



## Capital Gains Tax FAQs

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## **What is Capital Gains Tax (CGT)?**

CGT is tax levied on gains made from the transfer of property situated in Kenya whether or not the property was acquired before 1st January 2015. .

## **What is the rate for Capital Gains Tax?**

The CGT rate was increased from 5% of the net gain to 15% of the net gain, effective 1st January 2023.

## **When is CGT payable?**

The due date (referred to as Tax Point) for CGT is upon registration of the transfer instrument in favour of the transferee.

## **Is Capital gains tax final tax?**

Yes. Capital gains tax is a final tax and is not subject to further taxation.

## **Who pays Capital Gains Tax?**

Capital Gains Tax is payable by the person who has transferred property (seller)

## **Is Capital Gains Tax levied on non-resident?**

Yes. If the gain is derived from sale of property situated in Kenya then capital gains tax is payable. Unless there is double Tax Agreements guide on certain circumstances.

## What are some of the exemptions and exclusions?

- Income that is taxed elsewhere as in the case of property dealers.
- Issuance by a company of its own shares and debentures.
- Transfer of property for the purpose only of securing a debt or a loan.
- Transfer by a creditor for the purpose only of returning property used as security for a debt or a loan.
- Transfer by a personal representative of any property to a person as beneficiary in the course of the administration of the estate of a deceased person.
- Transfer of assets between spouses or between former spouses as part of a divorce settlement or a bona fide separation agreement;
- Transfer of assets to immediate family or to a company where spouses or a spouse and immediate family hold 100% shareholding;
- A gain on transfer of securities traded on any securities exchange licensed by the Capital Markets Authority
- A private residence if the individual owner has occupied the residence continuously for the three-year period immediately prior to the transfer concerned subject to the provisos under Paragraph 36(c) of the First Schedule to the Income Tax Act, Cap 470.
- Property (being land) transferred by an individual where the transfer value is not more than three million shillings
- Property (being land) transferred by an individual is an agricultural property having an area of less than fifty acres where that property is situated outside a municipality, gazetted township or an area that is declared by the Minister, by notice in the Gazette, to be an urban area for the purposes of this Act

- Property (including investment shares) which is transferred or sold for the purpose of administering the estate of a deceased person where the transfer or sale is completed within two years of the death of the deceased or within such extended time as the Commissioner may allow in writing. Where there is a court case regarding such estate, the period of transfer or sale under this paragraph shall be two years from the date of the finalization of such court case.
- Property, including investment shares, which is transferred or sold for the purpose of transferring the title or the proceeds into a registered family trust.
- The transfer of title of immovable property to a family trust.
- A transfer of property that is necessitated by a transaction involving the incorporation, recapitalization, acquisition, amalgamation, separation, dissolution or similar restructuring of a corporate entity, where such transfer is -
  - a legal or regulatory requirement;
  - as a result of a directive or compulsory acquisition by the government;
  - an internal restructuring within a group which does not involve transfer of property to a third party; or
  - in the public interest and approved by the Cabinet Secretary.

## **What is the method of computing Capital Gains Tax?**

Transfer value less adjusted cost then tax at 15%.

Follow this link <https://www.youtube.com/watch?v=yMy301IbHTs> and learn more on how to compute Capital gains tax

## **How does one pay for Capital Gains Tax?**

Payment should be initiated online via iTax. Login to iTax >> Payments >> Payment Registration >> Tax head (Income tax), Sub head (Capital Gains Tax) >> Enter the transaction details >> Submit. The modes of payment include cash, cheque or RTGS.



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