ETHIOPIA

CAPITAL GAINS TAX PROCLAMATION NO. 108/1994

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A PROCLAMATION TO PROVIDE FOR THE PAYMENT OF TAX ON GAINS FROM CAPITAL

WHEREAS, the economic policy of the transitional period has created conducive environment for the revitalization of the private rector of the economy; and it is recognised that the development of the private sector will lay down basis for the expansion of transaction in capital assets;

WHEREAS, transfer of capital assets generates gains arising from the increase in the value of capital to die owner;

WHEREAS, levying tax on all gainful activities in the economy maintains neutrality and equitability in the tax system,

NOW THEREFORE, in accordance with Article 9(d) of the Transitional period Charter it is hereby proclaimed as follows:

1. Short Title

This Proclamation may *be* cited *as* the "Payment of Tax on Gains from Capital Proclamation No. 108/1994."

2. Definition

In this Proclamation

1. "Urban area" means any area designated as such by the appropriate law.
2. "House" shall mean any building whether fully constructed or under construction intended for dwelling or business or other purposes.

3. Scope

Unless exempted under Article 8 of the Proclamation or directives to be issued thereunder, tax shall be paid in accordance with the provisions of this Proclamation on gains realized from the increase in value upon the sale of:

1. Shares and Bonds
2. Urban houses

4. Rate 0f Tax

The rate *of tax* levied on gains realized from *the* increase in value of Capital *assets* listed under Article *3* *of* this Proclamation shall be 30% (thirty per cent).

5. Basis of Computation of the Tax

1. The value of the Capital asset shall be the price for which the Capital asset is sold.

2. Prior to calculating taxable income:

a) an amount for the adjustment of inflation.

b) loss of capital incurred within the year preceding the date on which the sale is effected, shall be deducted from the value of the capital asset.

3. The method of calculating the taxable income and the adjustments under sub-article 2 of this Article shall be regulated by directives to be issued by the Minister of Finance or the National Regional Self-Governments as the case may be.

6. Assessment of the Tax

1. The tax on gains from the increase in value of capital assets shall be calculated and paid in accordance with Article 5 of this Proclamation.

2. The taxpayer has the obligation to maintain documents showing expenditures made in connection with the capital asset and the price for which it is sold.

3. If the payer has maintained documents in accordance with sub-article 2 of this Article the gain on which the tax is payable shall be determined (by) the appropriate tax authority on the basis of such documents.

4. If the capital asset is a house and if the taxpayer has not maintained documents on the basis of which the gain realized from the increase in value of the house may be determined the tax authority shall determine by estimation the cost of construction or purchase of the house and the price for which it is sold.

5. The provisions of the Income Tax Proclamation No. 173/1961, concerning maintenance of records and books, tax assessment notifications, penalties, appeals and such other execution provisions shall wherever appropriate apply for the payment of tax on gains obtained from the increase in value of capital.

7. Payment of the Tax

Any person or organization having gains arising out of increase in value of capital assets shall declare his/its gains and pay the tax thereon within one month from the sale of the capital asset.

8. Exemption.

The aggregate annual gains of less than birr 10,000 realized upon sale from the increase in value of capital assets shall be exempt from tax payable under this proclamation.

9. Sharing of Revenue

The tax payable under this proclamation shall be shared in accordance with the principles laid down in Articles 4 and 5 of the Definition of Sharing of Revenue Between the Central Government and the National/Regional Self-Governments Proclamation No. 33/1992.

10. Duty to Cooperate

1. Any Organization authorized by law to accept, register or in any way approve the transfer of capital assets shall not accept, register or approve the transfer before ascertaining that the payment of the tax has been duly effected in accordance with article 7 of this proclamation.

2. Any person or organization which by reason of business relations or by any other reason knew or has information about sale or transfer of capital assets shall bring the same to the attention of the tax authority.

11. Offences

Any taxpayer who violates the provisions of this proclamation or who is not willing to submit or conceals information necessary for the assessment of the tax or in any way obstructs or attempts to obstruct the work of the Tax Authority shall upon conviction by the court, be punishable by imprisonment ranging from 3 to 5 years in addition to a fine ranging from birr 20,000 to 30,000.

12. Power of the Minister of Finance

In addition to the powers vested in him under other Articles of this proclamation, the Minister shall have the power to:

1. Upon approval by the Council of Ministers, waive in whole or in part, the tax levied under this Proclamation; and

2. Issue directives for the proper implementation of this proclamation.

13. Effective Date

This Proclamation shall enter into force on the date of its publication in the Negarit Gazeta (November 2, 1994).