

The Republic of the Sudan
Ministry of Justice



The Capital Gains Tax Act, 1986



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The Capital Gains Tax Act, 1986

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In the Name of Allah, the Gracious, the Merciful

The Capital Gains Tax Act, 1986
(24/4/1986)

Title

1. This Act may be cited as the, "Capital Gains Tax Act, 1986".

Application

2. The provisions of Chapter III, of the Income Tax Act, 1986 shall apply, with respect to this Act, as if the tax levied under the provisions thereof is an income tax.

Interpretation

3. In this Act, unless the context otherwise requires, :- ¹
"Capital asset", means lands, building, cars of the types thereof, factories and all capital and incorporeal assets and it includes:-
 - (a) ships and aeroplanes ;
 - (b) incorporeal assets (goodwill -trademarks);
 - (c) company or partnership, factory, or disposal of by

¹ Act No.40 , 1974 , Act No. 10, 1990, Act No. 11, 2006, Act No. 33, 2010..

	transferring ownership of its shares or portions.
"Income Tax Committee",	means the Income Tax Committee established under the provisions of Section 54 of the Income Tax Act 1986 .
"Minister",	means the Minister of Finance and Economic Planning;
"Gain",	means the capital gain resulting out of sale of property subject to tax, under the provisions of this Act;
"Secretary General",	means the Secretary General of the Taxation Chamber;
"Tax",	means the capital gains tax, levied under the provisions of this Act;

Collection of tax

4. The Secretary General shall be entrusted with implementing the provisions of this Act, and collecting the tax levied thereunder. ²

² . Act No. 40, 1974 .

Levy of tax

- 5.(1) The tax shall be levied on every defacto, or de jure gain, as may result from any of the disposals transferring the ownership of the capital asset .³
- (2) Disposals of transferring the ownership of assets of the companies and subject to Deduction and Addition of the Budget according to the Income Tax Act, 1986 , shall be excluded from application of the provisions of Sub-section (1).⁴

Disposals transferring ownership to other than some relatives

6. All the legal disposals transferring ownership of the capital asset, to other than the husband, wife, sons, father, mother, grandchildren or for a public purpose shall be deemed sale, and the value of the same shall be assessed at the market price.⁵

Gain subject to tax

7. The gain subject to tax shall be specified after deduction of the following amounts, from the price of the capital asset :-⁶
- (a) the value of purchase, or building the capital asset;

³ Act No. 53, 1991.

⁴ Act No. 33, 2010.

⁵ Act NO.10, 1990.

⁶ Act No. 10, 1990, Act No. 40, 1974.

- (b) costs of enhancement entered into the capital asset, during the period of acquisition;
- (c) the expenses relating to sale of the capital asset;
- (d) any amount paid as price differences in accordance with the Urban Planning and land Disposal Act 1994;
- (e) any other expenses, as the regulations may specify.

Losses carried forward

8. Where any person incurs losses in any year upon the sale of any property subject to tax, under the provisions of this Act, the value of losses shall be carried forward, and deducted upon verifying the gains subject to tax, for the year subsequent thereto; provided that such losses shall not be carried forward, for a period, exceeding three years, after the end of the year in which the losses have occurred.

Tax rates

9. Tax shall be paid on the total capital gains, upon assessment, at such rates, as are set forth in Schedule II hereto .

Persons subject to tax

10. Where the capital gains of any person are subject to tax, under the provisions of this Act, such gains shall be assessed on him, and the tax shall be levied thereon, in accordance with the provisions of this Act.

Tax levied on agent

11. Gains pertaining to a non-resident person may be assessed and the tax concerning him shall be levied on his agent.

Tax levied on donor

12. Without prejudice, to the provisions of Section 6, tax shall be levied, with respect to gifts and presents, on the donor.

Tax levied on executor of legacy.....etc

13. There shall be subject to tax, the accumulated, or received gain, before the date of death of the late person, and shall be assessed as if he has not died, and the tax due on such gain shall be levied on the executor of his legacy, the administrator of his estate or his successors, at the same rate of tax, which would have been levied on him, had it not been for his death.

Tax levied on whoever gains concerning another person are assessed

14. Every person, in whose name gains of another person are assessed, and tax is levied thereon, in connection with assessment of such gains, shall be required to perform every work, which this Act requires to be performed, and shall be liable, for payment of any tax, levied thereon accordingly, within the limits of any assets of such other person, as may be

in his possession, at the time of notification of assessment, or thereafter. ^y

Retaining what is sufficient to pay tax

15. Every person liable, under the provisions of this Act, for payment of tax, on behalf of another person, shall retain, with him, out of any money he receives, on behalf of such other person, as may be sufficient to pay such tax.

Compliance in case of associations of corporate personality

16. Where any obligation is imposed on a person, under the provisions of this Act, and that person is an association having corporate personality, its general manager, or any senior official thereof shall be liable for such obligation. [^]

Assessment of gains

17. The Secretary General shall assess the gains of any person subject to tax, as soon as possible, after the expiry of the period specified for filing the return. [^]

^y Act No. 40, 1974.

[^] Act No. 40, 1974.

[^]Ibid.

Power of the Secretary General upon presenting the return

18. Whenever a person presents a return of his gains, the Secretary General may :-
- (a) admit the return, and assess his gains, on the basis thereof;
 - (b) where he has reason to believe that such return is not accurate, he may assess the value of gains of such person, as he may deem appropriate, and he may seek the help of such evaluation committees, as he may appoint, where he deems that appropriate, and the opinion of the same shall be consultative .^{''}

Procedure in case of non-filing of return

19. Where a person does not file a return of his gains, whether, or not, the Secretary General requires the same from him, and the Secretary General deems such person subject to tax, he may, as he may deem fit, assess the value of gains of such person, and subject the same to tax. ^{''}

^{''}Ibid.

^{''} Ibid .

Appeal to Secretary General ^{١٢}

- 20.(1) Any person who contest such assessment, as may have been issued, under the provisions of this Act, may appeal against such assessment, by a written notice addressed to the Secretary General, within thirty days, of the date of assessment, and the notice shall not be deemed valid, unless precisely mentioned therein the grounds against such assessment.
- (2) Where the appellant does not accept the decision of the Secretary General, he shall have the right to appeal to the Income Tax Committee within thirty days from notification with the decision, provided that he shall pay 25% of the assessed tax value or as the Secretary General may see it appropriate.

Appeal to the court

21. The Secretary General or the agrieved person from the decision of the Income Tax Committee may appeal such decision to the concerned competant court in Administrative appeals, within thirty days from date of knowledge of the decision. ^{١٣}

^{١٢} Act No. 40, 1974 , Act No. 11, 2006.

^{١٣} Ibid.

Period of accrual of tax

22. The levied tax shall accrue, in every assessment, and be due for payment, within thirty days, of the date of the assessment letter of the Secretary General .¹⁴

Extension of period

23. The Secretary General, upon reasonable grounds, may extend the period within which the tax is due for payment , and fix a date, for payment of the same. ¹⁵

Prohibition of registration or transfer of ownership

24. The ownership of any capital asset shall not be registered, or transferred, save after presenting a certificate of tax clearance, from the Secretary General, in proof of payment of the tax due on such capital asset.¹⁶

Procedure in case of non-payment of tax at the time fixed

25. Where the tax is not paid, at the time fixed, the Secretary General may apply the provisions of Chapter XIV of the Income Tax Act, 1986, as if the tax levied, under the provisions of this Act, is an income tax .¹⁷

¹⁴ Act No. 40, 1974.

¹⁵ Ibid.

¹⁶ Act No. 40, 1974, Act No. 10, 1990.

¹⁷ Act No. 40, 1974 .

Exemptions

- 26.(1) Notwithstanding any provision contrary in other laws, the gains set forth in Schedule I, hereto shall be exempted from tax, to the extent specified therein.
- (2) The Minister, by a decision, to be issued thereby , upon a recommendation, by the Secretary General, may exempt any gain totally, or partially, to the extent set forth in such decision.¹⁸

Offences and penalties

27. The provisions of Chapter XV of the Income Tax Act,1986 relating to offences and penalties, shall apply, as if the tax levied, under the provisions of this Act, is an income tax. ¹⁹

Power to make regulations

28. The Minister may make such regulations , as may be appropriate, for the implementation of the provisions of this Act.

¹⁸ Act No. 53, 1991.

¹⁹ Act No. 40, 1974 .

Schedule I

Exemptions

(See section 26(1))

The following shall be exempted from tax :-

- (a) the gain realized by the National Government, or any of its units, or the units of the States Governments, local governance, public corporations, or institutions, by the sale of the capital asset ;¹
- (b) in case of an individual person, there shall be exempted 25% of the value of the sale of the only owned house, or only plot of land, which has vested into the owner thereof, in a residential plan, or where he exchanges, or it is exchanged by purchase of another house or other plot of land, within the period of one year of the date of sale; provided that such exemption shall not be repeated throughout the life of the individual;¹
- (c) the gain returning to religious, educational or social associations, from the sale of the property thereof;
- (d) re-assessment of assets presented by individuals and companies as subscription in kind, to limited companies ; on condition of non-disposal of the shares corresponding to their portions, for a period of four years at least. Where the shares are sold, or such assets are sold before that, the capital gain shall be assessed, on

¹ Act No. 40, 1974.

² Act No. 10, 1990 . Act No. 22, 1995.

the basis of value of the assets, before re-assessment thereof .

Schedule II

Tax Rates ^{xx}

(See section5)

Tax shall be paid, at the rate of 2%of the gain resulting from the sale of the capital asset.

^{xx} Act No. 52, 1991, Act No. 22, 1995, Act No. 11, 2006.