

Re: 2023 Transaction Planning: Sale of Residence

Dear Client,

You may qualify to exclude from your income all or part of any gain from the sale of your main home. Your main home is the one in which you live most of the time.

Ownership and Use Tests

To claim the exclusion, you must meet the ownership and use tests. This means that during the 5-year period ending on the date of the sale, you must have:

- Owned the home for at least two years (the ownership test)
- Lived in the home as your main home for at least two years (the use test)

Gains and Losses

If you have a gain from the sale of your main home, you may be able to exclude up to \$250,000 of the gain from your income (\$500,000 on a joint return in most cases). You cannot deduct a loss from the sale of a home.

Reporting the Sale

If you receive an informational income-reporting document such as Form 1099-S, *Proceeds From Real Estate Transactions*, you must report the sale of the home even if the gain from the sale is excludable. Additionally, you must report the sale of the home if you can't exclude all your capital gain from income.

More Than One Home

If you have more than one home, you can exclude gain only from the sale of your main home. You must pay tax on the gain from selling any other home. If you have two homes and live in both of them, your main home is ordinarily the one you live in most of the time.

Example One. You own and live in a house in the city. You also own a beach house, which you use during the summer months. The house in the city is your main home; the beach house is not.

Example Two. You own a house, but you live in another house that you rent. The rented house is your main home.

Business Use or Rental of Home

You may be able to exclude your gain from the sale of a home that you have used for business or to produce rental income. But you must meet the ownership and use tests.

Example. On February 1, 2014, Amy bought a house. She moved in on that date and lived in it until May 31, 2015, when she moved out of the house and put it up for rent. The house was rented from June 1, 2015, to March 31, 2017. Amy moved back into the house on April 1, 2017 and lived there until she sold it on January 31, 2019. During the 5-year period ending on the date of the sale (February 1, 2014 - January 31, 2019), Amy owned and lived in the house for more than 2 years as shown in the table below.

<u>Five Year Period</u>	<u>Used as Home</u>	<u>Used as Rental</u>
2/1/14-5/31/15	16 months	
6/1/15-3/31/17		22 months
4/1/17-1/31/19	<u>22 months</u>	_____
	38 months	22 months

Amy can exclude gain up to \$250,000. However, she cannot exclude the part of the gain equal to the depreciation she claimed for renting the house.

Suspension of the Five-Year Test Period

If you or your spouse are on qualified official extended duty in the Uniformed Services, the Foreign Service or the intelligence community, you may elect to suspend the five-year test period for up to 10 years. An individual is on qualified official extended duty if for more than 90 days or for an indefinite period, the individual is:

- At a duty station that is at least 50 miles from his or her main home, or
- Residing under government orders in government housing.

Installment Sales

If you sold your home under a contract that provides for all or part of the selling price to be paid in a later year, you made an installment sale. If you have an installment sale, you may report the sale under the installment method unless you elect out. Even if you use the installment method to defer some of the gain, the exclusion of gain remains available.

Contact Us

If you have any questions related to the sale of your home, please call our office. We are happy to discuss your options.

Sincerely,

EWK Legal, Tax & Accounting Services

For clients interested in selling their main home. (04/07/2023)