

Capital Gains Tax

What is it?

It is the tax on any capital gain, when you dispose of an asset such as investments or property. A capital gain is the growth after subtracting the cost of the asset plus everything you have done to make the asset more valuable, for example, additions to your house. The tax comes into effect on October 1, 2001. You will only be taxed on that part of the capital gain, which has taken place and is realised after the tax kicks in on October 1, 2001.

Who will be taxed?

South African residents will be taxed on realised capital gains on assets held inside South Africa as well as everywhere else in the world. For non-resident CGT will occur only in respect of immovable property or interests in immovable property situated in SA or assets of a permanent establishment, branch, fixed base or agency in South Africa through which a trade, profession or vocation is carried out.

How it works:

You will declare capital gains as part of your normal income tax return and you will be taxed at your marginal tax rate. A CGT event takes place when a disposal or deemed disposal of an asset takes place. As a general rule, an asset is acquired or disposed of whenever there is a change in ownership of the asset. The capital gain or loss is the difference between the base cost of the affected asset and the money received when selling it. The base cost includes what you paid in order to acquire the asset plus any other costs relating to the acquisition and disposal of that asset (for example lawyers fees, stamp duty, agents commission, plus vat, plus improvement costs, plus any other legal costs involved).

As individuals the first R10 000 of your total capital gain will be disregarded. Twenty-five percent of the rest of your gain the total of your capital gains made in a year, less your capital losses will be included in your taxable income. A capital gain by somebody other than a natural person will be taxed on 50 percent of that person's net capital gain for that year of assessment. For example: Albert purchased a house in order to derive rental income from the property (therefore his property will not be his primary residential property). He bought the house on October 1, 2001 for a total cost of R1 250 000. Two years later Albert sells the property for R1 500 000. Assuming Albert pays income tax at the maximum marginal rate of 42 percent and that he has no other capital gains or losses in the specific tax year, his additional income tax liability as a result of the released capital gain will be determined as follows:

Proceeds: R1 500 000 Base cost: R1 250 000 capital gain: R250 000 Annual exclusion: R10 000 = R240 000 Taxable capital gain (R240 000 X 25%) = R60 000 Therefore R60 000 will be included in Alberts taxable income for the tax year Tax payable (R60 000 X 42%) = R25 200

What is not included in CGT? All capital assets are considered affected assets and therefore potentially subject to CGT. Some of the assets that will be excluded from CGT include:

- A primary owner-occupied residence up to a maximum of R1-million and including up to two hectares of adjacent vacant land.
- All private motor vehicles, and personal belongings and effects.
- Retirement benefits, certain 1st hand policies such as long-term insurance and endowments, retirement annuities.

Certain small business assets, compensation for personal loss and winnings from gambling, game and competitions as long as you are a natural person and the winnings are from within SA.

What is included in CGT? Investments: such as shares and unit trusts, 2nd hand policies, any profit resulting from the sale of property you don't use as a primary residence, coins, certain aircraft and boats and land.

Investments: As with other capital gains, as individuals the first R10 000 of gain will be disregarded and 25 percent of the gains are included. You would declare these investment gains annually and the R10 000 exclusion would apply annually.

How do you value your assets? You can evaluate the base cost of your house in using one of two methods; the valuation method and the time apportionment method. If you want to use the valuation method, you should have your property valued as at October 1, 2001. The time apportionment method may be more complex. It involves taking a look at the total capital gain from the day you bought it to the day you sold it, and then working out how much of the gain took place after October 1. To value your house you calculate the base cost, plus estate agent fees and then improvements.

What about inheritance? CGT is levied on all deceased estates. The same applies to donations. However, the transfer of assets on divorce and donations between spouses will not be subject to CGT. To compensate for the impact of Capital Gains Tax, estate duty and donation tax will be reduced from 25 to 20 percent on the 1st of October 2001.

What records should you keep? It is up to you to prove the base cost, so keeping good records is essential. If you haven't kept good records you can obtain copies of the relevant documentation from your financial adviser, estate

agents, attorneys etc. You need to record all details of acquiring and disposing of the asset, such as the date you acquired the asset, the price you paid for it, and any additional money you spent on the purchase. You also need to keep tabs of bond fees, any money you spent on improvements, the date you disposed of the asset and the profit or loss you made when you disposed of it.

Keep all relevant contracts and valuations plus receipts for all money you have spent on it and keep those records for at least four years after disposal. A final word of advice, Nkala says "remember you can not claim a capital loss if it arises from your use of the asset, for example you cannot get tax back if the value of your car depreciates from use."