FEDERAL INLAND REVENUE SERVICE
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INFORMATION CIRCULAR

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Subject: **CLARIFICATIONS ON THE PROVISIONS OF CAPITAL GAINS TAX (CGT) ACT**

This circular is issued for the information and guidance of the general public, taxpayers and tax practitioners in line with the provisions of the relevant tax laws. The circular amends, updates or replaces contents of any circular, notice or other publication previously issued by the Service on the subject.

1.0 Introduction

The Capital Gains Tax (CGT) Act, Cap. C1 LFN 2004 (as amended) imposes a tax of 10% on the total amount of chargeable gains (after making such deductions as may be allowed in the computation of such gains) accruing to any person on the disposal of chargeable assets in a year of assessment.

Consequent upon the amendments to sections 2(4), 24(f) and 36(2) of the Capital Gains Tax Act (CGTA) via the Finance Act 2020, the Federal Inland Revenue Service ("the Service") hereby provides implementation guidance for clarity and ease of compliance.

2.0 Definition of Terms

2.1 Chargeable Persons

By Section 46(2) of the Capital Gains Tax Act (CGTA), a chargeable person to include-

a) any company or other body corporate established by or under any law in force in Nigeria or elsewhere; or
b) a person to whom the Personal Income Tax Act applies

to whom chargeable gains accrue

2.2 Chargeable Assets

Section 3 of the Capital Gains Tax Act (CGTA) provides that all forms of property (Subject to any exceptions provided) shall be assets for the purposes of capital gains tax, whether situated in Nigeria or not, including;

a) options, debts and incorporeal property generally;
b) any currency other than Nigerian currency; and
c) any form of property created by the person disposing of it, or otherwise coming to be owned without being acquired.

The property must be an asset in respect to which qualifying expenditure had been incurred under the relevant Schedule to the Personal Income Tax Act (PITA), Companies Income Tax Act (CITA) and the Petroleum Profits Tax Act (PPTA)).

2.3 Disposal of assets

Section 6 of the Capital Gains Tax Act (CGTA), provides that there is a disposal of assets by a person, where any capital sum is derived from a sale, lease, transfer, an assignment, a compulsory acquisition or any other disposition of assets, notwithstanding that no asset is acquired by the person paying the capital sum, and in particular -

a) where a capital sum is derived by way of compensation for any loss of office or employment;
b) where any capital sum is received under a policy of insurance and the risk of any kind of damage or injury to, or the loss or depreciation of assets;
c) where any capital sum is received in return for forfeiture or surrender of rights, or for refraining from exercising rights;
d) where any capital sum is received as consideration for use of exploitation of any asset; and
e) where a capital sum is received in connection with or arises by virtue of any trade, business, profession or vocation.

3.0 Location of Assets (Section 24(f) as amended)

The location of an asset for the purposes of Capital Gains Tax is determined by the nature of that asset (See Section 24(a-i) of the Act). However, the right or interest in a ship or an aircraft is situated where the owner or person with beneficial interest is resident.

3.1 Ships or Aircraft used in International Traffic

Section 24 (f) of the Capital Gains Tax Act (as amended) provides that:

> *"a ship or aircraft used in international traffic is situated in Nigeria if and only if the owner is then resident in Nigeria, and an interest or right in or over a ship or aircraft is situated in Nigeria if and only if the person entitled to the interest or right is resident in Nigeria".*

From the above, a ship or aircraft used in international traffic is situated in Nigeria, irrespective of the location of the ship or aircraft at the time of the disposal, where:

i. the owner of the ship or aircraft is resident in Nigeria; or
ii. a resident of Nigeria owns an interest in or right over the ship or aircraft.

As such, gains from the disposal of the ship or aircraft or the right or interest in the ship or aircraft is chargeable to capital gains tax in Nigeria, even where the ship or aircraft is not physically situated in Nigeria at the time of the disposal.

3.2 Ships and Aircraft not used in International Traffic

A ship or an aircraft used in Nigeria for purposes other than international traffic (whether or not the ship or aircraft is physically situated in Nigeria) is a tangible moveable property. The disposal of such ship or aircraft is chargeable to capital gains tax in Nigeria, irrespective of whether the owner or alienator is a resident of Nigeria or non-resident or whether the disposal took place in Nigeria or not.

4.0 Section 36 (2) – Compensation for loss of office

Section 36 (2) of CGT Act provides that sums obtained by way of compensation for loss of office, up to a maximum of ₦10,000,000 is exempt from capital gains tax.

However, any compensation for loss of office received in excess of ₦10,000,000 is so exempted; but the excess amount is chargeable to capital gains tax accordingly.

Illustration 1

ABZ Ltd, paid Mr. B ₦11,000,000 compensation for loss of office, having sustained an injury while on an official assignment, which rendered him incapacitated. What is the chargeable gain arising from the compensation paid to Mr. B?

NOTE: *The law exempts sums obtained by way of compensation for loss of office up to a maximum of ₦10,000,000, therefore:*

Compensation received	*11,000,000*

Less: Compensation exempt	*10,000,000*
Chargeable Gains	*1,000,000*
CGT @ 10%	*100,000*

The chargeable gain is ₦1,000,000 being excess over the exempt amount and capital gains tax is chargeable on this sum only.

Illustration 2

ABZ Ltd paid Mr. Z ₦9,500,000 as compensation for loss of office, what is the chargeable gain?

Compensation received	*9,500,000*
Less: Compensation exempt	*9,500,000*
Chargeable Gains	*0*
CGT @ 10%	*Nil*

In the above illustration CGT is not applicable as the amount is below ₦10,000,000.

5.0 Section 36(3) & (4) – Remittance in the case of compensation for loss of office:

Section 36(3) provides that any person who pays compensation for loss of office to an individual is mandated to, at the point of payment, to deduct and remit the tax due to the relevant tax authority. The CGT is to be computed and deducted from the sum due before the net payment is made to the individual.

Furthermore, the tax so deducted shall be remitted to the relevant tax authority not later than ten days of the end of every month…. in line with paragraph7(1) --- of the Pay-As-You-Earn Regulations] issued pursuant to the Personal Income Tax Act.

The tax shall be remitted to:

a. the State Board of Internal Revenue where the individual is resident, in the case of an individual resident in a State;
b. the FCT Internal Revenue Service, in the case of an individual resident in the Federal Capital Territory
c. the Federal Inland Revenue Service, in the case of:

i. Persons employed in the Nigerian Army, the Nigerian Navy, the Nigerian Air Force, the Nigerian Police Force other than in the civilian capacity;
ii. Officers of the Nigerian Foreign service;
iii. A Person resident outside Nigeria who derives income or profit from Nigeria.

6.0 Filing of Returns

Section 2(4) of the Capital Gains Tax Act (as amended) provides that:

> *"Subject to the provisions of Section 31 of this Act, every person having disposed of a chargeable asset shall, not later than 30 June and 31 December of that year, compute the capital gains tax, file self-assessment return, and pay the tax computed in respect of the chargeable assets disposed in the periods."*

Every person (company, partnership, executor, trustee, community, family and individual), having disposed a chargeable asset shall, not later than 30th June and 31st December of that year, compute the capital gains tax, pay the tax computed and file self-assessment return in a manner prescribed by the relevant tax authority, in respect of the chargeable assets disposed within the respective periods.

Consequently, the due dates for filing returns and payment of Capital Gains Tax shall be as follows:

i. in respect of chargeable assets disposed from 1st December in a year to 31st May of the immediately following year, not later than 30th June; and
ii. in respect of chargeable assets disposed from 1st June to 30th November each year, not later than 31st December
iii. in respect of chargeable assets disposed prior to the coming into effect of Finance Act 2020, not later than 30th June 2021.

7.0 Filing of Capital Gains Tax (CGT) Returns

The Capital Gains Tax returns include but not limited to the following:

i. Duly filed CGT Self-Assessment Form;
ii. Computation of Capital Gains Tax;
iii. Evidence of payment of Capital Gains Tax.

The form for the filing of CGT bi-annual returns is attached as **Appendix 1**

8.0 Amendment or Revision of the Circular

The Service may, at any time, withdraw or replace this Circular or publish an amended or updated version.

9.0 Enquiries

Any request for further information or clarifications on this Information Circular should be directed to the:

Executive Chairman,
Federal Inland Revenue Service,
Revenue House,
15, Sokode Crescent, Wuse
Zone 5, Abuja.

Or

Director, Tax Policy and Advisory Department
Federal Inland Revenue Service
Revenue House Annex 4,
12, Sokode Crescent,
Wuse Zone 5, Abuja.

Or

Email: tpld@firs.gov.ng

CAPITAL GAINS TAX RETURNS FORM 00----

Assessment Period	Y	Y	Y	Y	Beginning	D	D	M	M	Y	Y	Ending		D	D	M	M	Y	Y
Company Name												TIN							
Company Physical Address																			
Postal Address (Including Postal Code)																			
E-Mail Address																			
Corporate Website												Tel. No							

Currency Naira ____ USD ____ GBP ____ Euro ____ others ____

Line No	Line Description	Schedule	Amount
10	Total Chargeable Gains		
20	**Capital Gains Tax Payable @ 10%**		

Note: LATE FILING & PAYMENT SHALL BE PENALISED

DECLARATION: I declare that the particulars in this returns are true, complete and correct in accordance with the provisions of the Capital Gains Tax CAP C1 LFN, 2004.

FULL NAME:____________________ DESIGNATION:____________________

SIGNATURE:____________________ DATE:____________________

FOR FIRS USE ONLY

NAME:____________ IR NO:__________ SIGNED:__________ DATE:______________-

SCHEDULE A - OUTRIGHT DISPOSAL WITHOUT REPLACEMENT

S/N	ASSET DESCRIPTION	ACCOUNTING YEAR	DATE OF ACQUISITION	DATE OF DISPOSAL	COST OF ACQUISITION	COST OF IMPROVEMENT & OTHERS	TOTAL DEDUCTIONS	SALES PROCEED	INCIDENTAL SALES EXPENSES	NET SALES PROCEED	CHARGEABLE GAINS
1											0
2											
3											
4											
5											
6											
7											
8											
9											
10											
11											
12											
13											
TOTAL											

SCHEDULE B: DISPOSAL WITH REPLACEMENT

S/N	ASSET DESCRIPTION/ CLASS OF ASSET	ACCOUNTING YEAR	DATE OF ACQUISITION	DATE OF DISPOSAL	COST OF ACQUISITION	COST OF IMPROVEMENT	SALES PROCEED	INCIDENTAL SALES EXPENSES	AMOUNT RE-INVESTED	AMOUNT ROLLED OVER	ROLL OVER RELIEF (C/F)	CARRYING COST	CHARGEABLE GAINS
1													
2													
3													
4													
5													
6													
7													
8													
9													
10													
11													
12													
13													
TOTAL													

SCHEDULE C - PARTIAL DISPOSAL

S/N	ASSET DESCRIPTION	ACCOUNTING YEAR	DATE OF ACQUISITION	DATE OF DISPOSAL	COST OF ACQUISITION	COST OF IMPROVEMENT & OTHERS	MARKET VALUE OF PART UNSOLD	BOOK VALUE OF PART UNSOLD	COST OF PART SOLD	SALES PROCEED OF PART DISPOSED	INCIDENTAL SALES EXPENSES	NET SALES PROCEED	CHARGEABLE GAINS
1													0
2													
3													
4													
5													
6													
7													
8													
9													
10													
11													
12													
13													
TOTAL													

CAPITAL GAINS TAX RETURNS 003

EXPLANATORY NOTES

These explanatory notes or instructions are on how the attached CGT Return Form 003 is to be completed and filed.

The returns together with the relevant payment is due on the disposal of the chargeable asset(s).

Line 10: Total Chargeable Gains

Enter the **Total Chargeable** Gains realised during a tax year **in the main form** after deducting total allowable **Expenses** as calculated in the Schedule A attached.

Line 20: Capital Gains Tax payable at 10%

Enter 10% of the Total Chargeable Gains from line 10 (i.e. Line 10*0.1) in the main form.

Incidental Expenses : This includes expenses wholly and exclusively incurred for the purposes of acquiring the asset e.g Stamp duty,professional fees,etc

Cost of Improvements : These are expenses incurred to improve or enhance the asset before disposal

Market Value of Part Unsold : This is the estimated worth of the part of an asset unsold; on standards in the open market
the amout the buyer will be willing to pay the seller at a given point in time based