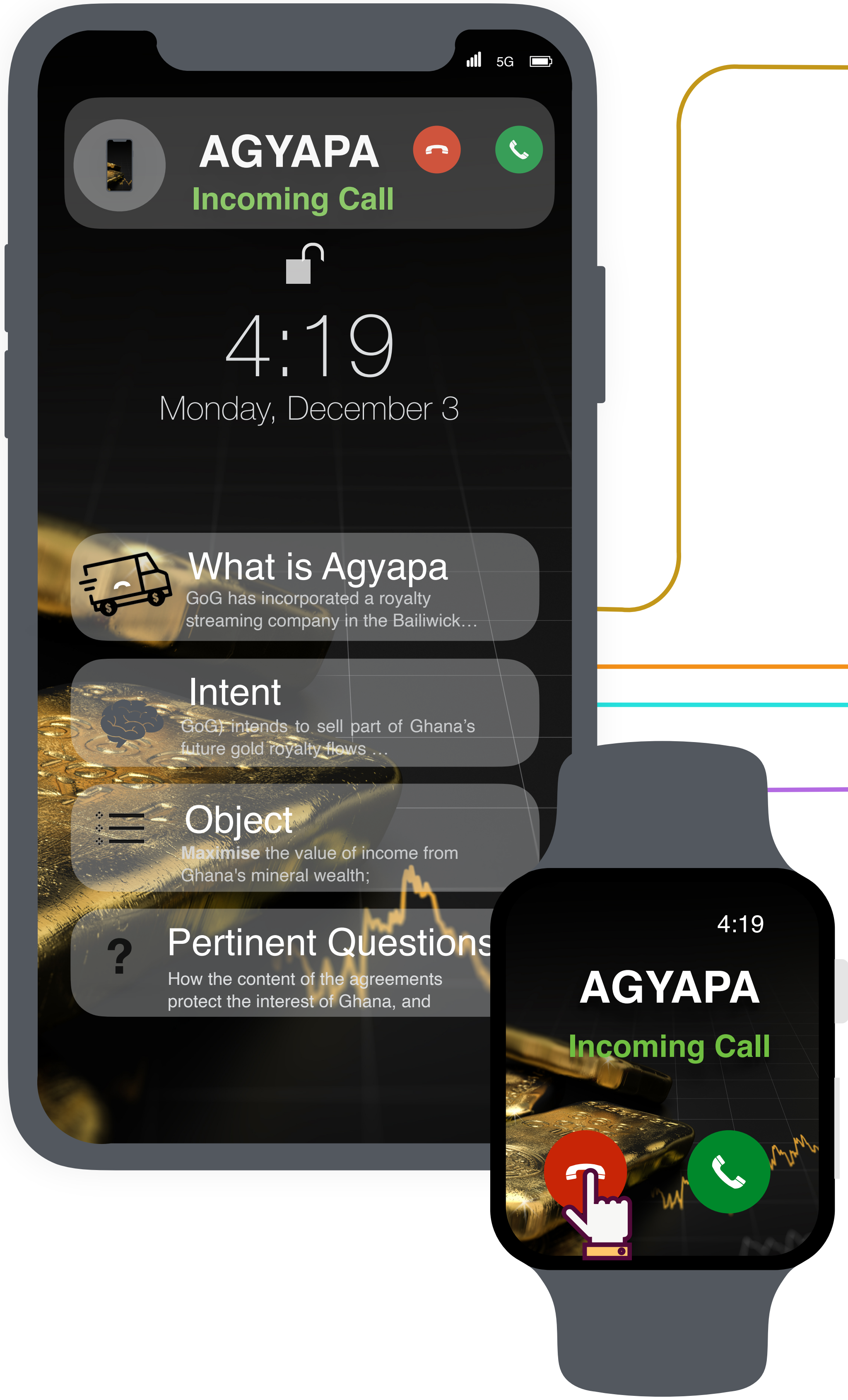
A LEGAL & FISCAL ANALYSIS OF THE AGYAPA INVESTMENT MODEL

Report Summary

Introduction



WHAT IS AGYAPA?

Agyapa is a royalty streaming company incorporated in Jersey, **a tax haven**, as the Special Purpose Vehicle to pursue the object of the MIIF Act (Act 987).

THE INTENT

The Government of Ghana (GoG) intends to **SELL 49%** of Ghana's future gold royalty flows on the London Stock Exchange and later on, Ghana Stock Exchange.

OBJECT OF THE MIIF ACT

- **Maximise** the value of income from Ghana's mineral wealth;
- **Monetise** the minerals income;
- **Develop** and implement measures to reduce the budgetary exposure to minerals income fluctuations.

PERTINENT QUESTIONS

- How the content of the agreements protect the interest of Ghana, and
- The value of the resources assigned to the transaction.

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Do the agreements protect Ghana?

NUMBER OF LEASES

The Mineral Royalties Investment Agreement assigns **48 mining leases** to Agyapa.

There are **12 mining projects** currently on the leases.

These **12 projects** contribute about 95% of royalties from all mining activities in Ghana.

SIGNIFICANCE OF THE $1 BILLION VALUE

The Agyapa agreement recognises **$1 billion** as the agreed consideration for the allocated mineral royalties for Ghana.

DURATION OF THE AGREEMENT

The transaction duration is for an **indefinite period (forever)** as long as it is economically viable to mine and the possibility of reserve appreciation through exploration on the allocated mining leases is high.

Do the agreements protect Ghana?

STABILITY CLAUSES IN THE AGREEMENT

The agreement contains some fiscal stability clauses **which are not consistent** with existing mining agreements and therefore **render those clauses not actionable in practice.**

MAJORITY SHAREHOLDER

The agreement neutralises Ghana’s right as a majority shareholder.

The relationship agreement limits the country’s rights on significant votes that shape the governance architecture of Agyapa.

TAX EXEMPTION

The agreement grants Agyapa tax exemption on the basis that royalty constitutes a tax, hence cannot be taxed.

This assertion is contrary to the MIIF act (Section 28(5)), which reclassify royalty as revenue for investment.

How distinct are government royalties from royalty streaming companies?

ROYALTY STREAMING COMPANIES

Royalties result from investment by streaming companies

Additional investment procured on the mine dilutes the streaming company's share of royalty

The streaming company loses its investment upon bankruptcy of the mining company

At the expiration or termination of the lease, the royalty agreement expires

GOVERNMENT ROYALTY

Royalties result from ownership of resources.

Additional investment in a mine does not dilute share of government royalty.

If a mining company goes bankrupt, the resources of the state remains.

At the expiration or termination of the lease, the area can be reassigned to a different company if there are still proven reserves.

Given such a relatively stable outlook for gold, if Government invests the royalties, the returns on the investment should, in the worst-case scenario, be the same as the case where royalties are not invested.

Royalty Investment Scenarios

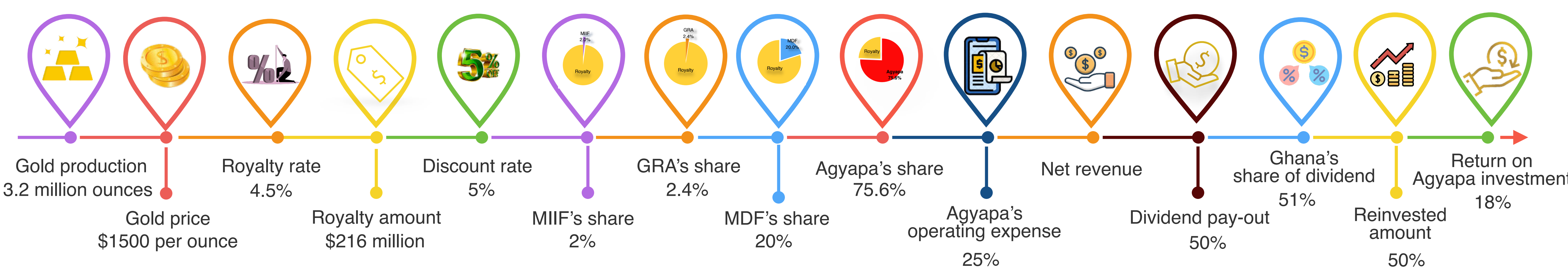
BUSINESS AS-USUAL (BAU) SCENARIO

- Without the Agyapa investment model
- Beneficiaries are GRA, MDF, and GoG
- All royalties are invested directly for Ghana's socio-economic development

MIIF SCENARIO

MIIF absorbs the share of the Central Government's royalties for investment and assigns the equivalent of 75.6 per cent of total royalty from the assigned leases to Agyapa.

Assumptions used in valuation



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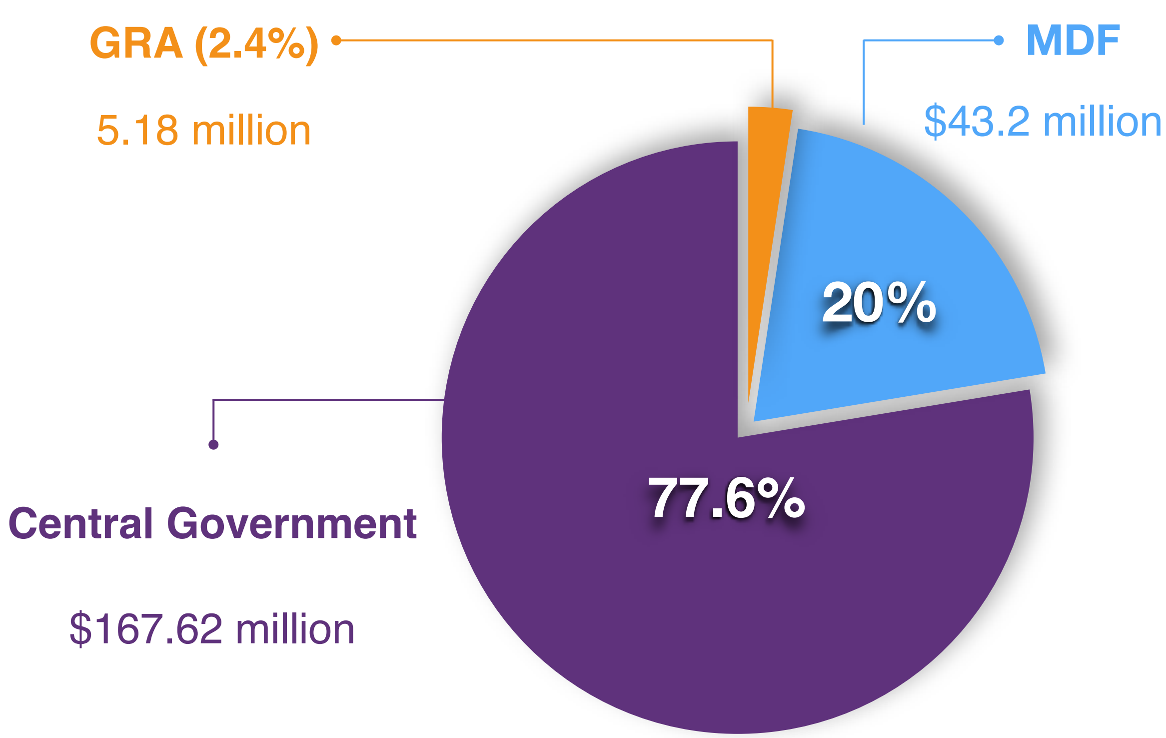
Ghana’s Royalties without Agyapa (BAU Scenario)

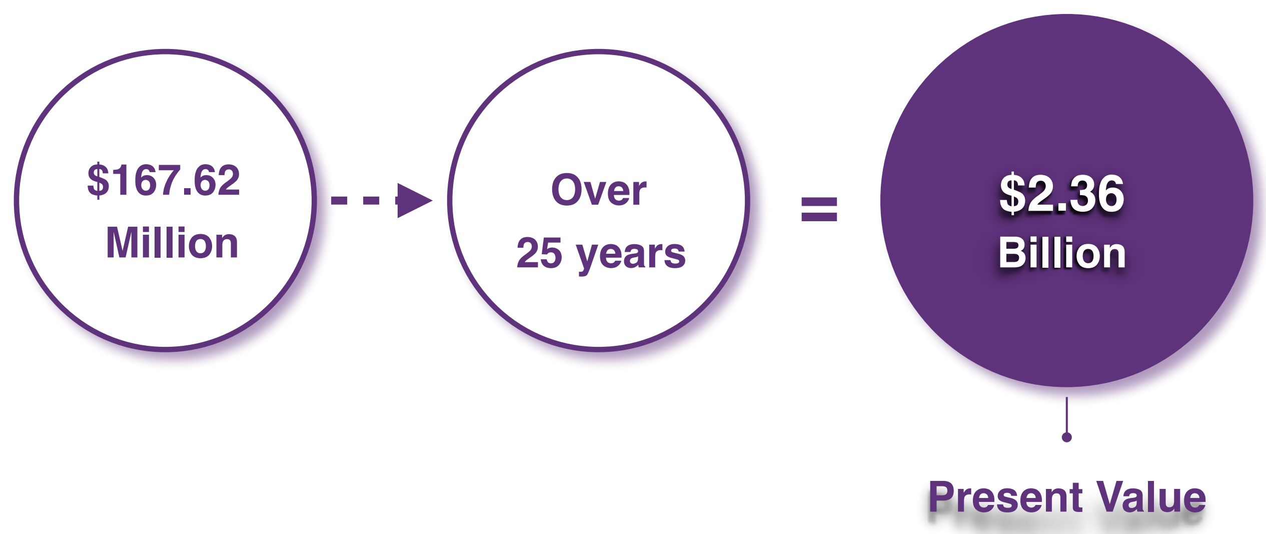
BAU estimation of central government’s royalties for only the 12 projects

Share of total royalties



Assumed Annual Royalty = $216 million

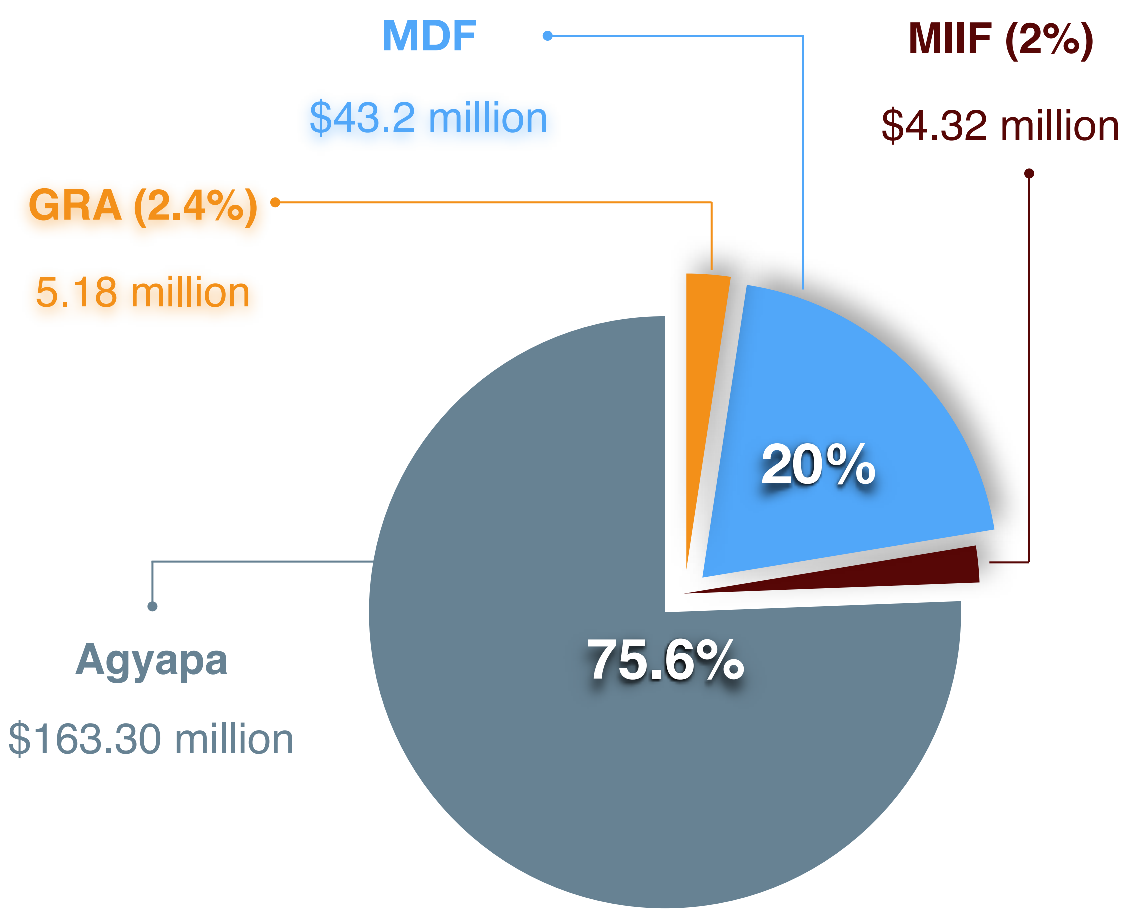
Central government’s share over 25 years



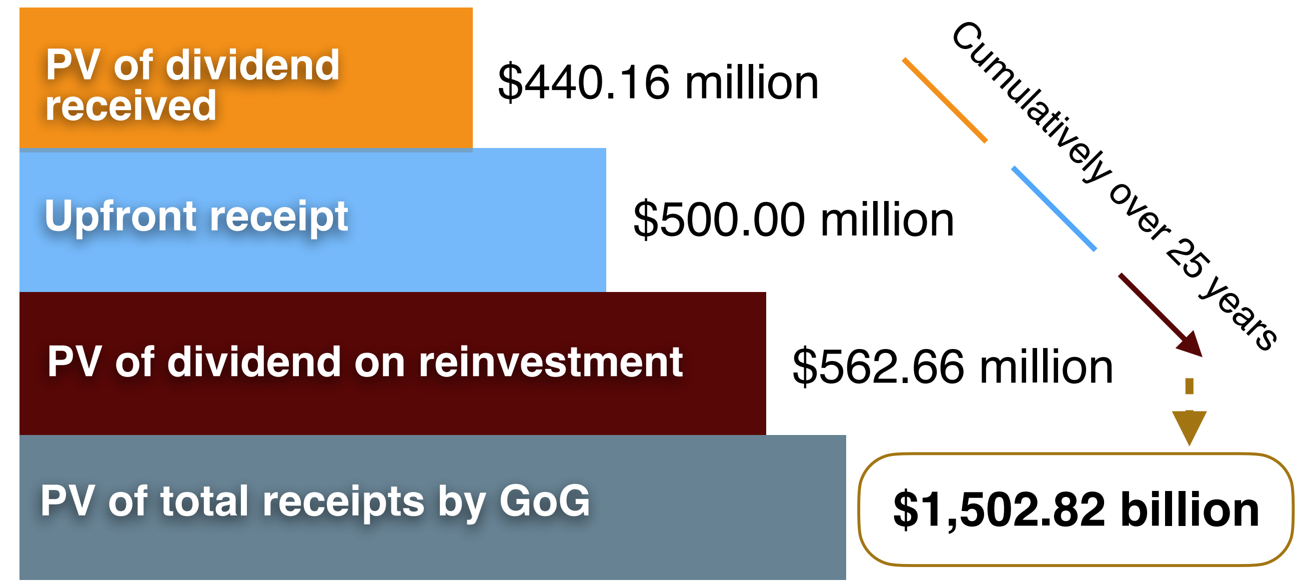
The annual royalty from the assigned leases to the Central Government, which is $167.62 million under the BAU scenario, yields a present value of about **$2.36 billion** over 25 years.

Ghana’s Royalties with Agyapa (MIIF Scenario)

MIIF scenario estimation of Agyapa’s revenue



Assumed Annual Royalty = $216 million

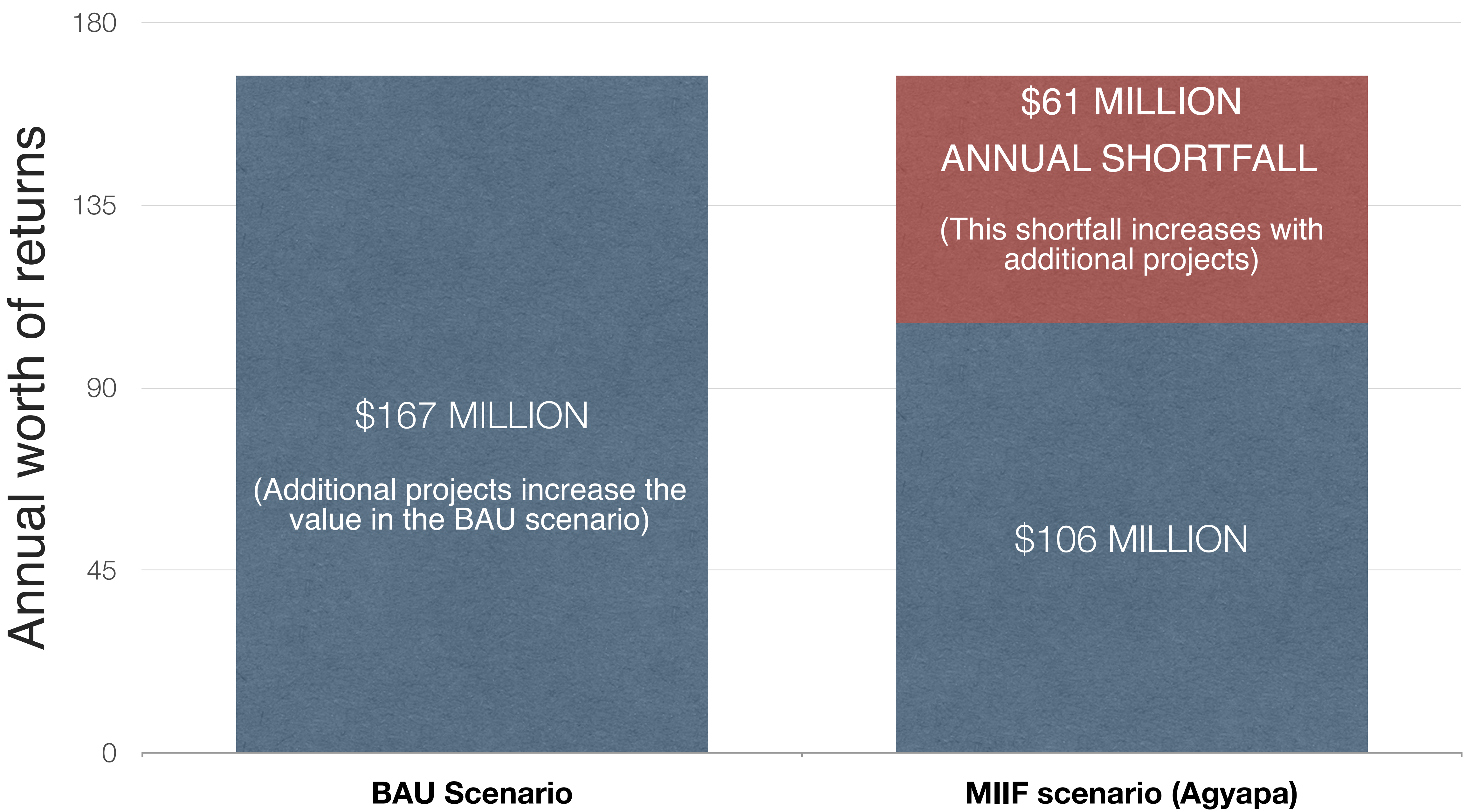


$1,502.82 billion generates an equivalent annual worth of about **$106.63 million.**

- **The Agyapa model introduces additional cost;** MIIF and Agyapa operating expenses
- The Agyapa scenario is about **$61 million** worse than the BAU scenario yearly for **only the 12 projects.**
- **Any additional project worsens the Agyapa scenario compared to the BAU scenario.**

Agyapa provides lower returns to the Government compared to the BAU scenario

About $61 million worse than the BAU scenario on a yearly basis for the 12 projects



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Can returns from the Agyapa scenario be at par with the BAU scenario?

Input parameters outside Government's control and their impact on Ghana's benefit from the Agyapa model.

DIVIDEND PAYOUT RATE

- Government's proposed dividend policy of 50% is susceptible to change because the independent directors will have the power to do so.
- Holding all parameters constant, lower/higher dividend payout is worse for Ghana.

RETURN ON INVESTMENT

For Agyapa to be at par with BAU, the return on the investment over the period should average **at least 31.74%**, holding all other factors constant. **This is impracticable, considering return on investment for similar royalty streaming companies with an average CAGR of about 16%.**

GOLD PRICE

- Increasing gold price weakens the Agyapa option and increases the superiority of the BAU scenario.
- A gold price of about $550 brings the value of the Agyapa investment model at par with the BAU scenario, holding all other factors constant.

OPERATING EXPENSE

Returns from the BAU scenario and that of the Agyapa model will not achieve parity even if there is a complete waiver of the assumed operating expense.

Can returns from the Agyapa scenario be at par with the BAU scenario?

Input parameters within Government's control and their impact on Ghana's benefit from the Agyapa model.

SHAREHOLDING

At an upfront payment of $500 million and holding all other factors constant, the value of Government's share of Agyapa that brings the transaction at par with the BAU scenario is about 97%, which is also not attractive to an investor.

THE VOLUME OF GOLD ASSIGNED

The amount of gold relevant for the Agyapa investment model to be at par with the BAU scenario is about 1.18 million ounces. Assigning the total volume from the assigned leases have a greater propensity to worsen Ghana's case.

UPFRONT RECEIPT

A higher upfront payment of about 1.35 billion is required to bring the Agyapa transaction at par with the BAU scenario, holding all other factors constant.

All these scenarios are still analysed under the 12 mining projects.
Additional projects worsen the Agyapa scenario compare to the BAU scenario.

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Summary

NUMBER OF LEASES

The company is assigned 48 leases with the right of first refusal for any other royalty disposal on the same terms as the 48 leases. This right has far-reaching implications on future royalty transactions.

STABILITY CLAUSE IN THE

The agreement's fiscal stability clauses introduce substantial conflicts with existing mining agreements and have implications for the industry’s overall performance and investment attraction.

GHANA’S GOVERNANCE RIGHTS

The agreement neutralises Ghana’s rights on the company's governance as a majority shareholder, while the independent directors manage and control the company's affairs The Government is disabled from taking decisions that may be of the country’s interest.

AGYAPA’S RETURNS

The financial valuation of Agyapa indicates that for an upfront payment of $500 million, the assignment of royalties from the 48 mining leases for shares of 49 per cent of Agyapa has an annual shortfall of about $61 million compared to the BAU scenario.

TAX EXEMPTION

Government’s reasoning behind the exemption of Agyapa and its subsidiary from tax commitments again creates a conflict with provisions in the MIIF Act which reclassifies royalties as revenues.

CHANGES IN INPUT PARAMETERS

The Agyapa model is further worsened at lower rate of returns on reinvestment, high price of gold and increased operating costs of the business.
It is also worsened at low shareholding, additional mining projects and lower upfront receipts.

Conclusion

The legal and fiscal deficiencies of the Agyapa investment model weakens any argument in favour of the transaction.

Government's position requires significant flexibility to allow it to shape policy to promote the growth and development of the industry. In the Agyapa agreement, this is curtailed.

Any agreement that freezes the Government's flexibility to adapt to the industry's changing trends as the Agyapa agreements seek to do is inimical to the industry's sustainability.

The Government must rethink the Agyapa investment model and consider other investment models that can generate a better value and maintain the flexibility to control the industry's policy evolution.

In the worst case where Government needs money urgently, medium-term flows could be securitised for upfront payments rather than subjecting future royalties to perpetual risks under Agyapa.