Nigeria's Capital Gains Tax reforms

What the new 30% rate and indirect transfer rules mean for investors

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Introduction

A deal involving the sale of a foreign company, whether in London, Dubai, Amsterdam, Johannesburg or any other jurisdiction, can now create tax consequences in Nigeria, even where the transaction does not involve a direct transfer of Nigerian shares. Following the commencement of the Nigeria Tax Act on 1 January 2026, Nigeria’s Capital Gains Tax regime has entered a new phase. The new regime introduces higher tax rates, broader taxing rights, and rules on indirect transfers that significantly reshape the tax landscape for investors and businesses.

Evolution of Capital Gains Tax (CGT) in Nigeria

CGT was introduced in Nigeria in 1967 at a flat rate of 20%, later reduced to 10% under the Investments and Securities Decree and subsequently consolidated into the CGT Act.

Under previous versions of the CGT Act, gains from the disposal of shares were totally exempt. The lower CGT rate compared to the income tax rate and the total exemption for disposal of shares incentivised entrepreneurs and investors.

However, from 2022, gains from direct disposal of shares in Nigerian companies became subject to CGT at 10%, unless certain specific exemption criteria were met. Taxpayers were required to compute, pay, and file returns by 30 June or 31 December of the year of disposal.

Nigerian tax reforms

Nigeria's tax reforms introduced four landmark laws: the Nigeria Tax Act (“NTA”), the Nigeria Tax Administration Act (“NTAA”), the Nigeria Revenue Service Act, and the Joint Revenue Board (Establishment) Act. Together, these laws seek to modernise Nigeria's tax system and strengthen revenue mobilisation.

Under the NTA, significant changes have been made to the CGT regime. Most notably, the CGT rate for companies has increased from 10% to 30%, aligning it with the corporate income tax rate and supporting a more unified tax framework for the treatment of gains and income.

In addition, the NTA expressly brings indirect transfers of shares or interests in Nigerian companies and assets within the scope of CGT. Consequently, offshore transactions that result in a change in ownership of Nigerian companies or assets may now trigger CGT liabilities in Nigeria.

These reforms are intended to ensure that gains derived from Nigerian assets remain within Nigeria’s taxing jurisdiction, including where offshore holding structures are used.

Specifically, section 17(2) of the NTA provides that gains derived by a non-resident from the disposal of chargeable assets are taxable in Nigeria where:

- the asset is located in Nigeria; or
- the asset is deemed to be located in Nigeria.

Section 46(f) further provides that shares or comparable interests in foreign entities are deemed to be located in Nigeria where, at any time during the 365 days preceding their disposal, more than 50% of their value is derived, directly or indirectly, from Nigerian assets.

Section 47 of the NTA provides that gains accruing from the disposal of shares by a non-resident constitute chargeable gains where the disposal results in:

- a change in the ownership structure or group membership of any Nigerian company; or
- a change of ownership of, title in, or interest in any asset located in Nigeria.

Interpretation of the indirect transfer rules

Together, sections 46(f) and 47 establish the framework for taxing indirect transfers of Nigerian assets. However, these provisions may be interpreted in different ways. Two principal interpretations are set out below.

A

The value threshold must be met first

On this interpretation, the rule that treats foreign shares as located in Nigeria acts as a gateway that must be satisfied before any tax charge can arise. Foreign shares are only treated as Nigerian assets if more than half of their value comes from assets situated in Nigeria. Only once this 50% threshold is crossed does the disposal become subject to capital gains tax. Following this logic, if a foreign company derives less than half its value from Nigerian assets, a disposal of its shares would fall outside the scope of Nigerian CGT entirely. This interpretation may be easier to apply in practice, particularly for listed groups whose shares are traded daily. Under this approach, investors would generally not need to consider Nigerian CGT where Nigerian assets account for less than 50% of the value of the foreign company being disposed of.

B

The change of ownership rule stands on its own

An alternative view treats the rule taxing disposals that change ownership of a Nigerian company or Nigerian asset as a self-contained charge, one that does not depend on the 50% threshold at all. On this reading, capital gains tax applies whenever a non-resident's sale of shares results in a change of ownership of a Nigerian company, or of an asset located in Nigeria, regardless of whether the foreign company involved meets the 50% Nigerian-value test. In effect, any transfer that brings about an indirect change in the ownership of a Nigerian company or asset could be taxable.

Taxpayers understandably tend to favour the first interpretation, as it narrows the scope of the tax. However, there is a strong argument that the change of ownership rule was deliberately designed as a separate, standalone charge, intended to protect Nigeria's right to tax transactions affecting ownership of Nigerian companies and assets, whether or not the 50% threshold is satisfied.

Comparative analysis of Nigeria and other jurisdictions

Nigeria now has a comparatively broad indirect-transfer regime among the selected African jurisdictions reviewed. The table below compares the CGT rates and indirect CGT regimes applicable to companies across selected African jurisdictions:

Country	CGT rate	
South Africa	21.60%	Indirect CGT applies where the local entity or operation is land/property-rich.
Morocco	20%	Indirect CGT applies where the local entity or operation is land/property-rich.
Kenya	15%	Indirect CGT applies where the local entity or operation is land/property-rich.
Ghana	25%	
Nigeria	30%	

Table 1: Comparison of CGT rates across selected African countries.
Source: PwC Worldwide Tax Summaries.

Nigeria therefore combines both the highest headline CGT rate among major African economies and one of the broadest indirect transfer regimes on the continent. By comparison, many jurisdictions limit indirect transfer rules to interests deriving their value primarily from mineral assets or immovable property.

Emerging issues and uncertainties under the new CGT regime

Although the reform has significantly expanded Nigeria's taxing rights, a number of technical and administrative uncertainties remain unresolved.

01

Applicability of Development Levy to capital gains

There is some uncertainty as to whether capital gains also form part of the profits subject to Development Levy ("DL"), given that capital gains are no longer dealt with under a standalone CGT regime. However, there may be a basis for excluding the gains from DL.

02 Absence of express provisions allowing deduction or utilisation of capital losses

The NTA does not expressly provide whether capital losses are deductible from capital gains realised by companies. By contrast, the NTA expressly allows individuals to deduct capital losses in determining their total taxable income.

The absence of an express provision for companies creates uncertainty as to the treatment of capital losses. Further clarification may therefore be required through a subsequent Finance Act or other appropriate legislative amendment.

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03 Deductibility of operating losses from capital gains and vice versa

Related to the issue above is whether trading (revenue) losses and capital losses can be utilised interchangeably under the new regime.

Historically, capital gains tax operated as a separate tax system. However, with capital gains now forming part of the broader framework for determining taxable income under the NTA, it remains unclear whether operating losses may be offset against chargeable gains and whether capital losses may similarly be applied against operating income. The NTA does not appear to expressly address this interaction.

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04 Filing obligations where a disposal results in a capital loss, especially for non-residents

Another issue is whether a taxpayer is required to file a CGT return where a transaction results in no taxable gain. The legislation appears to require a "gain" for non-residents to fall within Nigeria's taxing jurisdiction (including filing and reporting).

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05 No guidance on share identification rules and valuation

The new laws do not prescribe how taxpayers should identify the cost base of shares where multiple tranches have been acquired at different times and prices. For example, they do not specify whether taxpayers should apply the first in, first out (FIFO) method or another recognised share identification method. As shares are fungible, this may lead to inconsistent treatment by taxpayers and disputes during audits.

Also, valuation remains one of the most significant practical challenges under the indirect transfer provisions. While quoted market prices are available for listed shares, determining the market value of unlisted entities or constituent entities within a listed group often requires complex valuation methodologies. The absence of statutory valuation guidance increases compliance burdens and raises the likelihood of disagreements between taxpayers and the tax authorities.

06

Is there a step-up in cost basis?

It may be inferred from the broader policy direction of the tax reforms that pre-2026 investments could be treated as having a stepped-up cost basis. In practical terms, this would be relevant for assets such as immovable property acquired under the previous CGT regime before the new law came into effect, as a step-up in cost basis would support a fairer tax outcome.

However, this treatment is not expressly provided under the NTA or guidelines. As a result, it is not yet clear whether the tax authorities will adopt this position in practice.

Key considerations for investors

The reforms strengthen Nigeria's fiscal position by closing long-standing gaps in the tax framework and ensuring that value derived from Nigerian assets remains appropriately within Nigeria's taxing jurisdiction. The reforms provide significant opportunities for investors to optimise value in their Nigerian portfolio companies including the ability to claim input VAT on a broader range of expenses, access to the economic development incentive, and other available exemptions and reliefs. There are also planning options available for the disposal of shares by smaller investors and an exemption for reinvestment in Nigerian companies.

Other things for investors to consider are:

- The combination of a 30% CGT rate and the taxation of indirect transfers may influence how investors evaluate and structure investments involving Nigerian assets.
- The expanded scope of the rules may increase the importance of tax due diligence, valuation analyses, and transaction planning, particularly for cross-border transactions and corporate reorganisations.
- The new regime may encourage investors to place greater emphasis on available exemptions, reinvestment reliefs and other incentives when assessing investment opportunities.

Conclusion

By aligning the taxation of chargeable gains more closely with the broader income tax framework and extending coverage to indirect transfers, Nigeria has modernised its CGT regime and significantly strengthened its ability to tax value derived from Nigerian assets.

As with any major tax reform, questions have emerged during the transition to the new regime. These issues, as highlighted in this article, may require further clarification through legislative amendments, regulations, or administrative guidance.

Such clarification would not only support consistent implementation of the law but also provide taxpayers with greater certainty as they navigate the new rules.

1. Presidential Fiscal Policy and Tax Reforms Committee, "What You Need to Know About the New Capital Gains Tax Rules and Capital Market Investment in Shares," LinkedIn post, available at: https://www.linkedin.com/posts/taiwoyedele_new-cgt-rule-on-shares-ugcPost-7394073360969666560-Oxic/.

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