

TAX UPDATE

Deadline for filing Capital Gains Tax Returns



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On 31st December 2020, President Muhammed Buhari signed the Finance Act, 2020 (the “Finance Act”) into law. The Finance Act amends several tax and fiscal related legislations including the Capital Gains Act, Cap C1, LFN, 2004 (the “CGT Act”).

The Finance Act amends Section 2 of the CGT Act by inserting after subsection (3), a new subsection (4) which provides that subject to the provisions of the CGT Act on replacement of business assets, every person having disposed a chargeable asset shall, not later than 30th June and 31st December of that year, compute the capital gains tax (“CGT”), file self-assessment return and pay the tax computed in respect of the chargeable assets disposed in the periods.

Prior to the enactment of the Finance Act, the CGT Act provided that CGT should be assessed and remitted within the timeline for submitting Companies Income Tax (CIT) and Personal Income Tax (PIT) returns depending on who disposes the assets.

To provide clarity to stakeholders, the FIRS published an information circular on Clarifications on the Provisions of Capital Gains Tax (CGT) Act, No. 2021/09 dated 3rd June 2021 (“CGT Circular”). The CGT Circular clarifies that the due dates for filing returns and payment of CGT 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.

The CGT Circular also states that CGT returns comprises:

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

Annexed to the CGT Circular is the new CGT self-assessment form (CGT Form 003) to be used by taxpayers in preparing the self-assessment.

By virtue of Section 43 of the CGT Act which incorporates some provisions of the Companies Income Tax Act, CAP C21, LFN 2004 (as amended) (“CITA”) and the Personal Income Tax Act, Cap P8, LFN 2004 (as amended) (“PITA”), the penalty for non-compliance with respect to filing CGT returns would be the same penalty prescribed in CITA and PITA.



For companies, failure to file CGT returns attracts a penalty of ₦25,000 for the first month in which the failure occurs and ₦5,000 for each subsequent month in which the failure continues. Upon conviction, the responsible officer of the company may be liable to a fine of ₦100,000 or 2 years imprisonment or both.

In addition, a penalty of 10% of the amount of tax payable and interest at the monetary policy rate for late payment or non-payment of CGT applies.

It is noteworthy that the FIRS published clarifications with respect to compliance obligations of taxpayers on 3rd June 2021, therefore, given the short notice, it is unexpected that failure to file the returns and make the necessary remittances by 30th June 2021 should be penalised. As at the time of this update, the FIRS is yet to publish any notice waiving the penalty, therefore taxpayers should aim to file their returns by the stated deadline of 30th June.

Click [here](#) to access a copy of the CGT Form 003.

For further enquiries on the above, please contact taxteam@uubo.org.