

FIRS CLARIFIES THE TIMELINE FOR FILING CAPITAL GAINS TAX RETURNS AND DIRECTS IMMEDIATE COMPLIANCE BY TAXPAYERS

SUMMARY

In a Public Notice recently issued pursuant to section 2(4) of the Capital Gains Tax Act¹, (“CGTA”), the Federal Inland Revenue Service (“FIRS”) directed all persons, who dispose of chargeable assets to:

- File Capital Gains Tax (“CGT”) Returns for 2020 and subsequent years of assessment; and
- Compute CGT and pay the tax due on asset disposal transactions.

Section 2(4) of the CGTA requires every person who disposes of a chargeable asset to (not later than 30 June and 31 December of that year) compute the applicable CGT, file a self-assessment CGT return, and pay the CGT computed in respect of any chargeable asset disposed in the relevant period. Failure to comply with the statutory obligation to file CGT returns or pay the CGT due on any asset disposal, attracts penalties

¹ Cap. C1, Laws of the Federation of Nigeria 2004 (as amended by the Finance Act 2019 and the Finance Act 2020).

prescribed in the CGTA and the *Federal Inland Revenue Service (Establishment) Act, 2007*.



The FIRS clarified in the Public Notice that the due date for the filing of CGT returns, and the payment of applicable CGT on asset disposals, is the earlier of 30th June and 31st December immediately following the disposal of the asset.

The timeline for the filing and payment of GGT returns, for chargeable assets disposed at various times of the year, is further clarified in the Public Notice and is now specified, as follows:

S/N	PERIOD OF DISPOSAL OF CHARGEABLE ASSETS	OF FOR RETURNS & PAYMENT OF CGT	DUE DATE FOR FILING
1.	Assets disposed within the period of 1st January to 30th June of any year	Computation of CGT, filing of self-assessment and payment of the appropriate tax required not later than 30 th June of that year	
2.	Assets disposed within the period of 1st July to 31st December of any year	Computation of CGT, filing of self-assessment and payment of the appropriate tax required not later than 31st December of that year	
3.	Assets disposed prior to the commencement of the Finance Act 2020	Computation of CGT, filing of self-assessment and payment of the appropriate tax required not later than 30th June 2021	

The Public Notice applies to all taxpayers, who dispose of chargeable assets within the meaning of the CGTA, including companies, partnerships, executors, trustees, communities, families, and individuals.



COMMENTARY

CGT is a tax charged at the rate of ten percent (10%) on any gain which accrues and or is derived from the sale, lease, transfer, assignment, or compulsory acquisition of proprietary rights in chargeable assets.² "Chargeable Assets" is defined in section 3 of the CGTA to include all forms of property (situate within or outside Nigeria), including debt, incorporeal property, foreign currency, or any other form of property created by the person who disposes of any chargeable asset.

Whilst, the FIRS is statutorily empowered to administer and collect CGT, the Internal Revenue Service of the respective States of the Federation are empowered to administer and collect CGT pertaining to the disposal of chargeable assets by non-corporate entities, such as individuals, business names, partnerships, etc. operating within the territory of each State of the Federation.

² See section 6 of the CGTA.

The Finance Act 2020 has, by the amendments introduced to section 2(4) of the CGTA, clarified the CGT returns filing obligations of taxpayers in Nigeria. We note that the Public Notice was issued by the FIRS, to give effect to the amended provisions of the CGTA. Whilst, it is certain that the provisions now require taxpayers to bi-annually file CGT returns and remit the CGT as may be applicable, the provisions are not explicit, as to the applicable basis periods and the filing deadlines.

With respect to the basis periods, it is unlikely that chargeable assets disposed of close to the due date or on the due date can be captured in the self-assessment CGT returns filed by taxpayers. This is likely to put taxpayers in the position of incurring inevitable penalty and interests on the disposal of assets on or close to the bi-annual CGT returns due dates.

To the extent that the Finance Act 2020 came into effect on January 1, 2021, we reasonably believe that the date of its passage into law and becoming effective, may impact asset disposal arrangements that may have been consummated prior to the commencement of the legislation. Where such a transaction is consummated in year 2021, the relevant compliance date by a taxpayer shall be no later than June 30, 2021.

It is imperative that taxpayers note and better structure applicable compliance obligations, in order to avert any exposure.

The Grey Matter Concept is an initiative of the law firm, Banwo & Ighodalo.

DISCLAIMER: This article is only intended to provide general information on the subject matter and does not by itself create a client/attorney relationship between readers and our Law Firm or serve as legal advice. We are available to provide specialist legal advice on the readers' specific circumstances when they arise.

Click [here](#) to read our Tax Alert 18

EDITORIAL TEAM

Ken Etim
(Managing Partner)
ketim@banwo-ighodalo.com

Abimbola Akeredolu, SAN, FCI Arb.
(Partner)
aakeredolu@banwo-ighodalo.com

Azeezah Muse-Sadiq
(Partner)
asadiq@banwo-ighodalo.com

Oluwatoba Oguntuase
(Practice Support Lawyer)
ooguntuase@banwo-ighodalo.com

Emmanuel Onyeabor
(Associate)
EOnyeabor@banwo-ighodalo.com

Rouna Erhieyovwe
(Associate)
RERHIEYOVWE@banwo-ighodalo.com

Enquiries:
taxteam@banwo-ighodalo.com

OUR OFFICES

48, AWOLOWO ROAD,
SOUTH WEST IKOYI
LAGOS, NIGERIA

AFRI-INVESTMENT HOUSE
50, AGUIYI-IRONSI STREET, MAITAMA
ABUJA, NIGERIA

234 9060003561-
2; 8050875883; 8092714452;
9020524921
(ABUJA - 09 2912127)

banwigho@banwo-ighodalo.com
www.banwo-ighodalo.com