

The Sale of a Personal Residence

Capital Gains Home-Sales Tax Break a Boon for Homeowners

By Les Rubin

What's the best tax break available to Mr. and Mrs. Taxpayer? If they are homeowners, it's selling their house. Homeowners already know the many tax breaks that Uncle Sam offers, most notably mortgage interest and property tax deductions. Well, he also has good tax news for home sellers: Most of them won't owe the Internal Revenue Service a single dime.

When you sell your primary residence, you can make up to \$250,000 in profit if you are a single owner, twice that if you're married, and not owe any capital gains taxes. Most people are not going to have a tax obligation unless their gain is huge.

Some sellers are surprised by this break, especially if they have had their homes for a while. That is because before May 7, 1997 the only way you could avoid paying taxes on your home-sale profit was to use the money to buy another, more-expensive house within two years. Sellers age 55 or older had one other option. They could take once-in-a-lifetime tax exemption of up to \$125,000 in profits. In all instances, there was tax paperwork (Form 2119) to fill out to show that you followed the rules.

When the Taxpayer Relief Act of 1997 became law, the home-sale tax burden eased for millions of residential taxpayers. The rollover or once-in-a-lifetime options were replaced with the current per-sale exclusion amounts.



Les Rubin, pictured above, is Treasurer of CNCC and a certified public accountant. Les and his son Steve won a gold rating at the 2007 Chevy Vette Fest in November for their 2002 convertible.

There is some logic to this law change because most people under the prior rules didn't recognize a taxable gain because they rolled it over into another residence. The change essentially makes it easier to dispose of your residence.

Still Some Requirements to Meet

If you used pre-1997 rules for residential sales, don't worry. That doesn't disqualify you from claiming the exclusion on any residential sales now. The law change applies to all sales since it took effect.

Another bonus of the new rules: You don't have to buy another home with your sales proceeds. You can use the money to purchase a Corvette, travel to Europe in style, buy an RV to drive across the country, or get all those designer shoes you never could afford before.

There is no limit on the number of times you can use the home-sale exemption. In most cases, you can make tax-free profits of \$250,000 (or \$500,000 depending on your filing status) every time you sell a home.

We are talking taxes here. You did notice that phrase "in most cases." There is always a catch. Before you put a For Sale sign in the yard, you need to make sure your house-sale situation is one of those most cases.

First, the property you are selling must be your principal residence. That means you live in it. This tax break does not apply to a house or other property that you have solely for investment purposes. In those cases, the usual capital gains rules apply.



You can, however, turn a rental house into your primary residence, making the sale of it eligible for the exclusion. This is accomplished when you meet the IRS use and ownership tests: You own and live in the home for two out of five years before the sale. ●