

## Exempt capital gains

Depending on the nature of the property sold, the value of the sale, the length of ownership, etc., certain capital gains are exempt from taxation.

The exemptions may apply in the following cases:

- sale of a main residence;
- a first sale of a dwelling other than a main residence;
- sale by elderly or disabled persons with low incomes;
- more than 30 years of ownership of the sold property;
- sale of a dwelling in France, subject to conditions, by non-residents;
- sale with a value of less than EUR 15 000;
- the nature of the transactions carried out (expropriation, etc.);
- certain apportionments of property;
- sale of real estate to bodies responsible for social housing or buyers who undertake to provide social housing;
- sale of a right to extend a property vertically.

In addition, subject to conditions, there is an exceptional allowance that applies to the sale of existing buildings.

### Sale of a main residence

The capital gain you make when selling your main residence is fully exempt.

This must be your **usual** and **actual** main residence: i.e. the residence that you occupy most of the year; thus, the temporary use of a dwelling, in particular just before it is sold, will not allow you to benefit from the exemption.

'Immediate and necessary outbuildings' such as cellars, garages, garret rooms [*chambres de bonne*], etc. which are sold at the same time are also exempt.

A garage not adjacent to your dwelling but less than a kilometre away is considered to be an immediate outbuilding.

It must also be your main residence on the date of the sale; however, if you have already left the home on the date of the sale, you may still benefit from the exemption provided that you have occupied it until the date it was placed on the market and the sale takes place within a normal period (in principle, one year).

### Special cases

- If you are a pensioner or a disabled adult resident in a nursing home or a care home, you may benefit from the exemption for the capital gain on the sale of your main residence if it takes place within 2 years of you entering the care facility and if that residence has remained unoccupied since you entered the facility. Other conditions must also be met in order to

benefit from this exemption. For the penultimate year preceding the year of the sale, you must:

- not have a reference taxable income exceeding the limits laid down in Article 1417(II) of the French General Tax Code. For example, for sales made in 2022, the limit on your income for 2020 is EUR 26 515, plus EUR 6 195 for the first additional half-unit and EUR 4 877 for each additional half-unit;
  - not be liable for property tax (*Impôt sur la fortune immobilière* – IFI).
- if you have accommodation provided by your employer, that dwelling is in principle your main residence. However, a dwelling you otherwise own and in which your partner and children actually and permanently reside can be considered your main residence.

### **First sale of a dwelling other than a main residence**

The capital gain that you make on the first sale of a dwelling other than a main residence is exempt, subject to meeting the following conditions:

- you have not been the owner of your main residence, either directly or through an intermediary, during the 4 years preceding the sale;
- you use the money earned from the sale within 24 months after the sale takes place in order to purchase or build a dwelling to be used as your main residence as soon as the property is completed or purchased.

If only part of the sale price is used, the capital gain exemption will be proportionate to the portion of the sale price that is actually used.

**Example:** a dwelling is sold for a price of EUR 300 000; the capital gain is EUR 120 000. The seller allocates an amount of EUR 180 000 to purchasing their main residence, i.e. 60% of the sale price.

The exempt capital gain is therefore equal to 60% of EUR 120 000, i.e. EUR 72 000, and the taxable capital gain is EUR 48 000.

**Note:** income declaration no 2042-C contains a specific box (3VW) to be completed if you benefit from this exemption, whether total or partial.

### **Elderly or disabled people of modest means**

Whatever real estate you sell as a pensioner, your capital gain may be exempt if during the penultimate year preceding the year of the sale (e.g. income in year 2020 for a sale in 2022):

- your reference taxable income does not exceed the limits laid down in Article 1417(I) of the French General Tax Code;
- you were not liable for property tax (IFI).

Under the same conditions, the capital gains of persons holding a disability card (category 2 and 3 disabilities established in Article L 341-4 of the French Social Security Code) are also exempt.

These are persons who are absolutely incapable of practising any profession and persons who, in addition, require the assistance of another person for their everyday needs.

**Example:** an unmarried pensioner (or a person holding a category 2 or 3 disability card) made a capital gain on the sale of an apartment in 2022.

As a result of this person's circumstances, he or she has an entitlement of one and a half units in respect of income tax.

The capital gain on the sale is exempt if, in 2020, that pensioner's reference taxable income was less than EUR 11 276 and he or she was not liable for property tax (IFI) in 2020.

### **Length of ownership**

When calculating the capital gain, an allowance is applied for length of ownership. The method of calculation differs depending on whether the capital gain is taxable on income tax (19%) or social security (17.2% as from 1 January 2018).

With regard to income tax, the allowance is:

- 6% for each year of ownership beyond the fifth year and up to the 21st year;
- 4% for the 22nd complete year of ownership.

The full exemption from real estate capital gains being taxed on income tax is thus acquired once the property has been owned for 22 complete years.

With regard to social security, the allowance is as follows:

- 1.65% for each year of ownership beyond the fifth year and up to the 21st year;
- 1.60% for the 22nd year of ownership;
- 9% for each year beyond the 22nd year.

The exemption from social security is thus acquired once the property has been owned for 30 complete years.

**Example:** an apartment purchased on 1 May N, if sold in July N+15, will benefit from an allowance of:

60% in respect of income tax (6% x 10)

16.5% in respect of social security (1.65% x 10)

It will be fully exempt from income tax on 2 May N+22 and from social security on 2 May N+30.

You can find the table summarising the rates of reduction for length of ownership on the capital gains declaration forms: (2048-IMM, 2048-M and 2048-TAB).

### **Sale of a dwelling in France by non-residents**

Find all the relevant information in the following section: *Particulier* > *Gérer mon patrimoine....* > *Je vends un bien immobilier* (Private individual > Manage my property > I am selling a property).

### **Sale with a value of less than EUR 15 000**

Capital gains made on sales with a value equal to or less than EUR 15 000 are fully exempt.

This threshold of EUR 15 000 is calculated based on the value of the property or part of the property that is owned in full and it is assessed for each sale. Thus, if you complete several sales in a single year, the capital gains made are exempt if each sale has a value of less than EUR 15 000.

*Case of a private individual: sale of a jointly owned property.*

The threshold of EUR 15 000 is calculated on the basis of each ownership share and not on the total sale price.

You are therefore not taxed if the sale of your ownership share has a value of less than EUR 15 000, even if the overall sale price is above this threshold.

*Case of a private individual: sale of the bare ownership or usufruct.*

Full ownership of property consists of two rights in rem: bare ownership and usufruct. In order to assess the threshold of EUR 15 000, the fully owned value of the property must be taken into account.

Thus, when selling the bare ownership or usufruct of a property, you must adjust the sale price in order to determine a fully owned value. This calculation is based on the legal scale in force, depending on the age of the usufructuary (beneficial owner) (legal scale in Article 669 of the French General Tax Code).

**Example:** Ms X, aged 50, is a widow. She has three children. They jointly own a house with a value of EUR 100 000.

Ms X is the beneficial owner of the house; because of her age, the value of her usufruct is 60% of the value of the house. In the event of a sale, she is therefore entitled to EUR 60 000.

Her children, who are bare owners, receive a total of EUR 40 000, or EUR 13 333 each. Each child thus receives less than EUR 15 000.

However, they are not exempt: jointly, they are the bare owners of the entire house, so the full ownership value of their share in the house is EUR 100 000, or EUR 33 333 each.

#### **Nature of the transactions carried out (expropriation, etc.)**

A capital gain made on the sale of a property (a building or land) for which a declaration of public interest has been made for the purpose of expropriation, in the event of re-use of at least 90% of the compensation within 12 months of receipt thereof, for the purchase, construction or extension of a property, regardless of the use to which it is put (residential or business), is wholly exempt. With effect from 1 January 2018, that exemption extends to capital gains on property resulting from sales made by individuals in the context of a right of abandonment provided for in Articles L.152-2, L.311-2 and L. 424-1 of the French Urban Planning Code and Article L.515-16-3 of the French Environmental Code.

### **Certain apportionments of property**

Apportionment of jointly owned property in the context of inheritance, marriage, civil partnership, cohabiting partners or as a result of *inter vivos* distribution, between the joint owners, their ascendants or their descendants, is exempt from capital gains tax.

### **Social housing**

Capital gain from the sale of a property to a purchaser who undertakes, by means of a reference made in the official deed of purchase, to build and complete social housing within 4 years, is exempt in proportion to the living area of the social housing built compared to the total surface area of the buildings referred to in the building permit for the housing programme. When the purchaser is an organisation providing low-cost housing (HLM) or a similar body, that period is extended to 10 years, and a total exemption is given where the proportion of social housing built exceeds 80%.

### **Right to extend a property vertically**

A capital gain on the sale of a right to extend a property vertically by private individuals for the purpose of constructing buildings intended for residential use, and provided that the purchaser undertakes to construct and complete the property within 4 years from the date of purchase, is exempt. This exemption applies to capital gains made in respect of sales between 1 January 2018 and 31 December 2022.

### **Exceptional allowance for the sale of property situated within the perimeter of a major urban development operation (GOU) or a regional regeneration operation (ORT)**

An exceptional allowance of 70% is applicable to capital gains from the sale of property situated, in whole or in part, within the perimeter of a regional regeneration operation (*Opération de revitalisation du territoire* – ORT) or a major urban development operation (*Grande opération d'urbanisme* – GOU), provided that the following conditions are met :

- The sale must be undertaken by means of a signed unilateral or bilateral promise of sale with a firm date agreed between 1 January 2021 and 31 December 2023;
- The sale must be carried out no later than 31 December of the second year following that in which a firm date was agreed for the promise of sale. The allowance thus applies to sales taking place no later than 31 December 2025 in respect of promises of sale with a firm date agreed by 31 December 2023 at the latest.

The same exceptional allowance, applicable under conditions relating to demolition and reconstruction and increased dwelling density, applies to capital gains on sales of building lots or property situated in areas A and A *bis* of the territory defined in Article R. 304-1 of the French Construction and Housing Code (CCH) entered into by means of signed promises of sale and with a firm date agreed between 1 January 2018 and 31 December 2020, provided that the sale is carried out no later than 31 December of the second year following that in which a firm date was agreed for the promise of sale (Article 28 of the Amending Finance Act for 2017).

In order to qualify for the allowance, the purchaser undertakes, by means of a reference made in the deed of purchase, to demolish the existing building(s) with a view to carrying out and completing, within 4 years of the date of purchase, and subject to increased dwelling density, one or more multi-unit residential buildings. The condition relating to increased dwelling density shall be deemed to be satisfied if the footprint of the multi-unit residential building(s) constructed represents at least 75%

of the maximum authorised footprint resulting from the application of the rules of the local urban development plan or of an urban planning document serving as such. The maximum permitted footprint corresponds to the maximum construction potential of a plot of land.

The allowance rate is increased to 85% where the purchaser undertakes to construct and complete social or intermediate dwellings of which the living area represents at least 50% of the total surface area of the buildings referred to in the building permit for the housing programme.

*Updated 21/06/2022*

### **Textes de loi et références**

[Code général des impôts : articles 150 U, 150 VC du CGI](#) Exonération des plus-values de cession à titre onéreux de biens et droits immobiliers

[Bofip-Impôts n° BOI-RFPI-PVI-10-40 relatif aux exonérations de plus-values immobilières](#)

Service d'information des impôts

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