



## **Taxation of capital gains from private disposal of property and financial holdings in incorporated companies**

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### **I. General information on the taxation of capital gains from private disposal**

Income from private disposal transactions is not subject to income tax, apart from in a few exceptional cases. The increased value of private assets is only taxed if certain statutory conditions apply. If property or other assets, for example valuables or basic commodities, are sold within a specified period, this may entail taxation.

The taxable profit or loss from private disposal is calculated as the difference between the disposal price on one hand and the cost of acquisition or manufacture and professional expenses on the other hand.

Profits from private disposal are tax-exempt if the total profit generated from all private disposals in the calendar year is less than €600. This constitutes an exemption limit, i.e. if the limit of €600 is exceeded, the profit generated will be taxed in full.

Losses from private disposals may only be deducted up to the amount of the profit generated by the taxpayer in the same year from private disposals. Remaining losses from sales may also be deducted from profits from sales in the preceding year or subsequent calendar years.

### **II. Disposal of private tangible assets**

#### **II.1. Disposal of developed and undeveloped plots of land**

Profits generated from the sale of privately-owned undeveloped or developed land (e.g. detached family homes, flats and multiple family homes) are taxable in the event of disposal of the land within ten years of acquisition. Buildings and improvements added at a later date increase the acquisition cost of the land provided that they are built within the ten-year period.

The profit from the disposal of certain rights equivalent to property, e.g. privately-owned building leases or mineral rights, is also subject to tax if the rights are sold within the 10-year period of capital gains liability.

The profit from the disposal of a property used for the proprietor's own residential purposes is not even taxed upon sale within the period of capital gains tax liability if said property

- was used continuously from the date of purchase or
- was used for the proprietor's own residential purposes in the year of sale and in the two preceding years.

Expenses which have had a tax-reducing effect in connection with the cost of acquisition or manufacture, e.g. deduction for wear and tear, increase capital gain and must be included for determination of the profit/loss on disposal.

The taxable capital gain is taxed at the personal income tax rate of the taxpayer.

N.B.: Individuals without a residence or habitual abode in Germany are subject to limited tax liability for their profit from the disposal of land or private rights equivalent to property. The German right of taxation is usually not restricted by the Double Taxation Conventions.

## II.2 Disposal of movable assets

The disposal of valuables or basic commodities (for example jewel, paintings, gold, motor cars and so on) is taxable, if those assets are sold within a period of one year of acquisition. If the use of these assets – for example by leasing them – causes gains in one calendar year, the period of gains tax liability increases to ten years.

N.B.: Individuals without a residence or habitual abode in Germany are not subject to limited tax liability for their profit from the disposal of valuables or basic commodities of private property.

## III. Disposal of private shareholdings in incorporated companies (< 1 %)

### Domestic creditor:

The profit from disposal of private equity in incorporated companies (e.g. equity in a limited company, shares), which is bought after the 31st of December 2008, is taxable. For taxability it is not relevant that the disposal takes place within a certain period of time. So far those profits together with other capital gains exceed an amount of €801 (for celibates) or an amount of € 1.601 (for spouses), withholding tax plus solidarity surcharge (26,37 per cent) has to be withheld. The taxation is compensated therewith generally.

However, sales of shareholdings from 1 % are subject to tax as business income in Germany.

### Foreign creditor:

The disposal of private shareholdings in incorporated companies normally is not taxable for foreign creditors.

**Private shareholdings from 1 % are subject to special regulations.**