



THE NEW FEDERAL CAPITAL GAINS TAX RULES ON THE SALE OF REAL ESTATE

The American Taxpayer Relief Act of 2012 has established the way long-term capital gains will be taxed in 2013 and in the future until the law is once again changed. The top Federal rate for long-term capital gains and dividends will remain at 15% for individual taxpayers with incomes of \$400,000 or less (\$450,000 for married taxpayers). The top rate for capital gains and dividends exceeding this level of income will rise to 20%.

In A Nutshell, here are the general rules for Federal long-term capital gains tax on the sale of investment real estate commencing with 2013 -

- 20% High income taxpayers (see above)
- 15% Taxpayers in a tax bracket Higher than 15%
- 0% Taxpayers in the 15% or 10% regular tax brackets

25% Rate for “Depreciation Recapture” - Depreciation taken on the real estate which is sold is taxable at a maximum 25% tax rate (15% for taxpayers in 10% and 15% tax bracket). The remainder of the gain from the sale of depreciable real property is taxed at the maximum tax rates referred to above.

The New Medicare Tax of 3.8%. In addition, commencing in 2013, a Medicare tax of 3.8% will be imposed on capital gains from the sale of real estate for high-income taxpayers. High-income taxpayers for this tax are taxpayers with gross income of \$200,000 for individuals (\$250,000 for married taxpayers). This tax will only apply to the amount of gain which causes adjusted gross income to exceed this high-income threshold.

Exceptions to the Medicare Tax -

- **Real estate used in a trade or business** will not be subject to this tax.
- **Real estate sold by Real Estate Professionals** also will not be subject to this tax. *A Real Estate Professional is a taxpayer who spends more than half of his time during the year (and at least 750 hours of service) in real property trades or businesses in which he materially participates.*

Talk to your tax advisor when you are anticipating a sale of real estate. Call us at 888-367-1031 or email us at 1031@1031cpas.com if we can assist with questions about an exchange of your real estate. See our Exchange Manual and visit us at www.1031cpas.com. 1031 Corporation is the Intermediary of choice for real estate professionals, CPAs and investors.

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