1. What is Capital Gains Tax (CGT)?

Capital Gains Tax is a tax imposed on the disposal of a capital asset. Capital assets include land, machinery, shares, interest in partnership, and any right, title or interest in the assets listed above, but excluding depreciable assets and stock-in-trade. In simple terms, this means the tax imposed on the income derived from the disposal of one's capital asset.

2. Who is Liable for Capital Gains Tax?

Any person who disposes a capital asset in The Gambia is liable to pay the tax. In addition, any Gambian resident who sells a capital asset outside The Gambia is liable to pay capital gains tax.

3. What is the Capital Gains Tax Rate?

The rate charged depends on whether the disposal is made by an individual or a company, partnership, trustee etc.

- For individuals, the capital gains tax rate is 15% of the gains or 5% of the consideration, whichever is higher
- For companies, partnerships, trustees, etc. the rate is 25% of the gains or 10% of the consideration, whichever is higher.

4. How is Capital Gains Tax Calculated?

The applicable capital gains rate is applied on the consideration or gains. The consideration is the full selling price of the asset, whilst the gain is the consideration less the purchase price, improvement cost of the asset and cost of disposal. The capital gains cannot be reduced by any capital losses on another asset. In addition, no carry forward of capital losses for setoff against future gains is allowed. Foreign capital gains tax paid in the country of origin can however, be granted as a tax credit to the extent provided in a treaty. The amount of foreign tax credit allowed is the lesser of the foreign tax paid or the Gambian capital gains tax payable.

For example, Mr. X sells a land for D2 million and incurred D20, 000 as selling expenses. The land had cost him D1.5 million two years ago and he had spent D100, 000 on it as improvement. The Consideration = D2, 000, 000 and the Capital Gains = D380, 000 (i.e. D2, 000,000 – D1, 500,000 – D100, 000 - D20,000). Tax due is the higher of 15% of D380, 000 = D57, 000 or 5% of D2, 000,000 = D100, 000. Therefore, the capital gains tax liability is **D100, 000**.

5. When Shall a Taxpayer File and Pay Capital Gains Tax?

A capital gains taxpayer should fill the prescribed Capital Gains Tax Return and make payments of the tax due within 15 days after the disposal of a capital asset. Documents providing, evidence of ownership cost and selling prices should be attached to the return.

6. How and Where to File Returns and Pay the Capital Gains Tax?

Capital gains tax returns are submitted and payments made at the nearest DTD Tax Office in the Region where the taxpayer or the capital asset is resident.

7. Objection & Appeal of Tax Decisions

Taxpayers not satisfied with any tax decision can, within 30 days, object to such a decision through the Objection and Appeal process. The process starts with the filing of an objection at the GRA through to an appeal to the Tax Tribunal and then to the Court of Appeal where necessary.

8. Who is Exempted from Capital Gains Tax Filing and Payment?

Any person who disposes a capital asset is required to file a capital gains tax return. However, the following taxpayers are exempted from capital gains tax payment.

- a capital gain on disposal of a capital asset by any person, if the gain does not exceed D24,000.
- a capital gain derived by a local authority, district authority, Government institution, or charitable organisation;
- a capital gain on disposal of a private residence that was occupied by the taxpayer or their parents in the two years preceding the sale and where the full consideration is re-invested in another residential property within one year.
- a capital gain on disposal of agricultural land that was utilised by the taxpayer or

their parents in the two years preceding the sale and that the full consideration is re-invested in another agricultural land within two years.

In addition, a taxpayer can apply to the Commissioner General for extension of time to file a capital gains tax return if they have paid at least 90% of their capital gains tax liability due. The application should be made before the due date for filing. Extensions cannot exceed 30 days and can only be granted once a year.

9. Is the Payments Made a Final Tax?

YES. The capital gains tax is a final tax. Neither the gains nor the consideration received will be subjected to further taxation.

10. Offences

The following are offences punishable under the Income and Value Added Tax Act 2012.

- Failure to file a capital gains return and supporting documents
- Giving false or misleading information on capital gains tax
- Improper use of TIN
- Obstructing Revenue Officers in the performance of their duty.

This Brochure is not intended as an exhaustive explanation or replacement of the capital gains tax laws. If you require detail information about your capital gains tax obligations, you should contact GRA.

Gambia Revenue Authority
Capital Gains Tax Brochure

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