

Automatic Tax Rate Increases for 2011 Complicate Year-End Tax Planning

Capital gains on the sale of assets held more than 12 months are taxed at a lower rate than ordinary income. The Jobs and Growth Tax Relief Reconciliation Act of 2003 and Tax Reconciliation Act of 2006 temporarily reduced the tax rate on long-term capital gains until January 1, 2011. At this time, the previous rates are scheduled to be automatically reinstated. Congress has been discussing a temporary extension of the current tax rates but this possibility remains uncertain at the present time.

As a result, taxpayers face uncertainty about whether they should be planning for taxable gains in 2010 or 2011. Taxpayers will need to determine if they should defer their taxes under Code Section 1031 with an exchange of real estate or cash-out and take their gains in 2010 before a higher tax rate becomes effective.

Tax rates on long-term capital gains on a sale of real estate now and in 2011 can be summarized as follows if there is no further action by Congress :

	Now	2011
Taxpayers in a regular tax bracket higher than 15%	15%	20%
Taxpayers in the 15% or 10% regular tax bracket	0%	10%

Capital gains (long-term) attributable to depreciation taken on real estate investments are taxed at a rate of 25% (15% for taxpayers in a 10% or 15% tax bracket) before the above referenced tax rates begin to apply.

Commencing in 2013, a new Medicare tax of 3.8% will be imposed on capital gains from the sale of real estate for high-income taxpayers. High-income taxpayers are those with gross income of \$200,000 for individuals or \$250,000 for couples. This tax will only apply to the amount of gain which causes adjusted gross income to exceed the high-income threshold.

Talk to your tax advisor about your alternatives in this uncertain tax environment. You may find that a 1031 Exchange remains desirable as an alternative to paying taxes under either rate schedule. Call us at 888-367-1031 or email us at 1031@1031cpas.com if we can help with any questions. Our Exchange Manual is also available free of charge at www.1031cpas.com. 1031 Corporation is the Intermediary of choice for real estate professionals, CPAs and investors.

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