

# Capital Gain Tax

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## Session Agenda

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- Overview of Capital Gain Tax
- What is Capital Gain or Loss?
- What are the prescribed rates of CGT?
- What are Securities?
- What is Cost of acquisition?
- Implementation and calculation of CGT
- Reporting of Capital Gain Tax



## Overview of Capital Gain Tax

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- ❑ Capital Gains Exempt up-to 30<sup>th</sup> June, 2010
- ❑ Tax implemented from July 1, 2010
- ❑ CGT Implementation around The World





# CGT Implementation around the world



# CGT Implementation around the world



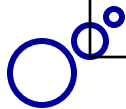
<b>Australia</b>	<b>Taxable</b>	50% tax discount on assets acquired after 21-09-1999. Gain on sale of family home is exempt.
<b>Canada</b>	<b>Taxable</b>	50% tax rebate. Gain on sale of one's primary residence is exempt.
<b>China</b>	<b>Taxable</b>	Flat 20% of capital gains taxed with traded equities are being exempt.
<b>Denmark</b>	Gain on long term Investment (Three years is exempt)	Realized gain on Short-Term investment is subject to tax @ 28% to 45%, depending level of income. However, gain on sale of bond and one's principal private residence is exempt.
<b>France</b>	<b>Taxable</b>	CGT is payable @ 16%, with annual allowance of Euro: 5600. However gain on sale of principal private residence is exempt.



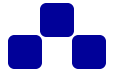
## CGT Implementation around the world



<b>Germany</b>	Gain on long term Investment (One year is exempt)	With effect from 2009 gain on Short Term Investment would be 25%. Real estate is free from tax, if hold more than ten years
<b>India</b>	Gain on Long-Term investment is exempt	Gain on short term investment (less than one year) is taxable @ 15%.
<b>Mauritius</b>	Exempt	Gain arising from the parceling out of land is taxable.
<b>Norway</b>	Taxable	CGT is payable @ 28%, however there is no gain on sale of one's principal home
<b>Pakistan</b>	Taxable	Slab wise taxation applied, effective from 01-07-2010.



## CGT Implementation around the world



<b>Sweden</b>	<b>Taxable</b>	Fixed Gain tax, on sale of stocks, bonds, real estate and personnel property
<b>Thailand</b>	Exemption for Local Investors	CGT is payable for foreigners 15%.
<b>Turkey</b>	<b>Exempt</b>	CGT is payable for foreigners 15%.
<b>United Kingdom</b>	<b>Taxable</b>	With effect from 06-04-2008, it will be taxed @ 18%. However there will be exemption to all individuals up-to annual income of pound 9,200.
<b>United State of America</b>	<b>Taxable</b>	Lower rate of tax i.e. 5% to 15%, on Long-Term-Gains (Assets held for more than one year)





# What is Capital Gain or Loss?



## What is Capital Gain Tax ?

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**Capital gain** means the difference between consideration from disposal of a security and the price paid or would have been paid for acquisition of such security when former exceeds the later, provided that capital gain, in case of a borrowed security, means the difference between consideration received from short selling of the borrowed security and the price paid or payable to purchase it for its return to the lender of such security.

Capital Gain Tax is applied when securities are sold, Mark to Market or Impairments in portfolio are not eligible for capital gain tax.



## What is Capital Loss ?

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**Capital loss** means the difference between cost of acquisition of a security and the consideration from disposal of that security when the former exceeds the later.



## What are the prescribed rates of CGT?

S.No.	Period	Tax Year	Rate of Tax
1	Where holding period of a security is less than six months	2011	10.0%
		2012	10.0%
		2013	12.5%
		2014	15.0%
		2015	17.5%
2	Where holding period of a security is more than six months but less than twelve months.	2011	7.5%
		2012	8.0%
		2013	8.5%
		2014	9.0%
		2015	9.5%
		2016	10.0%
3	Where holding period of a security is more than one year.	--	0%



# What are Securities ?

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## **Clause (34) of Section 2 of the Companies Ordinance, 1984**

Security means any share, scrip, debenture, participation term certificate, modarba certificate, term finance certificate, bond, pre-organization certificate or such other instruments as the Federal Government may, by notification in the official Gazette, specify for the purpose.

## **Clause (110) [deleted] of the Part I of the Second Schedule to the Income Tax Ordinance, 2001**

Modaraba certificates or any instrument of redeemable capital as defined in the Companies Ordinance, 1984 (XLVII of 1984), listed on any stock exchange in Pakistan or shares of a public company and the Pakistan Telecommunications Corporation vouchers issued by the Government of Pakistan



## What are Securities ?

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### Clause (30A) of Section 2 of the Companies Ordinance, 1984

“**Redeemable Capital**” includes finance obtained on the basis participation term certificate (PTC\_, musharika certificate, term finance certificate (TFC), or any other security or obligation not based on interest, other than an ordinary share of a company, representing an instrument or a certificate of specified denomination called the face value or nominal value, evidencing investment of the holder in the capital of the company on terms and conditions of the agreement for the issue of such instrument or certificate or such other certificate or instrument as the Federal Government may by notification in the official Gazette, specify for the purpose;



## What is Cost of Acquisition ?



**Cost of acquisition** of any security means the market price of the security which the investor pays or would have paid to purchase such security, provided cost of acquisition

- i. in case of a right share, means the discounted price at which the right shares are issued to a share holders by the issuer;
- ii. in case of a security acquired through bequest or inheritance means the market price of security at which the deceased person making bequest or leaving the inheritance, as the case may be, paid or would have paid to purchase such security;
- iii. in case of bonus issue means the market price of bonus shares immediately following the bonus issue which the investor would have paid to purchase the bonus shares; and
- iv. in case of initial public offering, the actual price paid to the issuer shall be treated as the cost of acquisition of such securities





# Implementation and Calculation of CGT





## 13A. Acquisition of Securities

- (1) A security may be acquired through purchase, exchange, bonus issue, right issue, gift, bequest, inheritance, leverage schemes and derivative contracts.
- (2) A security may be acquired in the electronic book entry form or in the form of physical certificate.
- (3) A security may be acquired through the trading platform provided by a stock exchange or through off market transactions.

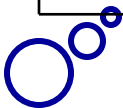




## 13A. Acquisition of Securities

(4) In case of securities other than units of an open mutual fund, broker's bill for the purchase, broker generated computerized ledger statement of the investor's brokerage account, CDC statement of the investor's CDC sub account and payment of cost of acquisition through cheques shall be supportive evidence of acquisition of securities.

(5) In case of units of an open end mutual fund, certified statement of investor's account provided by the asset management company shall be supportive evidence of acquisition of securities.





## 13B Disposal of securities

- (1) A security may be disposed of through sale, gift, exchange or transfer by the security holder in any other way.
- (2) A security may be disposed of in the electronic book entry form or in the form of physical certificate.
- (3) A security may be disposed of through the trading platform provided by a stock exchange or through off market transactions.



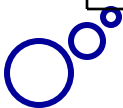
# Implementation & Calculation of CGT



## 13B Disposal of securities

(4) In case of securities other than units of an open mutual fund, broker's sale proceeds or difference bill, broker generated computerized ledger statement of the investor's brokerage account, CDC statement of the investor's CDC sub-account and proof of payment through cheques shall be supportive evidence of disposal of securities.

(5) In case of units of an open end mutual fund, certified statement of investor's account provided by the asset management company shall be supportive evidence of disposal of securities.

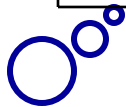


# Implementation & Calculation of CGT



## 13C. Holding period

- (1) Securities held for a period up-to a maximum of one eighty-two days and for a period upto a maximum of three sixty-five days shall be taken as held for six months and one year respectively.
- (2) In case of short positions, holding period shall be the period intervening between the date when a security is sold short and the date when the security is purchased to cover the short position.
- (3) In case of futures contracts, holding period shall be the period intervening between the date of entry into a futures contract and the date of exit from such contract.

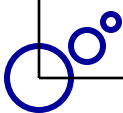


# Implementation & Calculation of CGT



## 13E. Computation of capital gain or loss on derivatives

- (1) In case of long position in deliverable futures contracts, capital gain or loss shall be computed as the difference between cost of acquisition of securities underlying the futures contract and the consideration from disposal of those securities to close the long position at or before maturity of the contract.
- (2) In case of short position in deliverable futures contracts, capital gain or loss shall be computed as the difference between the consideration from short sale of securities underlying the futures contract and the cost of acquisition to purchase those securities to close the short position on or before maturity of the contract.



# Implementation & Calculation of CGT

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## **13E. Computation of capital gain or loss on derivatives**

(3) In case of cash settled futures contracts, capital gain or loss shall be the cash payment which the investor respectively receives from or makes to the other party to such contract to settle the contract on or before maturity of the contract.





### **13E. Computation of capital gain or loss on derivatives**

(4) In case of options, capital gain or loss shall be the difference between exercise price of the options and the consideration from disposal of the securities underlying such options.

(5) In case of contracts of right, capital gain or loss shall be the difference between cost of acquisition of right shares underlying the contract and the consideration from disposal of those shares.





## 13D. Computation of capital gain or loss

- (1) Capital gain or loss arising on the disposal of any security shall be computed on the basis of First In First Out (FIFO) inventory accounting method.
- (2) Capital loss arising on disposal of securities in any tax year shall be set off against capital gain arising from the disposal of securities during that tax year to determine the taxable capital gain arising from the disposal of securities.
- (3) Capital loss arising on disposal of securities in any tax year shall not be carried to a subsequent tax year.



# Implementation & Calculation of CGT



## 13D. Computation of capital gain or loss

Clause D regarding Computation of Capital Gain or Loss Clause (2) of rule 13E of SRO 865(1)/2010 dated September 7, 2010 provided the following provision in respect of Profit made on sale of Borrowed Securities and 'Profit made on disposal of shares acquired under margin Finance Scheme, Margin Trading Scheme or other Financing or Leverage schemes approved by Securities and Exchange Commission of Pakistan.

Therefore it has been proposed to insert the below mentioned provisions in the SRO 112(1)/2011 dated February 11, 2011



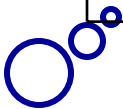
# Implementation & Calculation of CGT



## 13D. Computation of capital gain or loss

Profit made on sale of borrowed shares shall be treated as capital gain when such shares are acquired for their return to Authorized Intermediary. Period intervening between acquisition and disposal of such borrowed shares shall determine the “holding period” in which the capital gain or loss falls. “Specific Identification Method” shall be used to determine the acquisition cost and consideration for disposal of such securities.

The difference between cost of acquisition and consideration received against disposal (net off all borrowing costs) of such shares shall be treated as capital gain or loss. This rule shall be applicable to the securities borrowed in accordance with the “Securities Lending and Borrowing Scheme” approved by Securities and Exchange Commission of Pakistan.



## Implementation & Calculation of CGT

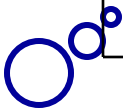


### 13F. Capital loss adjustment disallowed in certain cases

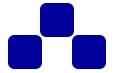
(1) Capital loss adjustment as provided in rules 13D and 13E shall not be admissible in the following cases, namely:-

**(a) Wash Sales** where capital loss realized on disposal of a specific security by an investor is preceded or followed in one month's period by purchase of the same security by the same investor, thus maintaining his portfolio.

***Explanation.***- Wash sale is sale of a security at loss and repurchase of the same security soon before or afterwards the sale so as to realize an unrealized loss to make it claimable as a set off against capital gain. The security sold in a wash sale is repurchased with the aim to re-acquiring it at or near its sale value in order to maintain the risk return profile of portfolio;

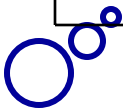


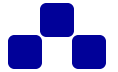
## Implementation & Calculation of CGT



### 13F. Capital loss adjustment disallowed in certain cases

**(b) Cross trades** where coordinated reshuffle of securities between two related accounts of the same investor, between two related accounts of the related investors, between two membership cards of the same broker or between two related brokerage houses is undertaken and securities accumulating unrealized losses are sold to related accounts to artificially realize capital losses in one account without actually selling the securities to an outsider and the artificial losses so realized in an account are then used to minimize capital gain tax liability on the capital gain realized in the same account





### **13F. Capital loss adjustment disallowed in certain cases**

**(c) Tax Swap Sales** where the investor having realized loss (as in the case of a wash sale) on a particular security does not repurchase the same security but chooses another similar security in the same sector thus not only minimizing or eliminating altogether liability on account of tax on capital gain, but also maintaining the portfolio broadly at the same risk return profile.



# Implementation & Calculation of CGT

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## **13G. Exemption from tax on capital gain**

Exemptions shall be applicable as provided under the Ordinance.

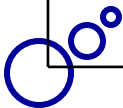


# Implementation & Calculation of CGT



## 13H. Payment of tax on capital gain

- (1) Every investor shall calculate tax on capital gain arising on securities held for a period up-to six months, and above six months to one year, after the end of each tax year at the prescribed rates.
- (2) Every investor other than individual investor shall e-file statement of advance tax on capital gain on the prescribed format within seven days after the end of each quarter with the tax authority having jurisdiction in the case.
- (3) The liability to pay the due tax on capital gain shall lie on the investor who held the securities during the period for which tax on capital gain is to be paid and, in case of any benami accounts, on the investor who de facto owns the securities carried in such accounts.





## 13I. Maintenance of records

- (1) Every investor shall maintain accounts and records separately for each of his brokerage accounts regarding his securities business which sufficiently enable for verification of the discharge of his obligations under these rules.
  - (a) fortnightly ledger statements of the investor's brokerage account or each brokerage account if there are more than one account whether in the investor's own name or any benami accounts, generated by his broker;
  - (b) fortnightly CDC statements of the investor's CDC sub account or each CDC sub account corresponding to each brokerage account, if there are more than one brokerage account whether held in the investor's own name or any benami accounts;





### **13I. Maintenance of records**

- (c) record of security holdings and their value carried in the investor's brokerage account as on 30<sup>th</sup> June of each year;
- (d) record of cash carried in the investor's brokerage account as on 30<sup>th</sup> June of each year;
- (e) record of funds deposited in the investor's brokerage account; and
- (f) record of funds withdrawn from the investor's brokerage account.



# Implementation & Calculation of CGT



## 13J Liability of broker

- (1) Every broker or stock exchange's member, before closing the brokerage account of an investor, shall require an investor to obtain a tax clearance certificate from the concerned tax authority to the effect that the investor has no tax liabilities outstanding against him.
- (2) Any broker or stock exchange's member who closes an investor's brokerage account without obtaining a tax clearance certificate and the investor disappears from the market without satisfying the tax authorities that he has no tax liabilities outstanding against him, such broker shall be liable to discharge such investor's outstanding tax liabilities to the satisfaction of tax authorities.



# Implementation & Calculation of CGT

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## **13L (o) jurisdiction of tax authority**

Means the jurisdiction of the tax office in which business of the securities is being carried on by a person and where such business is carried on in more than one place, the person's principal place of business.





# Report Formats Identified in SRO Feb 2011



# Statement of Capital gains tax liability

## Part – I

### Particulars of investor's account

1. Investor's Name(s)

(i) .....

(ii) .....

(iii) .....

2. Complete Address(es)

(i) .....

(ii) .....

(iii) .....

3. Brokerage Account No. ....

4. Date of Opening of Brokerage Account.....

5. Type of Account (individual, joint, AOP, firm, company).....

## Statement of Capital gains tax liability

### Part – I

#### Particulars of investor's account

6. Name of Brokerage Firm/ Company.....
7. Contact No. and Address of Brokerage Firm/ Company .....
8. CDC sub account No.....
9. Total Value of Shares carried in account as on 30<sup>th</sup> June .....
10. Total Cash carried in account as on 30<sup>th</sup> June.....
11. Tax period (tax year/quarter) .....
12. Capital gain during the tax period .....
13. Capital Loss during the tax period.....
14. Net gain/loss.....
15. Tax on capital gain payable for the tax period.....  
(Calculated in part II, III & IV of summary of transactions)

Investor's Name .....

Signature.....

Date.....



### Part – III

#### Summary of shares held above six months to one year - tax payable @ 7.5%

Sales					Purchases					Capital Gain (Loss)	CGT payable
Date of Sale	Particulars of Shares	No. of Shares	Sale price per share	Sale Proceeds	Date of purchase	Particulars of Shares	No. of Shares	Purchase price per share	Total Purchase Price		

Investor's Name .....  
 Brokerage Account No.....  
 Signature.....  
 Date.....

**Part – IV**  
**Summary of shares held for more than one year – no tax payable**

Sales					Purchases					Capital Gain (Loss)	CGT payable
Date of Sale	Particulars of Shares	No. of Shares	Sale price per share	Sale Proceeds	Date of purchase	Particulars of Shares	No. of Shares	Purchase price per share	Total Purchase Price		

Investor's Name .....  
 Brokerage Account No.....  
 Signature.....  
 Date.....

## Part – V

### Affidavit

I ..... S/O ..... CNIC No..... resident of .....holding brokerage account No. .... with the brokerage firm.....and holding CDC sub account No.....with Central Depository Company do hereby solemnly affirm that particulars of my account given in Part I and the particulars of share transactions conducted during the tax period given in Part – II, III and IV of the summary of share transactions are true and correct and in accordance with the ledger statements and CDC statements of my account for the above mentioned tax period.

I further affirm that nothing has been concealed or incorrectly stated regarding my account. I know that in case any particulars of my account and share transactions conducted during the above mentioned tax period and given under rule 13M of the Income Tax Rules, 2002 as mentioned above are found to be false being not in conformity with ledger statements and CDC statements of my account, I am liable to be penalized in accordance with rule 13K of the Income Tax Rules, 2002.

Deponent (investor's name)

Signature

Date”.

# Computation of CGT as per **SRO** Feb-2011

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Q & A



# Computation of CGT as per **SRO** Feb-2011

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Demonstration through Model  
developed in Excel sheet





**Thanks**



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A. Qadir & Company

Taxation & Company Law Consultants