Capital Gains Tax in the Nigerian Oil & Gas Sector

Research on the Administration of Capital Gains Tax in the Nigerian Oil and Gas Sector

(Oil & Gas Sales 2005 - 2015)
VALUE OF ASSETS DIVESTED

$8.6 billion

ADDAX PETROLEUM

$2.5 billion
No Capital Gain Tax paid on the sale of Addax Petroleum to Sinopec in 2009 from divestment of Assets worth $2.5b.

ConocoPhillips

$1.79 billion
No CGT paid on the transfer of ConocoPhillipOil Company Nigeria Limited to Oando Hydrocarbon through the acquisition of the shares US$1.79billion.

The claims of divestment by sale of shares by the Addax Petroleum and ConocoPhillipOil Company Nigeria were NOT verified and confirmed by the FIRS. The sale and purchase agreement (the major document that could reveal the basis for the divestment) is yet to be provided by both parties even after the deal has been concluded.
Analysis of Assets Disposed from 2005 to 2015

- **2005 - 2015**: Duration of Disposal
- **34**: No. of Assets Disposed
- **$1.5 billion**: Total Value of Assets Disposed by Shares
- **$4.75 billion**: Capital Gain over the period
- **$475 million**: Estimated Capital Gain Tax
- **$503.6 million**: Capital Gain Tax Collected
- **$4.47 billion**: Total Cost Claimable
CGT Rates across Africa

Average rate: 16.67%

- Senegal: 15%
- Gambia: 5%
- Cape Verde: 20%
- Ghana: 15%
- Nigeria: 10%
- Zambia: 35%
- Namibia: 0%
- Botswana: 25%
- South Africa: 40%
- Kenya: 0%
- Uganda: 30%
- Tanzania: 20%
- Zimbabwe: 35%
OMLs 18, 71 & 72 should be closely reviewed as the values reported on the schedule from Finance Ministry is so much higher than the amounts reported by the transacting companies in their tax returns.
1. **CGT Review**

Nigeria should review CGT to apply to all divestments in the Oil & Gas sector including those based on share exchange.

The 30% rate on the Capital Gains realized on disposal being proposed under the National Petroleum Fiscal Policy Document should be amended as a rate change in the CGT Act for the oil & gas sector.

2. **Process Review**

Strongly advocate for mandatory review of any proposed divestment contract by the FIRS and the issuance of appropriate clearance before DPR can give its final approval in respect of any divestment.

“The Administrative process in Nigeria tends to impose the burden of CGT on the buyer by price escalation instead of the seller or varying levies and charges being applied to bridge the gap.”

3. **CGT Review**

Nigeria should review CGT to apply to all divestments in the Oil & Gas sector including those based on share exchange.

“Rate of Capital Gains Tax should be increased for the Oil Sector ONLY”

The 30% rate on the Capital Gains realized on disposal being proposed under the National Petroleum Fiscal Policy Document should be amended as a rate change in the CGT Act for the oil & gas sector.

4. **Inquiry**

OMLs 18, 71,72 should be closely reviewed as the values reported on the schedule received from MoF is so much higher than the amounts reported by the transacting companies in their tax returns.