

CAPITAL GAINS TAX

1. The Internal Revenue Service imposes tax at the rate of five per cent (5%) on the gains accruing from the realization of the assets mentioned in (2) if the amount realized exceeds GH¢50.00.
2. **Capital Gains Tax is imposed on the following:**
 - i) buildings of a permanent or temporary nature situated in Ghana
 - ii) business and business assets, including goodwill, of a permanent establishment situated in Ghana
 - iii) Land situated in Ghana
 - iv) Shares of a resident company
 - v) Part of, or any right or interest in, to or over any of the assets listed above.

Where any of the above assets is situated outside Ghana, Capital Gains shall only be imposed if the gains are brought into or received in Ghana.

3. **The sale or disposal of any of the following assets would not attract Capital Gains Tax**
 - i) Securities of a company listed on the Ghana Stock Exchange during the fifteen years after the establishment of the Ghana Stock Exchange.
 - ii) Agricultural land situated in Ghana
 - iii) Trading stock or certain classes of depreciable asset (i.e. assets in the pool)
4. **The following are exempt from Capital Gains Tax:**
 - i) Capital Gains accruing to or derived by a company upon a merger, amalgamation or re-organization if there is continuity of underlying ownership of at least twenty five per cent (25%)
 - ii) Capital Gains resulting from transfer of ownership of an asset by a person to that person's spouse, child, parent, brother, sister, aunt, uncle, nephew or niece.
 - iii) Capital Gains resulting from a transfer of ownership of the asset by a person to a spouse as part of a divorce settlement or a genuine separation agreement.

- iv) Capital Gains, where the amount received on realization, is within one year of realization used to acquire a chargeable asset of the same nature.

5. Returns

Any person who derives a capital gain from the realization of a chargeable. Asset has a duty to furnish the Commissioner with the following information within 30 days.

- i) The description and location of asset.
- ii) The cost base of the asset before the realization and how that cost base is calculated
- iii) The consideration received from the realization
- iv) The amount of any capital gain and tax payable with respect to that capital gain and tax
- v) The full name and address of the new owner of the asset.

6. Gift Tax

1. A person who receives a taxable gift the value of which exceeds GH¢50.00 is required to pay tax at the rate of 5% of excess over GH¢50.00

2. (a) A taxable gift is any of the following assets situated in Ghana

- i. building of a permanent or temporary nature
- ii. land
- iii. shares, bonds and other securities
- iv. money including foreign currency
- v. business and business assets and
- vi. part of, or any right or interest in, to, or over any of the assets in (i– v)

- (b). An asset or benefit situated in Ghana or outside received by a person resident in Ghana.
- (c) An asset whether situated in Ghana or outside received by a person resident in Ghana as a gift, where the asset has been credited in an account, has been invested, accumulated or capitalized in the name of or on behalf of or at the direction of that person.
- (d) Any monetary consideration or consideration in any other form aimed at ensuring the performance of an act or an omission which goes to the benefit of a resident person.

3. The following do not attract the gift tax

- a) Any gift received under a Will or upon Intestacy
- b) A gift received from a spouse, child, parent, sister, brother, aunt, uncle, nephew or niece
- c) A gift received by a religious body in so far as the gift would go to the benefit of the public or a section of the public
- d) A gift for charitable purposes

4. A person who receives a taxable gift has an obligation to furnish the Commissioner with the following information within 30 days

- i) The description and location of the taxable gift
- ii) The total value of the gift, how it is calculated and tax payable with respect to that gift
- iii) The full name and address of the donor of the gift
- iv) Any other information required by the Commissioner

The tax due on the gift should then be remitted to the Commissioner (or her representatives)