Factors necessitating the institution of payment of Rent tax were the fact that under the provisions of the current Act when a person fails to file his tax returns at the end of the year the Commissioner may not be able to assess the person and tax his/her rent income. Also if a person's rent income is added up to his other incomes, there is the likelihood of placing the person unfairly within a high income bracket which automatically increases his tax liability. Furthermore, by separating rent from other incomes the IRS is able to target particular rent incomes (particularly rents equated to more stable foreign currencies, and rents from student hostels springing up in the big cities) to enhance the tax base. Lastly the separation of rent income from income tax enables the IRS analyze the actual performance, impact and contribution of rent income to national revenue (Internal Revenue Services, 2010).

- Assessment of Rent Tax

The Internal Revenue Act 2000 (Act 592) grants the Commissioner the discretionary power to calculate tax on rent income separately at a flat rate of ten percent currently amended to eight percent of gross rent income in a year of assessment. The tax computed becomes a final tax on payment and that rent income shall not be included in ascertaining that individual's income. Any person, other than an individual (companies, bodies of persons and partnerships,) who receive rent income, which is not a business income, also pays rent tax at eight percent.

The Internal Revenue (Amendment) Regulations of 2002 introduced the withholding tax on rent income at the rate of ten percent. This is to be withheld by specified Institutions including, Companies, Financial, Educational and Medical institutions, Diplomatic Missions, Government Departments, and NGOs etc and the tax withheld and paid to Internal Revenue Service is a final tax. Individuals are not allowed to withhold taxes on behalf of the IRS.

The IRS since the beginning of the year 2009 intensified all activities in connection with tax on rent income. Apart from intensified public education through seminars and print and electronic media, there have been concrete steps through the Rent Tax Teams inaugurated by the Commissioner in 2009 to locate new buildings not in the records and serve Notices of Assessment. Analyses of 2009 rent tax alone show a revenue growth of one hundred and thirty percent (Internal Revenue Services, 2010). Table 2.4 shows the revenue generated from rent tax from 2003 to 2009.

Table 2.4: Rent Tax Collection 2003 -2009

Year	**Actual Collection (GH¢)**	**Budget Target (GH¢)**	**Deviation (GH¢)**	**Percent Deviation**
2003	12,925,125	3,096,742	9,828,383	317
2004	8,081,738	13,836,111	-5,754,373	-42
2005	15,283,528	19,473,576	-4,190,048	-22
2006	19,978,840	30,043,166	-10,064,326	-34
2007	276,290.77	3,107,726.25	-2,831,435	-91
2008	3,493,024.00	2,658,608.03	834,416	31
2009	7,051,392.33	5,004,284.66	2,047,108	41

Source: Internal Revenue Service's Annual Report, (2010).

Table 2.4 reveals a high rent tax collection of 317 percent in 2003 when an exercise was carried out with a tax force to maximize tax collection on rent income. However there was a gradual decline reflecting percentage deviations from 2005, 2007. This gradual decline in revenue may have resulted when the tax files were decentralized and transferred to the district offices due to poor monitoring mechanisms, inadequate personnel to go on field operations, and also inadequate data on landlords who own the facilities. A conscious effort has been made to reverse this trend by the establishment of Professional and rent tax desks in districts; their impact reflects the gradual increase in collection in 2008 and 2009. Another contributing factor is the drop in tax rate from ten percent to eight percent.

2.10 Measures Put In Place to Improve Revenue from Property Transaction Taxes

Efforts have been made over the years to help improve the collection of property transaction taxes. These include an additional valuation unit which was set up by the IRS to cater for the Northern sector transaction tax cases. Due to policy changes, functions of the southern and northern sector valuation units have been reverted to mainstream operations which are deemed to have more logistical support not considering technical support.

A self assessment form, income tax form 30B (Item form 30B) has been introduced to encourage tax payers to voluntarily offer information yearly on returns on property transactions they carry out. Tax education campaigns have been also carried out vigorously to educate the public on these taxes coupled with tax forces which have been set up periodically to mobilize these taxes especially rent tax. Monitoring and control units have been established to monitor the administration of these taxes.

Government fiscal policy of the 2007 Budget Statement proposed to integrate revenue agencies, ensure that they are computerized and networked to ensure enhanced taxation and revenue collection in the country and also develop systems which will help minimize leakages in the tax system. In relation to policy tax rates for capital gains tax, and gift tax were reduced from ten percent to five percent in 2007, also that of rent tax was reduced from ten percent to eight percent all these reduction were necessitated as a bid to encourage tax compliance.

The Government in it 2007 Budget statement in a bid to encouraging land title registration (which serve as the main source of data for assessing these taxes) and investment gave a one year interest waiver amnesty on rents owned to Government. In addition land title registration fees were no longer to be based on the value of land, but rather on a flat rate. In spite of all these attempts mentioned property tax collection still fall far below expectations. The concern here is why property transaction taxes contribute very little to total national revenue.

2.11 Summary and Conclusion

The chapter defined the concept of taxation and its contribution to the development of a country. The chapter has unraveled that taxes are compulsory levies and that the taxpayer is not entitled to any direct benefit. It has also been realised that taxation has been part of the development process of Ghana since the colonial era with property transaction taxes as key components. However, the contributions of the landed property transaction taxes have been negligible and reflect abysmal average of the total revenue of the country. This is mainly due to the several bottlenecks which exist in the collection and assessment systems afar as the property transaction taxes are concerned. The review has clearly shown that the procedures for administering landed property transaction taxes in Ghana fall short of the requirements for the smooth implementation of good landed property transaction tax system as was proposed by Auguste (2000). The next chapter therefore spells out the methods and procedures that were employed to investigate into the property transaction taxes administration system in the country using Kumasi as the test grounds.

CHAPTER THREE

RESEARCH METHODOLOGY

3.0 Introduction

This chapter brings out the methodology that was used in this study. It describes the various methods and procedures that were followed in the conduct of this study. Among the various issues discussed under the methodology are the research design, data sources and collections methods, sampling techniques and analysis of data.

3.1 Research Design

The research designed adopted for conducting this study is cross-section design research approach. The adoption of this research design was based on the exploratory and descriptive nature of this study. Also, the ability of cross-section design to provide detailed data on characteristics of the study population or sample made it the appropriate option for this study. More importantly, this design was deemed the ideal method considering the study's objective to ascertain the existence of problems or otherwise in the property tax administration system in Ghana, an area which happens to be the major strength of cross-sectional designs.

In using the cross-sectional design, the research problem was discussed under the problem statement section to clearly define the existence of several lapses in landed property transaction tax assessment and collection despite the availability of several interventions. This was followed by the formulation of research objectives both general and specific to guide the conduct of this study. The city of Kumasi was the geographical coverage of the study. The key variables of the study were awareness of taxes by respondents, compliance by respondents, roles of respondents in collection and assessment of taxes and challenges in assessment and collection of landed property transaction taxes.

Literature review of past studies on the subject matter was done to gain in-depth knowledge into the phenomenon from theoretical point of view. This provided an idea of the direction and depth of works that have been undertaken on the industry, thereby enabling the researcher identify further research requirements and hence position the research in context. Literature was mainly obtained from secondary sources such as books, journals, reports and articles both published and unpublished.

The next important step after the literature review was the choice of the research design which spells out the methodology for the research. As indicated earlier, the cross-section research deign was adopted and this was informed by the objectives of the study as well as the nature of the phenomenon being investigated. This research design entailed thorough description of the phenomenon in order to establish a clear picture of it.

The design of research instruments for the units of enquiry or analysis was the next stage. Both questionnaires and questionnaires were designed for the collection of the relevant data. Survey instruments were designed for six units of analysis and they are Internal Revenue Services, Land Commission Secretariat, Land Title Registry, Land Valuation Board, private land valuation firms and individuals registering land documents (property owners).

The final stage the research design was the analysis of the data which was collected from the field. Both qualitative and quantitative analyses were done. Extensive use was made of Microsoft Excel in the derivation of the frequency table and charts for the quantitative analysis.

3.2 Research Variables

According to Mugenda and Mugenda (1999), a variable is a measurable characteristic that assumes different values among subjects. They are therefore logical groupings or expression of attributes (Babbie, 2007). Miller and Brewer (2003) indicate that variables help in moving a research from a conceptual to an empirical level, employing the variables as key elements of the research problem. Guided by these understanding the key variables which this study sought to explain were awareness of taxes by respondents, compliance by respondents, roles of respondents in collection and assessment of taxes and challenges in assessment and collection of landed property transaction taxes. These variables helped in the realisation of the objectives of the study.

3.3 Study Population

The study population is usually the institutions or individuals who possess certain features or a set of features the study intends to examine and analyzes. The population of this study was the stakeholders involved in the administration and collection of landed property transaction taxes in the Kumasi city. It comprised the five IRS district offices in the city namely Adum, Asokwa, Ash-town, Suame, and Kwadaso, the three governmental land agencies in the Metropolis which are Land Commission Secretariat, Land Title Registry, Land Valuation Board, registered private valuation firms in Kumasi, and individual property owners. These formed the units of enquiry for the collection of all the requisite data for this study.

3.4 Sampling and Sampling Techniques

It is often impossible to study a whole target population and therefore researchers identify and define experimentally accessible population called a sample (Mugenda and Mugenda, 1999). It is therefore to this end that the sampling techniques are of great significance in research works. According to Kumekpor (2002), before any sampling can be done accurately, it is required that the following is determined; {a} identification of a sampling frame, {b} determination of the appropriate sample to be a representation of the whole {c} spreading the sample to ensure equal representation.

With this understanding, the professionals of the various public agencies namely Land Valuation Board, Lands Commission Secretariat and Land Title Registry involved in the collection and assessment of landed property transaction taxes were purposively selected and interviewed. However, in the case of the IRS five officials were interviewed with one from each of the five Districts in the Metropolis. Also the managers of six private valuation firms and estate agencies in the Metropolis were purposively interviewed.

Amidst the constraint of paucity of data on people engaged in landed property transaction, the researcher resorted to the use of average daily attendance at the Land Title Registry as the basis for determining the sample size. Available statistics at the Land Title Registry indicate an average daily attendance of 50 property owners. Using the daily attendance figure ten (10) property owners representing 20 percent of the total were accidentally selected and interviewed daily on five consecutive working days to obtain the total sample of size of fifty (50) for the property owners. The choice of 20 percent was based on the proposition in the limit theorem that any figure which represents 12 percent or above of its total can be subjected to any statistical analyses to obtain a fair representation of the whole. In total 64 respondents were interviewed comprising of the representative of the institutions and the property owners.

Two sampling techniques were employed in the selection and administration of the questionnaires. These are the accidental and purposive sampling techniques. The accidental sampling technique was used to select the property owners to respond to the questionnaires. This means that all the property owners who were registering landed property document at the office of the Land Title Registry had equal chances of being selected. The purposive sampling technique was used to select the institutions as they were identified to possess the relevant information needed for the study.

3.5 Data Sources and Collection Methods

Sources of data for the entire study were both primary and secondary. The primary data were collected on the field from informants such as Internal Revenue Service (IRS), Private Estate or valuation firms, Land Valuation Board, Lands Commission Secretariat (LCS), Land title Registry and property owners. Data was collected on issues such as taxpayers' attitude towards payment of taxes, returns from landed property transaction taxes, administrative and institutional capacity of the IRS and challenges with respect to the collection and assessment of landed property transaction taxes. The primary data was collected using a combination of questionnaires and questionnaires. The questionnaires consisted of open-ended and close-ended questions. The data from the institutions were mainly collected using questionnaires which enabled the researcher to ask probing questions that further enhanced the researcher's understanding of the phenomenon. Direct observation was also done to validate responses that were received from the respondents.

The secondary sources of data were obtained from journals, articles reports both published and unpublished. The information from these sources were collated and reviewed under the literature review. It is important to indicate greater proportion of the secondary data in the form of statistics was gathered from the offices of the Internal Revenue Service. The secondary data were mainly available at the libraries and on the internet.

3.6 Data Presentation and Analysis

The data collected cannot be presented in its raw state unless it is analyzed to make it meaningful. In view of this the data collected from the field was edited, collated and rationalized. The data was then analyzed qualitatively and quantitatively. The qualitative technique involved descriptive analysis using words to discuss the data that were gathered from the field. The quantitative analysis entailed the presentation of the data using tables, charts and proportions among others. The analysis was used to establish linkages and relationship between the variables such are awareness, compliance and challenges in assessment and collection of property transaction taxes. Extensive use was made of the Microsoft Excel in the analysis of the data. The Microsoft Excel was used in the generation of the frequency tables and percentages which were used to simplify the data obtained from the field.

CHAPTER FOUR

PRESENTATION AND ANALYSIS OF DATA

4.0 Introduction

This chapter is dedicated to the presentation and analysis of the data that were collected from the field. This has been done to make the data meaningful and relevant for decision making. The analysis establishes linkages between the various variables that were considered in this study. It encompasses respondents' views on payment of landed property transaction taxes, institutional and legal frameworks for the administration of the taxes and the challenges thereof.

4.1 Characteristics of Respondents

To put the study in context and also bring out the validity of the data collected, it is prudent to discuss the characteristics of the people from whom information was sourced. This subsection therefore focuses on the socio-economic characteristics of the respondents with emphasis on the property owners as they constitute the majority of the respondents and the fact that they were randomly selected.

4.1.1 Age and Sex Distribution of the Property Owners

Age and sex are important determinants of one's ability to participate in the realty sector. The data gathered from the field reveal a male dominated realty sector. The data shows that males and females constitute 85.2 and 14.8 percent respectively of the respondents. This can be attributed to the general socio -cultural perception that it is the responsibility of a man to provide shelter for his family. It is therefore not surprising that the female counterparts have been relegated to the background, thereby accounting for the small proportion among the interviewees.

With regard to age, the data demonstrated that more than 95 percent of the respondents fall within the working age group of 15-60 years. This means that the majority of the respondents are engaged in income earning activities which justifies their ability to participate in this sector. This implies that, other things being equal, the respondents are able to pay taxes that are imposed on transactions within this sector. The dominance of the age distribution by adults confirms the assertion that the provision of housing is the role of the grown ups. A further breakdown of the age structure reveals that most of the respondents are within their prime age as those between the ages 41-45 and 46-50 constitute 32.4 and 31.1 percent of the respondents respectively. Table 4.1 presents the age distribution of the respondents.

Table 4.1 Age Distribution of Respondents

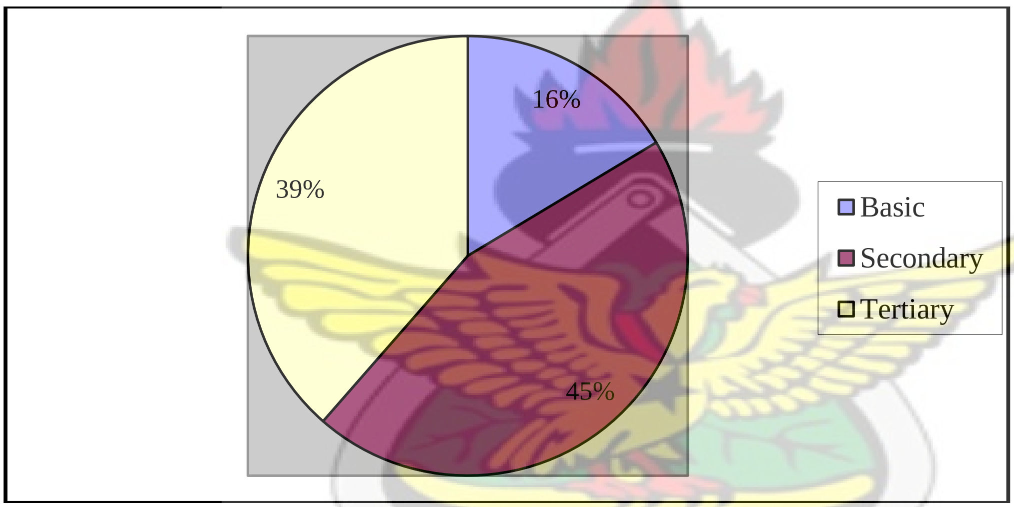
Age	Frequency	Percent (%)
31-35	3	5.1
36-40	8	16.2
41-45	16	32.4
46-50	16	31.1
51-55	4	7.5
56-60	2	4.6
61+	2	3.1
Total	**50**	**100.0**

Source: Field Survey, July, 2011

4.1.2 Educational Background of Respondents

The survey result indicates that all the respondents captured have attained a certain level of education ranging from basic to tertiary. Data gathered from the field revealed that 45.1 percent of the respondents have attained education to the secondary or senior high level. The proportions of the respondents who have acquired education up to the basic and tertiary levels are 16.4 percent and 38.6 percent respectively. The educational status of the respondents is a potential advantage for assessment and collection as they can easily understand the assessment procedures and also be willing to pay once the purposes of taxation are explained to them. This is because such people can easily appreciate the importance of taxation to the development of the country which will also entice them to pay willingly. The educational status of the respondents is represented with the Figure 4.1.

Fig 4.1: Educational Status of Respondents



Source: Field Survey, July, 2011

4.1.3 Property Owning Status of Respondents

Another important characteristic of the respondents which the study investigated into was their property owning status. The objective of this was to ascertain if respondents acquire and dispose of properties as this determines their awareness of the procedures and processes involved in landed property transactions and their associated taxes. The survey results point, out that the majority (62.5%) of the respondents own properties. This means that this category of respondents was registering their own properties at the time of the survey. On the other hand, it was also realised that 37.5 percent of the respondents were not the actual owners of those properties but were mostly agents in the form of self styled estate agents, private professional valuers, staff of institutions who were responsible for land administration issues and relations or friends of the actual owners, who had been sent to submit land documents on behalf of actual owners. However the fact that these respondents go through the land registration exercise implies that they may be conversant with transaction taxes stamp duty, capital gains tax, and gift tax and rent tax and as such be in position to provide valid information to enhance the results of this study. The property owning status of the respondents is shown in Table 4.2.

Table 4.2: Property Owning Status of Respondents

Status	Frequency	Percent
Own the Property	31	62.5
Don't Own the Property	19	37.5
Total	**50**	**100.0**

Source: Field Survey, July, 2011

4.2 Land and Landed Property Registration Trends

The trend of registration of land or landed property has a direct bearing on the amount of revenue that is realised from transaction taxes. This is because it is only when people make effort to register such transaction in order to secure their titles to such properties that they become available for taxation. In the case of Kumasi, statistics that were obtained from the Land Title Registry (LTR) reveal that both the number of applications and certificates issues have been on the increase from 2004 to 2009. This is partly attributed to the rezoning of the city into land title areas and the high urbanisation rate of the city which has accounted for the increase in demand for the several urban land uses like commercial, residential and industrial among others within the rezoned areas.

The officials at the Land Title Registry also attributed this to the fact that on the inception of the registry, operations were such that applicants were allowed to submit only site plans for registration of interest in land title areas in order to encourage people who had acquired lands in the LTR zones to register their titles with the LTR. This led to an initial rush by people who had problems with registration at the deeds registry to take advantage of the opportunity to register with the LTR mounting pressure on the institution and hence surge in registering land and landed properties. This implies that the revenue generated from the transaction taxes in the years increased all these transactions might have attracted at least one of the taxes be it capital gains, stamp duty or gift taxes. The trend of application and issuance of certificated is showed in Table 4.3.

Table 4.3: Applications for Land and Landed Property Title Registration

Year	**Applications Received**	**Certificates Issued**	**Percentage Issued**
2004	1631	1087	66.64
2005	2771	2078	74.99
2006	4206	3155	75.01
2007	3507	2326	66.32
2008	3134	2049	65.37
2009	4017	2516	62.63

Source: Field Survey and Land Title Registry, 2011.

4.3 Awareness of Taxes and Act 592 by Property Owners

This subsection delves into the property owners (taxpayers) awareness of the various transaction taxes and the law which binds them to pay such taxes. This was done to ascertain existence or otherwise of the assertion by Adams Smith that in a tax system there must be certainty in the tax a person ought to pay as well as that of Auguste (2000) that for the land tax system to run smoothly there should be enough publicity to educate people on the taxes evolving from such transactions.

4.3.1 Awareness of Taxes by Property Owners

The survey showed generally acceptable awareness level of the various transaction taxes although this varies from one tax to the other. On the whole, 97.4 percent of the respondents indicated that they know or have heard of at least one of the four taxes under consideration. This implies that only 2.6 percent of the respondents had not heard about any of the taxes at the time of the survey. This therefore gives an indication of a high awareness levels. However, further breakdown of the awareness levels to the specific taxes showed that the stamp duty is the tax which is well-known by the respondents. As large as 97.4 percent of the respondents have heard of this tax before and this is attributed to the fact that it is a statutory requirement in the registration of landed properties the purpose for which the respondents were at the Lands Commission Secretariat. This is therefore likely to have a correlation with the compliance level based on the assertion by Adams Smith. With the other types of taxes 43.4 percent, 52.6 percent and 43.1 percent of the respondents were found to be aware of the Rent, Capital Gains and Gift taxes respectively. Table 4.4 summarises the level of awareness of the various taxes by the respondents.

Table 4.4: Property Owners Awareness of Taxes

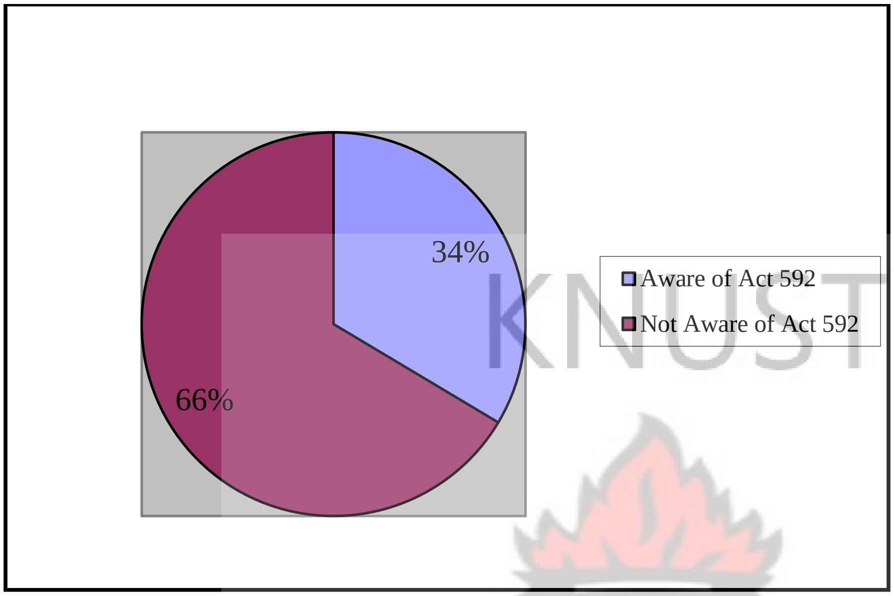
Tax Type	Aware of Tax		Not Aware of Tax		Total	
	Freq.	Percent	Freq.	Percent	Freq.	Percent
Stamp Duty	49	97.4	1	2.6	50	100
Capital Gains Tax	26	52.6	24	47.4	50	100
Rent Tax	22	43.3	28	56.7	50	100
Gift Tax	22	43.1	28	56.9	50	100

Source: Field Survey, July, 2011

4.3.2 Property Owners Awareness of Act 592

Act 592 is the fundamental legal provision that establishes the Internal Revenue Services and also gives it the mandate to collect the various taxes from the taxpayers. The various sections and subsections of this Act spell out the assessment rates and modes of collection of the transaction taxes being investigated into. As such, the study sought to establish the extent of awareness of this Act by the taxpayers on whom it imposes several taxes. The survey result showed that only 33.7 percent of the respondents had heard of the Act. The remaining 66.3 percent had no knowledge of the Act not to talk of its provisions. This implies that large proportion of the taxpayers lack knowledge of the legalities involved in the taxes they are required to pay. This situation makes the taxpayers take the payment of the taxes for granted (evade) as they are not aware of the purposes of the taxes as well as the likely sanctions that can be imposed on them. It is important to indicate however that all the agents of all the Private Valuation or Estate Firms that were interviewed were aware of these provisions in Act 592. This revelation of general low awareness of the legal frameworks governing the landed property transaction taxes by the property owners indicates that the administrative mechanisms for the above taxes in the city is handicapped in the area of publicity which Auguste (2000) argues to be a major requirement in the smooth implementation of any taxation system. The property owners' awareness level as was captured by the survey is depicted by Figure 4.2.

Fig 4.2: Awareness of Act 592 by Property Owners



Source: Field Survey, July, 2011

4.4 Compliance and Attitude of Respondents toward Taxes

The acceptance of a tax system and taxes is often reflected in the compliance and willingness to pay. The compliance rate constitutes an important element in determining the potentials and challenges of a tax policy. The key issues that were considered with regard to compliance and attitude of the property owners to the taxes are taxes payment history (whether they have paid taxes before), voluntary declaration of taxes and default rates.

4.4.1 Voluntary Declaration of Taxes by Respondents

The main purpose of this was to ascertain whether the respondents have ever willingly declared their transaction taxes. The survey brought out that only 23.7 percent of the respondents have ever voluntarily declared their taxes to the tax collection agencies. The remaining majority of 76.3 percent have never declared their taxes voluntarily. This means that the payment of taxes by the majority of the respondents is always done only when they are requested to do so or when the payment of the taxes is a requirement in the processing or registration of landed property documents. The fact that only few people willingly declare that taxes reveals that the majority of the taxpayers would have evaded the taxes in the absence of any enforcement and collection institution. This can also be attributed to the lack of the understanding of the purposes and benefits of the taxes as far as the socio-economic development of the country is concerned. It can however, be indicated that a positive correlation was found between awareness and voluntary declaration as all 23.7 percent who have ever voluntarily declared their taxes said they were aware of the existence of the landed property transaction taxes. This implies that voluntary declaration and general compliance is likely to increase if public awareness of the taxes is done through mass public education exercises.

4.4.2 Payment of Transaction Taxes by Respondents

To determine the proportion of the respondents who have ever paid property transaction taxes before, the question "have you paid property transaction tax before?" was posed to them. The responses showed that virtually all the respondents have paid at least one of the four taxes under consideration before.

A further breakdown of this to determine the specific taxe(s) which was/were paid by the respondents revealed that majority of them pays the stamp duty as against the other taxes. The survey results pointed out that almost all the respondents have paid a stamp duty before. The proportions of the respondents who have paid the other taxes before are 18.4 percent, 33.4 percent and 27.2 percent for Rent, Capital Gains and Gift Taxes respectively. The high payment of the stamp duty can be attributed to the fact that it is a requirement in the process of registration of landed property and thus making it difficult for the property owners or respondents to evade.

Stamp Duty is self-policing. This situation might have also been accounted for by the high awareness of this tax among the respondents. The positive relation between awareness is further confirmed by Table 4.6 which reveals that 28 property owners representing 75.7 percent of 37 of the respondents who were aware of the existence of the landed property transaction taxes have paid the before. This implies that the other taxes are also likely to experience high payment rates if measures are put in place to make them known to the taxpayers. The payment rates of the various types of taxes and cross tabulation of awareness and tax payment are showed in Table 4.5 and Table 4.6 respectively.

Table 4.5: Payment of Taxes by Respondents

Tax Type	Paid Before		Has Not Paid Before		Total	
	Freq.	Percent	Freq.	Percent	Freq.	Percent
Stamp Duty	49	98.1	1	1.9	50	100
Capital Gains Tax	17	33.4	33	65.6	50	100.0
Rent Tax	9	18.4	41	81.6	50	100.0
Gift Tax	14	27.2	36	72.8	50	100.0

Source: Field Survey, July, 2011.

Table 4.6: Awareness of Taxes and Payment of Taxes by Respondents

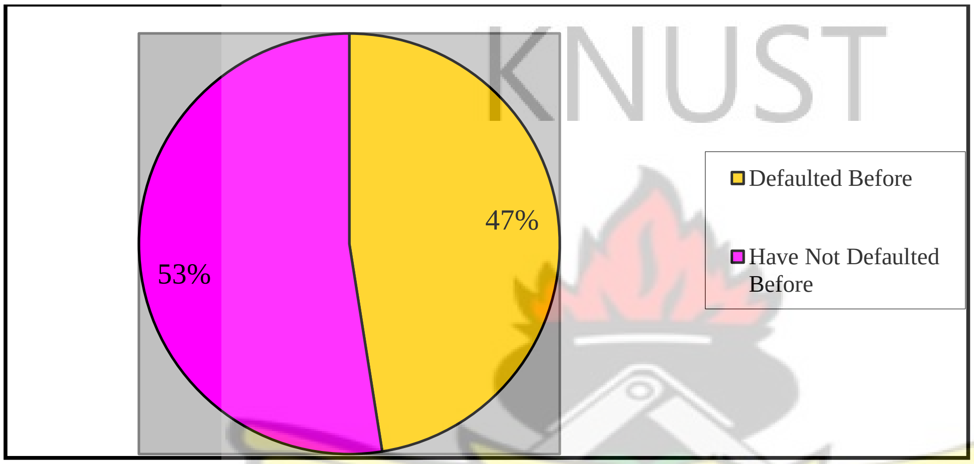
Awareness of Taxes / Payment of Taxes	Aware of Taxes		Not Aware of Taxes		Total	
	Freq	Percent	Freq	Percent	Freq	Percent
Paid Before	28	75.7	0	0	28	56
Has Not Paid Before	9	24.3	13	100	22	44
Total	**37**	**100**	**13**	**100**	**50**	**100**

Source: Field Survey, July, 2011.

4.4.3 Defaulting of Taxes by Respondents

Default in this study is used to mean the inability of taxpayers of pay their taxes charges and also on time. In this regard, 47.5 percent of the respondents indicated that they have once defaulted in the payment of their taxes. On the other hand, 52.5 percent of the respondents said they has never defaulted the taxes which are imposed on their transactions. According to both the Internal Revenue Service and the Land Title Registry kind of defaults were usually in the form of delayed payment, failure to pay taxes in full and total failure to pay the taxes. The two agencies attributed the defaults to lack of awareness on the part of most property owners and sheer unwillingness to pay sometimes. According to them, sanctions for default are delayed registration of titles and denial of title registrations in extreme cases. Figure 4.3 shows the proportions of the property owners have defaulted before as well as those who have not defaulted before.

Fig 4.3: Defaulting Attitude of Respondents



Source: Field Survey, July, 2011.

4.5 Administration of Property Transaction Taxes in Kumasi

This subsection discusses the processes by which the taxes are assessed and collected as well as the rates imposed on the tax payers. The contribution of the taxes to revenue in the Metropolis is also analysed under this subsection. All these are geared toward the identification of the potentials and challenges in the general administration of the taxes in Kumasi and the country as a whole.

4.5.1 Assessment of Taxes and Rates Charged

From the literature review and the survey conducted, it was realised that assessment and rates charged for the four taxes investigated are similar. These are discussed below.

It was realised from the survey that the Capital Gains Tax is imposed on a person who has accrued to him/herself or derives a capital gain on a disposal or realization of a chargeable asset owned by him. According to the IRS, the capital gains tax is usually five percent of the capital gains made on the disposal of the asset. The means by which the IRS obtains information for assessing and collecting this tax include voluntary declaration, media, advertisement and land or landed property registration documents. The IRS indicated the provision in the Act 592 for voluntary compliance or submission of information by tax payer's especially private individuals to the tax authorities is normally flouted. It was found out from the IRS that over the years, the limited liability companies and multinationals are those who comply mostly with this provision.

Information gathered from the LCS, LTR and IRS all reveal that stamp duty is imposed by legislation on certain instruments or documents, for the purposes of raising revenue for the state, and also giving documents legal backing in cases of litigation in a court of law which conforms to section 14 of the Stamp, Act 2005 (Act 689). The information for assessing the duty is gathered from the facts that are presented in the document which has been submitted for stamping. According to the Land Title Registry (LTR) the rate applied ranges between 0.25%-1% with the lower and upper limits being for ad valorem duty and fixed duty respectively. The IRS indicated that since the property owners bring the documents themselves acquiring the needed information for the assessment is not difficult while the tax payers are also unable to evade payment since it is a procedural requirement.

It was revealed by the interaction with the IRS that the gift tax is imposed on asset which one receives from another person with a value exceeding GH¢50.00. The IRS indicated that the types of gifts that attract this tax are buildings of permanent nature, land, shares, bonds and other securities, money, including foreign currency, business and business assets and any means of transportation (land or sea) and goods or chattels. The rate which is imposed as a gift tax is 10% of the value of the gift. This tax is assessed based on voluntary information that is provided to the Commissioner of IRS by the receiver of the gift. The information usually includes the description and location of the taxable gift, the value of the gift and how it is calculated, amount of tax payable with respect to the gift. The amount of tax is then determined following the submission of the information using the tax rate of 10%. However, the IRS indicated that people hardly comply to this albeit it is a legal requirement. This therefore confirms the fact that the proportion of the respondents who have ever paid this type of tax before is low.

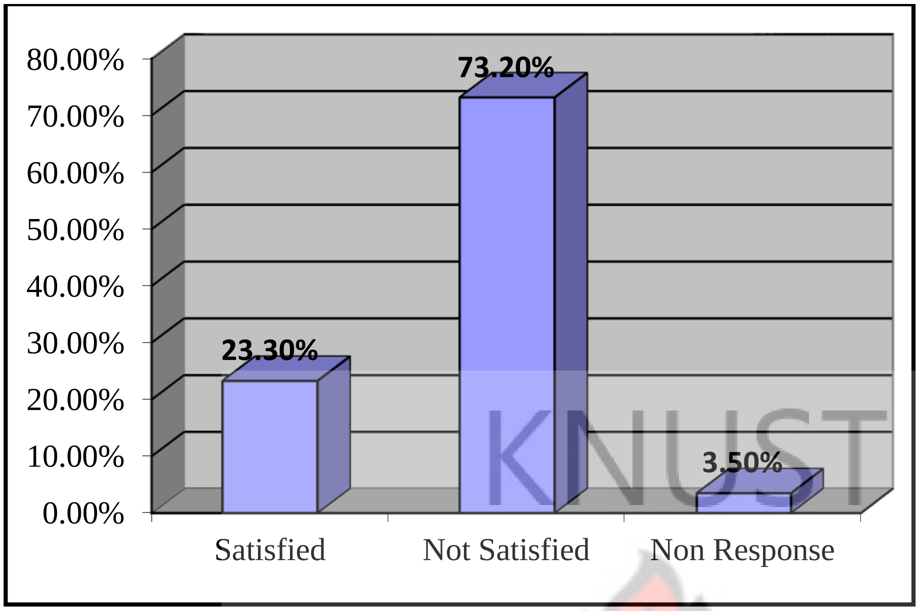
From the IRS, the rent tax is imposed on the income which landlords/ladies receive from the rent they charge their tenants. The rent tax is flat rate of eight percent of gross rent income in a year of assessment. This tax is assessed and collected by serving property owners with Notices of

Assessment. This is usually done by the Rent Tax Team of the IRS. Another source of information for assessing and collecting this tax is from the Town and Country Planning Department. This department provides information on new physical developments which are carried out in the city based on which the IRS can identify the owners and tax them accordingly. It was however realised from the survey through the interview of the IRS that the property owners hardly comply with the notices which are served to them and usually refuse to pay the taxes.

4.5.2 Satisfaction with Assessment of Taxes and Rates Charged

With the knowledge of the assessment and rates of the taxes the satisfaction of the tax payers comprising estate agencies and individual property owners with them was also investigated into. The respondents provided divergent views with regards to the satisfaction with the two issues under consideration. Out of the 50 respondents who were interviewed, only 23.7 percent were satisfied with both the assessment and rate of taxes. The majority 72.4 percent were not satisfied with the tax assessments and rates charged while 3.9 percent did not respond to the question on the basis that they have no knowledge about the issues. (See figure 4.4 for the satisfaction of the respondents graphically) Of those who were dissatisfied 40 percent attributed it to unclear basis of assessment and high tax rates. Also 32.4 percent attributed their dissatisfaction to the cumbersome processes one was confronted with and the undue delays especially with the stamp duty. It must be indicated that causes of the dissatisfaction as outlined above have emanated from the non-conformity of the landed property transaction tax system to the principles of simplicity and adequate publicity as was discussed under the literature review.

Fig 4.4: Satisfaction with Assessment and Rates of Taxes among Respondents



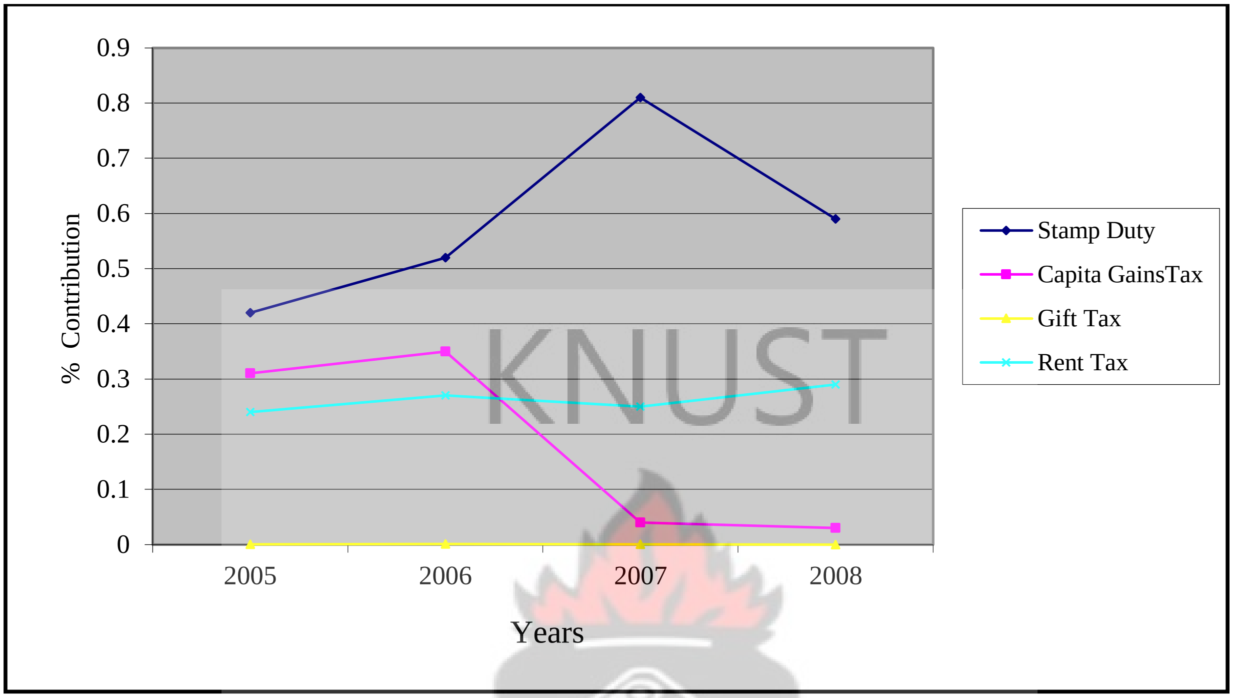
Source: Field Survey, July, 2011

4.5.3 Contribution of the Transaction Taxes to Revenue

It can be inferred from the foregoing discussions that the transaction taxes constitute a source of revenue to the Nation. The contributions of these taxes to actual revenue have not been encouraging due to the several bottlenecks in their assessment and collection. Statistics gathered from the IRS Offices show that the contributions of property transaction taxes to revenue generation have an abysmal total average of 0.98 percent. As expected, the stamp duty appeared to be the transaction tax which made the highest contribution to the revenue collected by the IRS. This is attributed to its high awareness level and the compulsion involved in its collection. This notwithstanding the proportionate contribution of the stamp due fluctuates over the years. While the percentage contribution increased from 0.42 percent in 2005 to 0.52 percent in 2006 and increased again to 0.81 percent in 2007 it decreased to 0.59 percent in 2008. The capital gains tax was identified as the second highest contributor to revenue after the stamp duty.

Its proportionate contributions as well as that of gift and rent taxes over the years 2005-2008 are showed in Figure 4.5. The above implies that despite the presence of several taxes associated with property transactions their contribution to revenue is very negligible. It can be inferred that the revenue realised from these taxes are not likely to match the amount invested in their collection. The low contribution of the property transaction taxes can be attributed to problem of unavailability of accurate land ownership records, poor land use planning systems, inadequate logistics and staff, low public awareness as well as general low compliance and willingness to pay on the part of tax payers. It is therefore imperative that pragmatic measures taking into consideration the factors proposed by Auguste (2000) are instituted to increase the revenue generated from these taxes as they can be a vibrant source of revenue for financing the provision of social and economic infrastructural development in the city.

Fig 4.5: Contribution of the Transaction Taxes to Revenue



Source: Field Survey, July, 2011 and IRS Office, Kumasi, (2010)

4.6 Legal Frameworks for Landed Property Transactions Taxes

The survey uncovered that the basic tax laws in Ghana are deeply embedded in the socio-cultural systems and political institutions of its indigenous societies, even though they have also been fundamentally influenced by administrative and statutory rules. The legal framework for tax administration has developed from colonial times over the years in piecemeal and in an ad hoc manner, in response to specific issues or political dictates. The officials of the IRS indicated that currently there are several legal instruments on the statute books some overlapping and others conflicting. It was realised that these laws operate along side customary laws in the country, creating a plural legal environment for landed property transaction taxes administration. These are laws are:

- Stamp Duty Ordinance (No.12) of 1889
- Land Registry Ordinance of 1895
- Income Tax Ordinance No.27 of 1943
- Land Registry Act, 1962 (Act 122)
- Stamp Duty Act 1965 (Act 311)

- Stamp Act 1965 (Act 311)
- Capital Gains Tax Act of 1965, Act 289 amended by Capital Gains Tax (Amendment) Act 1965, Act 304 Stamp Act Amendment Decree 1967 (NLCD160)
- Gift Tax Decree 1975 (NRCD 348)
- Land Title Registration Law, 1986 (PNDCL 152)
- Land Title Regulation, 1986 Legislative Instrument (L.I.) 1241.
- The Internal Revenue Service (IRS) Law of 1986(PNDCL.143)
- Stamp Act Law 1988 PNDCL 204
- Capital Gain Tax Decree 1975 (NRCD 347) amended by by SMCD 46 of 1976, PNDC Law 232 of 1990 and PNDC law 267 of 1991
- Capital Gains (Amendment) law 1991, PNDC law 267
- Fourth (4th) Republican Constitution of the Republic of Ghana, 1992
- Local Government Act, 1993 (Act 462)
- Revenue Agencies (Governing) Board Act, 1998 (Act 558)
- The Internal Revenue Service Act 2000 (Act 592)
- Lands Commission Act, 2008 (Act 767) which repealed the Lands Commission Act, 2000 (Act 483)
- Rent Tax Amendment Acts, 2001 (Act 622 and Act700)
- Legislative Instruments L.I1675 and L.I1698 of 2001
- Revenue Act of 2002 (Act 628)
- Stamp Duty Act, 2005 (Act 689) as amended by Act 764 of 2008
- Land Commission Act 2008 (Act 767)
- Ghana Revenue Authority Act (2009), Act 791

The above list gives a clear indication of the presence of several laws for regulating the activities of the institutions charged with the assessment, and collection, of the transaction taxes in the country. The laws also spell out the charges to be imposed on taxpayers as well as the sanctions thereof for evasions. The survey showed that level of awareness of the existence of these laws by the institutions is very high. However, the same cannot be said of the property owners that is the taxpayers. As has been indicated earlier by Figure 4.2, only 34 percent are aware of the principal law that is Act 592 and for that matter all the other laws. This might have therefore accounted for the low compliance among them as they are ignorant of the likely sanctions which can be meted out to them for evasion.

Testing the strength of the laws, 21.6 percent of the respondents felt the laws were adequate to enforce compliance. However, 78.4 percent of the respondents were of a different view, they argued that the laws were adequate, but were not being properly enforced. The latter category of respondents were of the view that there was no need for new laws rather the enforcement with appropriate sanctions as prescribed by the existing laws should be strengthened and applied when necessary to create an awareness and sensitize tax payers level of voluntary compliance. The institutions interviewed had similar views as those of the 78.4 percent that the laws are adequate but effective enforcement is what is lacking.

A major lapse identified with the existing laws lack of clarity in their demands. For example, under the Stamp Duty Act 1965 (Act 311) there was no provision that compelled a person to stamp his or her instrument. What compelled people to stamp documents was the clause that an unstamped instrument could not be tendered in any court of jurisdiction hence this clause of invalidity served as a penalty which compelled people to stamp their instruments.

4.7 Institutional Framework for Landed Property Transaction Taxes

This section examines the institutions that are involved in these activities in terms of their roles and the challenges they face. Although the institutional framework is the same for the country as indicated in the literature review, this section focuses on Kumasi. The analysis in this section is thus based on the responses that were obtained from the institutions with regards to their roles and the challenges they face.

4.7.1 Lands Commission Secretariat

The Lands Department, which was later transformed into the Lands Commission, was first created out of the Lands Section of the Survey Department in 1928. The commission operated under the Lands Commission Act, 1994 (Act 483) with the advent of the 1992 Republican Constitution. Following the enactment of the new Lands Commission Act 2008 (Act 767) some land sector agencies namely Survey Department, Land Title Registry, Land Valuation Board and

Lands Commission Secretariat have been merged into one umbrella body known as the Lands Commission. This "new" Lands Commission, functions with four divisions which are Public and Vested Lands Management Division, Survey and Mapping Division, Land Valuation Division and Title Registration Division. The Land Commission Secretariat is now known as Public and Vested Lands Management Division.

The core function of the Lands Secretariat now known as the Public and Vested Lands Management Division is to keep records of all land transactions. The Lands Commission Secretariat furnishes the Land Title Registry with records of all transactions on a given land before a land title registration certificate can be granted. With regards to the assessment and collection of the landed property transaction taxes officers indicated they always insisted on the submission of Tax Clearance Certificates before titles were registered, this was confirmed by officials of the IRS. Some constraints the Lands Commission Secretariat has to contend with include: unavailability of accurate database on land ownership inadequate skilled personnel, frequent political interference in its activities, inadequate logistics and support services, poor remuneration and low morale among staff of the commission. Refer to Table 4.7 for the institutional capacity assessment of the Land Commission Secretariat.

4.7.2 Land Valuation Board/ Land Valuation Division (LVB/LVD)

The Land Valuation Board is now known as Land Valuation Division under the new Lands Commission Act 2008 (Act 767). Prior to the enactment of Act 767 the Land Valuation Board has no legal instrument that formally establishes it and as such it operated under Section 43 of PNDC Law 42 (1986). The board is the government's Valuer although it renders valuation services to the public as well. The officials of the board indicated they are responsible for the assessment of land values for stamp duty as a requirement for issuance of land title registration certificates. That is the LVB acts as the agent to assess and collect stamp duty on behalf of the commissioner of the IRS. The LVB determines the values of properties rented, purchased, sold or leased by or to Government and also stamps land documents.

According to the officials interviewed the outlined procedure of assessment as indicated in Chapter Two is what has being adopted for their operations. However they outlined certain challenges they faced in their day to day activities. The inability of the LVB to compile a scientific data base of market values for easy referencing and selection of a uniform cost base for assessment, to rule out variations introduced by personal opinions which favour the taxpayer who is able to negotiate his/her terms of payment and assessment values with assessing officials was a major challenge they indicated. The operations of the Land Valuation Board is also fraught with other several challenges notably unavailability of accurate land ownership records, inadequate human resources and logistics to support its operations; and low staff morale. This hinders their ability to perform effectively, especially inspecting the properties of taxpayers for valuation purposes.

4.7.3 Land Title Registry

The Land Title Registry is the outfit established by the Land Title Registration Law, 1986 (PNDC Law 152) to provide machinery for the registration of title to land and interest in land. Following the enactment of the new Lands Commission Act (Act 767) the registry is called the Land Registration Division. The Land Title Registry is legally mandated to compile and maintain a register of title to land. It is responsible for putting in place a systematic and compulsory registration of all interests in land throughout Ghana. The purpose of title registration is to give certainty to ownership and to facilitate proof of title to make dealings in land safe, simple, cheap and to prevent fraud.

It was realised from the interview conducted with the officials of the registry during the survey that they contribute to the assessment and collection of transaction taxes by enforcing the statutory documentation requirements in its operations. According to the officials of the registry they usually request for Tax Clearance Certificate before registering any title to land. They indicated this requirement compels the property owners to pay their taxes especially the capital gains taxes at the IRS in order to obtain the TCC for the registration of the properties. The officials however indicated that this requirement is sometimes ignored due to the delays the property owners encounter when they apply for the TCC from the IRS.

As stated earlier collections of capital gains tax depends solely on information extracted from documents submitted for application for TCCs before registration, so if the LTR glosses over this requirement it means the applicant is not obliged to apply for the TCC. This means that the IRS is denied the needed information required for assessments and collection of the tax. It can be inferred from the number of land and landed properties registered in Table 4.3 that the city could be losing substantial sums in revenue if the LTR is refusing to adhere to the statutory provisions of demanding for TCC which can compel property owners to pay their taxes.

It was also realised that the operations of the Land Title Registry are also fraught with several challenges. Notable are: poor collaboration from other land sector agencies who perceive the Land Title Registry as usurping some of their traditional roles; general non-compliance with Section 13 of PNDC Law 152 on conversion of registered deeds to title certificates; inadequate public education on land title registration procedures; inadequate resources for land title registration; and inadequate qualified staff (See Table 4.7 for the capacity assessment of the Lands Title Registry).

4.7.4 Internal Revenue Service (IRS)

The Internal Revenue Service (IRS) was established in 1986 by the Internal Revenue Service (IRS) Law (PNDCL.143). This law transformed the hitherto Central Revenue Department into a public service organization, the Internal Revenue Service. The IRS has now been merged with the Value Added Tax Services (VATS) as the Domestic Tax Revenue Division of the Ghana Revenue Authority (GRA) following the passage and operationalisation of the GRA Act (2009), Act 791.

It was realised from the survey that the IRS was solely responsible for the assessment and collection of the rent taxes, capital taxes and the gift taxes. The officials of the service indicted that the collection and assessment of stamp duty was done with the Land Valuation Board. This means that the IRS is the main tax administrative agent of the government and the city for that matter. The officials revealed that the main functions of the service include identifying all taxpayers, assessing the taxpayer to tax, collecting taxes from the taxpayers and paying all amounts collected into the consolidated Fund.

Just like the other institutions, it was identified that the IRS also faced challenges in the execution of its functions. These mainly relate to its resources capacity for effective and efficient performance. The officials indicated that the service is constrained in terms of technical staff and logistics especially vehicles. This impedes their mobility which also affects the collection taxes. The problem of lack of up-to-date database on land ownership was also identified as a major challenge in the operations of the IRS. The institutional capacity assessment of IRS is showed in Table 4.7.

4.7.5 Private Valuation Firms and Estate Agencies

A questionnaire was designed to seek informed opinions of the above mentioned group of well trained professionals, who deal on day to day basis with prospective buyers and sellers on the land market. The main objective here is to establish the extent of involvement of these professionals in dealings on the land market, and also how their involvement has been able to create the needed awareness for these taxes and if that has gone a long way to enhance revenue mobilization from stamp duty capital gains tax and gift tax.

In order to establish these facts a total of six registered firms were selected in the Kumasi metropolis with six officers interviewed. All six firms had on the average a staff strength ranging from one to six officers. All six respondents were Principal / Senior Valuers of their firms and registered members of the Ghana Institution of Surveyors. When asked whether property transactions such as Acquisitions/Purchases , Gifts, or Disposals /Sales could be classified as a core function they performed on behalf of their clients, all six respondents answered affirmatively.

Of the firms interviewed, 33.3 percent indicated their functions always extended to being contracted to go ahead to ensure that documents are fully registered on behalf of clients. Another 33.3 percent said their functions occasionally included registrations. The remaining 33.3 percent indicated that their function ended after acquisitions or disposals. This gives the indication that at least 66.6% or more than half of the respondents are conversant or will have encountered at least one of these transactions taxes under study in their day to operations and will be in the position to give well informed opinions. Also it was established that all six firms had been in practices for over ten years and had track records for expertise in consultancy on land tax issues.

Table 4.7: Capacity of the Pubic Institutions Involved in Property Transaction Taxes in Kumasi

Resource	Staff	Vehicles	Computers

Institution	Avail.	Required	BL	Avail.	Required	BL	Avail.	Required	BL
IRS	284	400	116	8	15	7	17	26	9
LCS	33	65	32	3	6	3	6	13	7
LTR	22	35	13	2	5	3	2	5	3
LVB	18	32	14	2	7	5	4	7	3

Source: Field Survey, July, 2011

Note: *BL=Backlog; Avail=Available; Required is based on what was expressed by the institutions as there were no standards for such purposes.*

From Table 4.7 it can be realised that all the institutions have backlogs with regards to the essential resources they require for the operations. This explains why they are unable to function effectively which also affects the amount of revenue they are able to mobilize from the property transaction taxes in the city. It must however be indicated that the low returns is accounted for by other factors such as low compliance, inaccurate land ownership records, poor land use planning systems, ineffective collection and assessment methods which have been discussed earlier.

4.8 Potentials of Landed Property Transaction Taxes Assessment and Collection

The potentials are the developments or issues which are likely to enhance the assessment of and collection of property transaction taxes in the city. From the survey a number of positive issues were identified which could be harnessed to improve upon the assessment and collection of the taxes under consideration. It is however important to indicate that some of the potentials were expressed by the respondents including the institutions while others are inferred from the foregoing analyses.

4.8.1 Fast Urbanisation of the City

All the institutions interviewed deemed the city's high urbanisation rate as a major potential for the property transaction taxes. The city currently has urbanisation rate of 5.6 percent and this happens to be the highest in the country. According to the institutions the rapid urbanisation and accompanied increase in physical development is likely to increase and widen the base of property transaction taxes and thus increase revenue from them. This is because the more people undertake physical developments, participants and transactions in the property market will increase hence widening the tax net of property transaction taxes in the city. Realizing the full impact of this potential however depends on factors such as land use planning, effective enforcement mechanisms and extensive publicity on tax awareness.

4.8.2 Increased Number of IRS Offices

According to the IRS Commissioner easy accessibility to their facilities by taxpayers is another positive development as far as the assessment and collection of property transaction taxes are concerned. He indicated that with the merger of the IRS and VATS the number of offices have increased as those which solely collected Value Added Taxes now assess and collect transaction taxes too. This has therefore enhanced accessibility and also reduced the long distances that property owners had to travel initially in their attempts to pay their taxes achieving one of Adams smiths canons of taxation, the issue of convince.

4.8.3 Existence of Legal Framework

Although it was found from the analysis that the enforcement of this law has not been as effective as envisaged, the mere existence was described as a potential by the officials of the institutions contacted. According to them they put some sort of panic in the property owners which compels them to declare their taxes due to possible court actions. The fact that majority of the respondents consider them to be adequate gives an indication that they can immensely contribute to the assessment and collection of the landed property transaction taxes if measures are instituted to enforce them effectively. However, level of awareness must increase to unleash the benefits of this potential.

4.8.4 The Self Assessment Form

From the survey, 87.4 percent of the property owners deemed the self assessment form (IT 30B) a major potential for the assessment and collection of the property transaction taxes when they were asked of their impression about it. According to the respondents this allows them to be involved in the assessment and as such increases their willingness to pay the amount they are charged without much prejudice. They also indicated that the form enables them to assess their own taxes with little support from the technical staff which reduces the time they would have spent at the IRS offices under the old system. According to the IRS officials, this forms helps in reducing the workload on the tax assessors.

4.8.5 Reduction of the Tax Rates

The reduction of the tax rates is also another positive development which can enhance the assessment and collection of the taxes. This is likely to reduce the amount one will be required to pay and hence encouraging them to declare their taxes as and when the need arises. Under this circumstance the taxpayers do not feel the impact of taxes because of the low amounts involved.

4.8.6 Procedural Requirement Nature of the Taxes

From the analysis it can be inferred that the procedural characteristic nature of the property transaction taxes especially the stamp duty and capital gains tax are described as potential for the mobilization of revenue from these types of taxes. Their nature makes it difficult for property owners to evade them as evidence of their payment is usually required in the processing documents and titles on landed properties. It is therefore not surprising that the stamp duty and capital gains tax occupies the first and second positions respectively in terms of the contribution of transaction taxes to revenue mobilization in the city.

4.8.7 Educational Status of the Actors

The educational background of the property owners as captured by the survey which indicates that all of them have attained education up to the basic level yields a good potential for the collection and assessment of these taxes. This is because they are likely to easily appreciate the purposes of the taxes through public education and thus be willing to pay other things being equal.

4.9 Challenges in the Assessment and Collection of Land Property Transaction Taxes

Aside the potentials, several challenges were identified. These challenges impede the assessment and collection of the property transaction taxes. They in particular account for the low revenue contribution from the property transaction taxes. It is important to indicate here too that some of the challenges were expressed while others are deduced from the analyses.

4.9.1 Low Institutional Capacity of the Actors

From the analyses it can be inferred that all the institutions are short of the requisite resources in terms of qualified personnel and logistics for effective operations. From the institutions themselves, especially the IRS and LVB, the officials indicated that some of the workers lack the technical knowledge carrying out the complex processes involved in the assessment of the taxes. Almost all the institutions do not have adequate vehicles and information telecommunication gadgets for efficient performance. This has therefore adversely affected their assessment and collection of the logistics as well as their ability to enforce the various laws.

4.9.2 Inadequate Information on Disposal of Chargeable Assets

The relevant data for the purposes of levying taxes were mostly non-existent, even where they were existent, as to whether data was accurate and authentic was another dicey issue. This is because the officials of the IRS indicated that the property owners in their transactions usually give unreliable information to the tax authorities hence creating many inaccuracies to slow down their duties and loop holes to create room for corruption in the tax administration system. According to them this manifests itself in various ways such as undervaluation and under assessment of taxes on part of tax officials.

4.9.3 Reluctance of Land Registries to Perform Statutory Requirements

The reluctance of the land registries to demand or comply with the statutory demand of requesting tax clearance certificates (TCCS) from applicants before accepting titles for registration was another challenge identified. This practice denies the IRS of the much needed information for the assessment of capital gains tax, stamp duty, and gift tax. Also this prevents officials from authenticating the adequacy of stamp duties assessed by the land valuation board. As was asserted by the officials at the LTR, they sometimes ignore the submission of tax clearance certificate by property owners, a practice which enables property owners to evade taxes.

4.9.4 Inadequate Collaboration and Cooperation between Agencies

Another major source of concern identified as contributing to low collection was the inadequate collaboration between the IRS and LVB in computational rules and charges of stamp duty. Both agencies were seen to be using various methods of assessing these taxes hence creating inconsistencies in taxes raised for stamp duties.

4.9.5 Low Level of Awareness among the Property Owners

It was also discovered that there was a very low level of awareness of the existence of the various landed property transaction taxes amongst the respondents. This also contributes to the low level of compliance and collection as people are not likely to pay taxes which they are not aware of and certain about. Even among the private valuation firms 70.3 percent said that their clients were completely unaware that these taxes especially the capital gains tax existed in the statute books or in our tax laws. These clearly indicate that there is gross ignorance on the part of the property owners about the taxes.

4.9.6 Negative public attitude to Tax Payment

This leads to low tax collections as many people do not come up to pay their taxes voluntarily unless they require tax clearance certificates to register landed property documents. The survey showed that 76.3 percent of the property owners have never voluntarily declared their taxes before. This indicate that some compulsion of a sort is necessary to get people pay their taxes.

4.9.7 Lack of Clarity in the Some of the Laws

It was also identified that some of the existing laws lack clarity in their demands. For example, under the Stamp Duty Act 1965 (Act 311) there was no provision that compelled a person to stamp his or her instrument. What compelled people to stamp documents was the clause that an unstamped instrument could not be tendered in any court of jurisdiction hence this clause of invalidity served as a penalty which compelled people to stamp their instruments. This therefore makes it difficult to enforce them to the latter, the officials at LVB indicated.

CHAPTER FIVE

FINDINGS, RECOMMENDATIONS AND CONCLUSION

5.0 Introduction

The chapter presents a summary of the findings from the field study. It brings out the keys issues that were observed in the light of the objectives of the study. The chapter also contains the recommendations that have been put forth to help enhance the assessment and collection of landed property transaction taxes in the study area and the country as a whole. The chapter finally ends with the general conclusion to the study.

5.1 Summary of Findings

This subsection deals with the major findings of the study. These key findings have been summarised under the objectives of the study.

5.1.1 Institutional and Legal Framework for Administration of Landed Property Transaction Taxes

The study revealed that the institutional framework for landed property tax administration in Ghana depicts varied levels and functions. In all four institutions were identified to be involved in the assessment and collection of landed property transaction taxes in the study area. These are

Lands Commission Secretariat, Land Title Registry, Land Valuation Board and Internal Revenue Service.

The study unraveled that the assessment and collection of all the four taxes under consideration is the sole responsibility of the Internal Revenue Service with exception of the stamp duty which the Land Valuation Board can also assess and collect. The study showed that the main role of the Lands Commission and Land Title Registry in the assessment and collection of the landed property transaction taxes was ensuring that property owners submit Tax Clearance Certificates before titles to their properties are registered. This therefore compels the property owners to pay their taxes in order to acquire their land title documents. It was realised from the study all these institutions were established by Acts which give them the mandate to operate. The common constraints which were confronting the functioning of all the institutions are inadequate skilled personnel, inadequate logistics and support services, poor remuneration, low morale among staff, poor collaboration and inadequate accurate database.

With regard to the legal framework the study unraveled the existence of numerous Acts and provisions which establish the taxes and also spell out the modalities for their assessment and collection. The laws also spell out the charges to be imposed on taxpayers as well as the sanctions thereof for evasions. The salient ones include Local Government Act, 1993 (Act 462), Fourth (4th) Republican Constitution of the Republic of Ghana, 1992 Ghana Revenue Authority Act (2009), Act 791, Stamp Duty Act, 2005 (Act 689) as amended by Act 764 of 2008, The Internal Revenue Service Act 2000 (Act 592), Gift Tax Decree 1975 (NRCD 348), Rent Tax Amendment Acts, 2001 (Act 622 and Act700), Capital Gains Law 1991, PNDC Law 267 and Land Commission Act 2008 (Act 767) among others.

The study revealed the low level of awareness of these laws among the property owners. Of the total number of respondents interviewed, only, 33.7 percent were aware of the Internal Revenue Service Act 2000 (Act 592) which is the commonest of all the laws and as such used as a surrogate in this study. On the other hand, the awareness level among the institutions was high as these were what guided their operations. The laws were found to be adequate but were not being enforced effectively as was indicated by the majority of the respondents and the institutions. It was also realised from the study that some of the laws lack clarity with regard to their demands. These laws do not specifically impose the taxes but rather it is only through the invocation and interpretation of some of their sections that property owners can be made to pay transaction taxes. Typical example is the Stamp Duty Act 1965 (Act 311).

5.1.2 Potentials for Assessment and Collection of Landed Property Transaction Taxes

The study also unraveled a number of potentials which can be harnessed to improve the assessment and collection of landed property transactions taxes. The rapid urbanisation of the city was identified as a key potential for the generation of revenue from landed property transaction taxes. The study showed that fast urbanisation brings about increase in physical development as was manifested in the increasing trend of application for land title registration and the issuance of land title certificates. This increase in the rate of property ownership widens the base of the property transaction taxes (number of taxpayers) and consequently raises the quantum of revenue generated from them.

The increase in the number of offices of the Internal Revenue Service was also identified as a potential for the administration of the landed property transaction taxes. This has come about following the merger of IRS and VATS. The merger has made the offices of the IRS more accessible and as such the property owners are always willing to go the offices and pay their taxes as they do not have to cover long distances.

The self-assessment form was also found to be a major positive development in the assessment of the taxes. The study showed that this reduces the workload of the tax assessors and also speeds up assessments. The study further indicated that since the taxpayers are involved when using this, they are more willing to pay the resultant taxes amount without much prejudice.

The existence of the various Acts also came out as a potential in the collection of the taxes. The study showed that their mere existence put some sort of fear in the taxpayers to pay their taxes in order to avoid any penalties or legal actions that can be taken against them. The reduction of the tax rates is another positive development in the administration of the landed property transaction taxes. This entices the taxpayers to be willing to pay their taxes as the amounts involved have become relatively low following the reductions.

It was also uncovered that almost all the participants in the property market have attained some level of education. This attribute of the participants implies that they can easily grasp the purposes of taxation if public education is organised for them. This will therefore improve their attitude towards the payment of taxes.

5.1.3 Challenges in the Assessment and Collection of Landed Property Transaction Taxes

Despite the potentials that have been outlined, several bottlenecks were identified in the assessment and collection of the taxes. These are summarised below:

Low institutional capacity was identified as a major constraint to the assessment and collection of the property transaction taxes. The study showed that all the institutions had shortage of the requisite resources for their operations. The institutions face the problem of inadequate qualified personnel and logistics which affect their operations.

There was also the problem of lack of information on disposal of chargeable assets. The study uncovered that the IRS does not have a database of transactions in the property market neither does it have any linkage with land agencies on sharing their data banks on land transactions and as such hindering its access to information for tax purposes. It was also realised that most of the property owners give inaccurate information which results in under-estimation or over-estimation of taxes.

The reluctance of land registries to comply with statutory requirements was another challenge identified. It was realised from the study that the LTR and LCS sometimes do not insist on submission of Tax Clearance Certificates by property owners before registering their properties for them. This practice enables the property owners to register their property without paying the necessary taxes on them.

Another major source of concern identified as contributing to low collection was the lack of collaboration between the IRS and LVB in computations rules and charges of stamp duty. Both agencies were seen to be using various methods of assessing these taxes hence creating inconsistencies in taxes raised for stamp duties.

The low awareness level of the taxes was also a major hindrance in the administration of the taxes. The study revealed gross ignorance of the various taxes except the stamp duty on the part of the property owners about the taxes. This contributes to the low level of compliance and collection as people are not likely to pay taxes which they are not aware of and certain about.

Lack of clarity and poor enforcement of the laws and their sanctions was a bottleneck identified. The demands of some of the laws were not clear with regards to compulsion of the taxes and as such one can only be compelled to pay taxes only by inferring from the certain sections in the laws. The various sanctions for non-compliance in the laws were not being enforced effectively by the institutions to serve as deterrent for evasion of taxes by the property owners.

5.1.4 Contribution of the Property Transaction Taxes to Revenue

The study revealed that the contributions of these taxes to actual revenue was generally low due to the several bottlenecks in their assessment and collection. Statistics gathered from the IRS Offices show that the contributions of property transaction taxes to revenue generation have an abysmal total average of 0.98 percent from 2005-2008. Stamp duty stood out as the highest contributor to revenue among the property transaction taxes. This implies that despite the presence of several taxes associated with property transactions their contribution to revenue is very negligible. It is therefore imperative that pragmatic measures are instituted to increase the revenue generated from these taxes as they can be a vibrant source of revenue for financing the provision of social and economic infrastructural development .

5.2 Recommendations

With reference to the findings from the study, the following recommendations are being made to help create an effective and efficient property tax administration to achieve the objectives for imposing these taxes. The recommendations are meant to provide policy guidance for the addressing the challenges and harness the potentials identified with the landed property transaction tax assessment and collection system.

5.2.1 Strengthening of the Institutions

To help enhance the assessment and collection of the landed property transaction taxes it recommended that resource capacity of the institutions be strengthened to enable them function effectively. The institutions must be equipped with the necessary logistics like computers and vehicles which can enhance their operations. In doing this, it is recommended that a quota of 10 percent of the revenue mobilized by the institutions must be allocated to fund the procurement of the equipments they require for their activities. Also routine capacity building programmes must be organised for the staff of the various institutions involved in the assessment and collection of the taxes. This can be in the form of in-service or of-service training programmes which will acquaint the staff with innovative and modern ways of tax assessment and also be able to detect tax evaders. The Ghana Institute of Taxation should be contracted in this direction to organize mandatory professional training programmes for employees of the institutions. This will equip the revenue officers with the adequate technical skills to carry out thorough tax inspection, tax audits and investigation.

5.2.2 Creation of Accurate Database of Property Owners

The IRS needs to embark on the development of an up to date and accurate database of property owners in the city. This will help address the problem of unavailability of accurate data which encourages tax evasion. In this regard, it recommended that all the institutions involved the assessment and collection through the e-governance initiative be online so that the IRS can easily access a common data bank with information on the property owners when assessing their taxes. In the creation of the database other agencies like the Town and Country Planning Department can be brought on board to provide information on the development and building permit application and issuance trends. Also the Land Commission Secretariat and Land Title Registry should be made to send the details of all property owners to the IRS so that they can be located and taxed appropriately.

5.2.3 Continuous Public Education by the Internal Revenue Service

Intensive public enlightenment and taxpayer education should be organised on regular basis to address the problem of low awareness of the taxes among the property owners. This can be in the form of tax forums, outreaches, television and radio education programmes. This avenue should be used to sensitise the property owners on the purposes of the taxes, the assessment processes and the various laws that govern the general administration of the taxes. This will therefore eradicate the problem of ignorance and the negative public attitude to payment of property transaction taxes.

5.2.4 Revision and Amendment of Tax Legislations

It is also recommended that the legislations which lack clarity and specificity like the Stamp Duty Act 1965 (Act 311) be amended. The amendment should be done in such a way that the laws spell out the tax imposition, rate and assessment processes clearly. Also the functions of the

IRS and LVB with regards to the assessment and collection of the stamp duty should be clearly indicated to avoid overlaps and duplication of efforts. The laws should also be made to impose high penalties on tax evasion to serve as a deterrent.

5.2.5 Improvement in Conditions of Services of the Personnel

The conditions of services of the staff of the various institutions involved in the assessment and collection of the transaction taxes need to be improved. This can be done by increasing their remuneration and providing them with other non-financial motivation packages. Also a system must be put in place by the government to reward the staff and institutions upon achievement of their targets. This will help to boost the morale of the staff and thus increase their productivity level which will be reflected in the rise in the revenue mobilized from these taxes.

5.2.6 Involvement of the Private Sector

It is also recommended that the private sector should be actively involved in the assessment and collection of the landed property transaction taxes in the long term. In doing this, legislation must be passed to clearly spell out the roles of the private sector. The private organisations and individuals to be brought on board should be engaged on commission basis that is in proportion to the amount they are able to generated and add to the IRS kitty.

5.3 General Conclusion

Taxation is a major source of revenue for any country. It is the revenue derived from it and other sources that is used to finance the provision of development infrastructure. This study has clearly shown that landed property transaction taxes contribute to the revenue generated through taxation by the Central Government. The study however showed the revenues from these taxes have been very negligible as a result of the various bottlenecks in their assessment and collection. The level of awareness and compliance of these taxes was found to be generally low.

The challenges that were identified with the administration of the landed property transaction taxes include low institutional capacity, negative public attitude toward payment of taxes, poor collaboration between and among institutions and lack of clarity in the legal frameworks. Despite these challenges, the impact of rapid urbanisation, the existence of institutions and legal frameworks and the use of self assessment forms were identified as potentials which can be harnessed to improve upon the situation. Among the recommendations made are the strengthening of the institutional actors and sensitisation of the taxpayers on the taxes and their responsibilities to improve compliance. In the long term it is recommended that the private sector must be actively involved in the assessment and collection of the transaction taxes on commission basis.

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ACT AND STATUTES

Internal Revenue Act 2000 (ACT 592)

Internal Revenue Regulation 2001 (LI 1675)

Stamp Act 1965 (Act 311)

APPENDICES

RESEARCH INSTRUMENTS

Appendix 1: Questionnaire for Persons Registering Land Documents

KWAME NKRUMAH UNIVERSITY OF SCIENCE AND TECHNOLOGY A STUDENTS RESEARCH QUESTIONNAIRE TO BE ANSWERED BY SELECTED PERSONS REGISTERING LAND DOCUMENTS

1) Respondent's age:
2) Respondents sex: Male ( ) Female ( )
3) Place of Residence:
4) Educational Background: Basic level ( ) Secondary level ( ) Tertiary ( )
5) Do you own any landed property: Yes ( ) No ( )
6) Have you purchased or sold any property before? Yes ( ) No ( )
7) Is the land document you are registering your personal document? Yes ( ) No ( )
8) If no, do you often register documents for other people?
9) How many times have you disposed of sold a property or properties?
10) Did you make any capital gains on the sale? Yes ( ) No ( ) if yes how much /what was the percentage gains?
11) Have you heard of capital gains tax before Yes ( ) No ( )
12) Do you know what the IRS tax law ACT 592 says about capital gains tax? that is gains on sale or disposal of a landed property, Yes ( ) No ( )

13) Have you voluntarily declared any gains on sale/transfers to the IRS? Yes ( ) No ( ) 14) If No why? If Yes why?

15) Have you ever paid capital gains tax before? Yes ( ) No ( ). If Yes why? If No why?

16) Do you know where to pay capital gains tax if the need to arises? Yes ( ) N o (17) Is it necessary to pay capital gains tax? Yes ( ) No ( )

18) Have ever encountered any problems whiles paying tax? Yes ( ) N o ( )

19) If yes please list them…………………………………………………………………

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20) Do you think people are aware of the need to pay taxes on the gains/profits they accrue on the sale/ transfer of properties? Yes ( ) No ( )

21) Why will people refuse to pay taxes on gains or profit?

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22) Have you ever defaulted in paying the tax? Yes ( ) No ( )

23) Do you know of anyone who has been prosecuted for nonpayment or default? Yes ( ) No ( )

24) Will it be right to ask people to pay capital gains tax before they are allowed to register their interest in their properties as is the practice with stamp duty? Yes ( ) No ( )

25) Have you heard of stamp duty before? Yes ( ) No ( )

26) Do you pay stamp duty before processing your documents? Yes ( ) No ( )

27) Where do you pay the tax?..

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28) What was percentage rate of tax charged?

29) Were you satisfied with the assessment? Yes ( ) No ( ) If Yes why?

If No why?

30) If no what problems did you encounter

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Appendix 2: Questionnaire for Lands Commission Secretariat / Land Title Registry

DEPARTMENT OF PLANNING
KWAME NKRUMAH UNIVERSITY OF SCIENCE AND TECHNOLOGY
STUDENT RESEARCH QUESTIONNAIRE

TO BE COMPLETED BY THE LANDS COMMISSION SECERTERIATE / LAND TITLE REGISTRY

1) Name of organization:
2) Status of respondent:
3) Unit /Department:
4) How many people applied for processing or registration of land transaction documents

YEAR	NUMBER OF APPLICANTS
2004	
2005	
2006	
2007	
2008	
2009	

5) Has there been an increase in applications YES ( ) NO ( ) If Yes explain why, If No explain.
6) Do the applicants submit their documents themselves or the documents are submitted by agents on their behalf?
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....
....
7) Are the types of title documents you receive liable to transaction taxes such as, capital gains tax, stamp duty, and gift tax? Rank on the scale of (1) for Many…. (2) For Some……. (3) For Few and 4 for None ………
8) Are applicants aware of these taxes? Many /Some ( ) Few ( ) No ( )
9) What role does your organization play to ensure that applicants pay their transaction

taxes to the state?

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10) Do you have any collaboration with the tax collection agency (IRS) YES ( ) NO ( )

11) If yes what is the nature of the collaboration with the tax collection agency?

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12) Is it mandatory for applicant to provide known addresses of parties of a transaction YES ( ) NO ( )

13) If yes how do you ascertain the validity of the address provided? And what challenges does it present?

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14) Do you request for additional information such as telephone numbers or electronic mail addresses? YES ( ) NO ( )

15) Do you insist on submission of Tax Clearance Certificates before land documents are registered? Yes ( ) NO ( )

16) If no why?

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17) Are transactions on landed property on the increase? YES ( ) NO ( )

18) Would you agree that in recent times property values have risen sharply? YES ( ) NO ( )

19) How do you classify and determine rise?

20) Are you aware tax revenues generated from property transaction taxes are low? YES ( ) NO ( )

21) What in your opinion accounts for the low tax revenue?

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22) Would you recommend that capital gains tax and gift tax are assessed and paid before land documents are submitted for registration , like stamp duty? YES ( ) NO ( ) if Yes why? And if No why?

23) What possible measures would you recommend to assist the state mobilize more revenue from capital gains tax, stamp duty and gift tax?

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PROBLEMS AND SOLUTIONS

24) What problems does secretariat encounter in its operations?

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25) How can informal transactions be brought on board for taxation

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26) What is being done to solve these problems?

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DEPARTMENT OF PLANNING

KWAME NKRUMAH UNIVERSITY OF SCIENCE AND TECHNOLOGY

STUDENT RESEARCH QUESTIONNAIRE

TO BE COMPLETED BY THE LAND VALUATION BOARD

1) Name of organization?

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2) Status of respondent:

3) Unit / Department

4) Is your unit adequately staffed and resourced? YES ( ) NO ( )

5) What are the functions of your unit/ department?

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6) Are these statutes adequate enough to help you in the execution of your core functions?

YES( ) NO ( )

7) If no which specific areas do you identify as gaps which are a hindrance to your functions?..

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9) What do you suggest as a plausible solution to these set-backs?

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10) Is there any specific department you collaborate with in the execution of your duties?

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11) If so name this /these departments

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12) What is the relationship between your department / unit and such departments if any?

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13) Do you assess and collect any forms of property transaction taxes or duties? YES ( )

NO ( )

14) List these taxes if any

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15) What are the basis of assessment of these taxes?

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TAX ELEMENT	**BASIS OF ASSESSMENT**
	MARKET VALUE
	PURCHASE PRICE
	PREMUIM
	RENT PAID

16) Do you do stamping of legal instruments, conferring or transferring title or interest in property? YES ( ) NO ( )

17) What are the requirements for stamping an instruments

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18) Does stamping an instrument attract a fee/duty?

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19) Who bears the incidence of this duty/tax?

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20) Are procedures of stamping simple enough to encourage compliance? YES ( ) NO ( )

21) Is it a statutory requirement for a person to stamp his / her instrument? YES ( ) NO ( )

22) If yes why

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23) Do you have set annual targets for collection of stamp duty? YES ( ) NO ( )

24) If yes then what is the total collection as against the set targets for the past five (5) years?

YEAR	ACTUAL COLLECTION	TARGET
2004		
2006		
2007		
2008		
2009		

25) Are these figures satisfactory YES ( ) NO ( )

26) Are people willing to pay these duties /taxes?

Appendix 3: Questionnaire for Internal Revenue Service (IRS)

DEPARTMENT OF PLANNING
KWAME NKRUMAH UNIVERSITY OF SCIENCE AND TECHNOLOGY, KUMASI
STUDENTS RESEARCH QUESTIONNAIRE

TO BE COMPLETED BY THE INTERNAL REVENUE SERVICE (IRS)

1) Status of respondent:

2) Unit or department:

3) When was the I R S set-up?

4) What law mandates the services operations…………………………………………………………………………………

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5) What types of transaction taxes on landed property does the I R S administer, assess, and collect? Please list them if any

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6) What laws mandate their assessment and collection? List and name by tax type

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7) Do you have a special unit that is solely responsible for administering these transaction taxes in the IRS? YES (   ) NO (   )

8) If your response is NO , then name tax type and indicate how they are administered

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9) If your response is YES, then is this unit adequately resourced, Comment please

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10) Do you collaborate with any other agency in the discharge of your duties Yes (   ) No (   )

11) If YES please name the agencies

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12) What is the nature of the collaboration?...

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13) What is the nature of relationship between your organization and the Land Valuation Board?………………………………………………………………………………………
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14) What is the nature of relationship between your organization and the land Commissions secretariat? ………………………………………………………………………..…
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15) What is the nature of relationship between your organization and the land title registry?
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CAPITAL GAINS TAX

16) What is Capital gains tax?

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17) What Act imposes capital gains tax?

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18) Who bears the incidence of tax? Vendor ( ) or Purchaser ( )

19) Is the general public aware of the tax? Yes ( ) No ( )

20) What is the procedure for assessment and collection?

Open Market Value ( ) Purchase Price ( ) Premium Paid ( )

21) What is the total collection for capital gains tax as against target for the past five (5) years?

YEAR	COLLECTION	TARGET
2005		
2006		
2007		
2008		
2009		

22) Do these figures meet your management's expectations? Yes ( ) No ( )

23) Who sets the yearly targets?

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24) What informs the setting of the target

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25) Are people willing to declare information on the disposals they make of their properties?
Yes ( ) No ( )

26) If no how do you as an institution obtain information on landed property disposals?

27) Do you organize tax education campaigns programs for the public if YES how often is this done? Quarterly ( ) Half Yearly ( ) Third Quarterly ( ) or Yearly ( )

28) Is it an offence to hide gains made from property disposal YES? ( ) NO ( )

29) Are there any penalties for non –declaration and payment of this tax YES ( ) NO (30)
Are there any statutory penalties? YES ( ) NO ( )

31) If yes what are the forms of penalty

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32) Do you find these penalties deterrent enough to discourage non- compliance YES ( ) NO ( )

33) If not what remedies do you recommend be made to the law?

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34) Would you recommend that capital gains tax be treated as normal income tax and taxed as such? YES ( ) NO ( )

35) If NO state the reasons

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36) Who sets the yearly targets for Capital gain tax

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37) What are some of the effects of taxation on the acquisition, disposal and holding of landed property?

38) Do you see capital gains tax as a potential source of national revenue, if well exploited?

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Problems and Solutions

39) What problems does the service encounter in its administration and collection of these taxes?

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40) In your candid opinion, what solutions can be put in place to solve these problems?

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Appendix 4: Questionnaire for Private Estate or Valuation Firms

DEPARTMENT OF PLANNING

KWAME NKRUMAH UNIVERSITY OF SCIENCE AND TECHNOLOGY

STUDENTS RESEARCH QUESTIONNAIRE

TO BE COMPLETED BY THE PRIVATE ESTATE OR VALUATION FIRMS

1) Name of firm

2) Location of firm

3) Status of respondent in the firm

4) Professional qualification:

5) Academic qualification:

6) Do you belong to any professional body? YES ( ) NO ( )

7) If yes name the body……………………………………………………………………………………………
………
……………………………………………………………………………………………

8) How long have you been in private practice?

9) Do you negotiate for sale or purchases of properties on behalf of your clients as part of your practice? YES ( ) NO ( )

10) If yes does this include the processing and registration of titles transferring interest or conferring interest?

Frequently ( ) Less frequently ( ) No ( )

11) On a yearly average how many properties have you purchased or sold on behalf of your clients for the period spanning 2006 -2009? Please indicate by year.

STAMP DUTY

12) How many of the transactions has your firm handled over the three year period were liable to stamp duty?

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13) Did your clients know about stamp duty? YES (   ) NO (   )

14) Did your client willingly pay YES (   ) NO (   )

15) What was the basis of assessment for the tax?

Was it based on the stated consideration on the document or the market value of the property in question?

16) Is the consideration stated in the documents always the “actual value?”

17) Where do you stamp your documents? IRS (   ) LVB (   )

18) Are the rates for duty for various transactions reasonable?

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19) If not what are the impacts of these rates on the property and housing market………………………………………………………………………………………
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CAPITAL GAINS TAX

20) Do your clients make gains from the properties you sell on their behalf? YES (   ) NO (   )

21) Do they willingly pay taxes on such gains? YES (   ) NO (   )

22) Would you say all your clients are aware of the existence of the tax? MOST (   ) FEW (   ) NO (   )

23) Have any of your clients refused to pay the tax? YES (   ) NO (   )

24) Have any of your clients faced any of the statutory sanctions for non -compliance or payment of the tax? YES (   ) NO (   )

25) In your opinion, are the laws adequate to enforce compliance? YES (   ) NO (   )

GIFT TAX

26) How many of transactions were liable to gift tax spanning a three year period 2006-2009?

27) Were your clients aware of this tax? MOST ( ) FEW ( ) NO ( )

28) Did they willingly accept to pay the tax?

29) Have any of your client been sanctioned statutorily for non -payment?

30) Are you satisfied with the administration of all three taxes capital gains tax, stamp duty, and gift tax.

31) Is it true that transactions on in landed property have increased over the past five (5) years?

32) Is it also true that land values on which these taxes are based have risen sharply?

33) Are you aware that contribution to national revenue, from landed property transaction taxes is low?

34) What in your opinion accounts for this?

35) What in your opinion needs to be done to increase revenue collection from property transaction taxes?