



BASIS OF CHARGEABILITY OF THE CAPITAL GAIN TAX IN TANZANIA

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Capital gain is an increase in a capital asset value and is considered to be realized when the asset is sold. In the United Republic capital gain assessment is governed by the Income Tax Act (as amended).

The law clearly stipulates that any person who sells a financial asset owned by him in Tanzania then the difference between value of consideration for which such financial asset is sold and its adjusted cost that has not been claimed as deduction in respect of capital gain income on such person accrued or derived from the united republic in the year of income it takes place.

However, one might question, what of the circumstances in which a non-resident owning assets outside the united republic?

This is simple, the only asset that will be subject to capital gain are those that are duly registered within the country. Under the circumstances where a non-resident has ownership of asset that are outside the boundaries of the united republic and such assets were not registered in Tanzania then such assets cannot attract capital gain tax in Tanzania.

In the case of Afrika Mashariki Gold Mine Limited v Commissioner General, it was upheld that;

“A non-resident person owing assets outside the united republic is not chargeable to tax...”

What of the circumstance in which a sale of financial asset sold is not owned in the United Republic?

The only assets that are subject to capital gain assessment are those that are owned and duly registered within the United Republic. Only those shall be subject to assessment on sale.

Therefore under the circumstances that a sale is made on an asset not owned in the United Republic, then the transaction is not chargeable to capital gain as per the Income Tax Act 2004.

The same was upheld in the case of Afrika Mashariki Gold Mine Limited v Commissioner General where it stated;

“Given that the instrument in question were executed outside the United Republic, that they did not relate to any property in Tanzania and were not register able in Tanzania, they could



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not be subject to capital gain tax.”