Capital Gains Tax Update from the Nigerian Finance Act, 2021

The Finance Act 2021 was signed into law on 31 December 2021, which makes it operational and will apply to all transactions carried out from 1 January 2022. The Finance Act introduced new amendments to the provision of the Capital Gains Tax Act and 12 other fiscal regulations. The details of the amendments to the Capital Gains Tax Act are provided below.

What is Capital Gains Tax?

Capital gains tax is a levy on the profit/gains from sale of property or an investment. Capital Gains Tax is computed by deducting the cost of the property or the investment from the sales proceeds, then the tax rate is applied on the margin or profit.

What is the new provision?

The Finance Act stipulates that 10% Capital Gains tax will be applicable to investors who sell shares in any Nigerian company registered under the Companies and Allied Matters Act worth N100m (roughly $241k using N415 exch) and above whether in aggregate or as a one-off sale.

The Exemptions provided for include:

- Proceeds from sales that are reinvested within the same year of assessment in buying shares of other Nigerian companies. The tax will still be applicable on any portion of the sale that was not reinvested.
- Proceeds from sales that are below N100m (one-off or aggregate).
- Shares that are transferred between an approved borrower and lender in a regulated securities Lending Transaction as defined in the Companies Income Tax Act.
- Gains from disposal of Nigerian Government securities which are described as including Nigerian Treasury Bonds, Savings Certificates, Premium Bonds issued under the Savings Bonds and Certificates Act or any other long-term security issued by the Nigerian Government.

What does this mean for an Investor?

The investor is responsible for paying the tax. If it is an individual investor, they are responsible for paying the tax to the relevant tax authority in line with the provisions of the Personal Income Tax Act and if it is for a company, to the Federal Inland Revenue Service.

Investors will need to track their sales to ensure that if they have any proceeds above the threshold of N100m (roughly $241k using N415 exch) that are not reinvested within the same year of assessment, they remit the tax to the relevant tax authority. For foreign investors, they will need to work with their custodians to ensure that this is adequately captured for remittance. For foreign investors that are not using a custodian, they will need to work with their local broker to ensure that the law is complied with.

In summary for Equity Investors

1. The capital gains tax on equities is 10% on the profits from disposal with proceeds above N100mn.
2. If the sales proceeds are reinvested in equities within the year of assessment, the tax will not apply.
3. If the one-off sale is more than N100mn, the tax will apply and if the aggregate sales proceeds is more than N100mn, the tax will apply.
4. In case of partial reinvestment, the tax will apply on the un-reinvested sales proceeds provided the total sales proceeds is more than N100m.
5. The seller is required to account for the CGT on the sales proceeds.

Thank you.

Disclaimer and Confidentiality note