

## Capital gains taxed

Capital gains obtained by individuals and partnerships (companies not subject to corporation tax which carry out a non-business activity) are subject to a flat-rate tax at the time of transfer of:

- real estate, whether it is a constructed building or not (apartment, house or land, etc.);
- rights in rem over real estate (usufruct, bare ownership, etc.);
- shares in real estate companies.

The transfer may be not only a sale, but also an exchange of goods, a division or a contribution.

The capital gain consists of the difference between the transfer price and the purchase price.

Various allowances may apply to the amount obtained (allowances for length of time owned or temporary exceptional allowances).

After deduction of these allowances, capital gains are subject to:

- income tax at the rate of 19 %;
- social security charges: the General Social Contribution (*Contribution sociale généralisée – CSG*) (9.2 %), the Social Debt Repayment Contribution (*Contribution pour le remboursement de la dette sociale – CRDS*) (0.5 %) and the Solidarity Levy (*Prélèvement de solidarité*) (7.5 %), representing an overall rate of 17.2%;
- and, where appropriate, the flat-rate tax on transfers of bare land which has become eligible for construction and/or the tax on high capital gains on real estate.

## The transfer price

The price to be taken into account is that indicated in the deed.

On the basis of supporting documents, you may deduct from the transfer price the costs incurred at the time of transfer: release of mortgage, real estate agency commission, costs related to compulsory surveys (asbestos, lead, etc.).

The transfer price must be increased by any charges and payments provided for in the deed, paid to the seller, such as the reimbursement of costs borne by purchasers, etc.

If the property is transferred in exchange for a lifetime annuity, the transfer price used is the capital value of the annuity, excluding interest.

## The purchase price

This is the price actually paid as stipulated in the deed of purchase.

This purchase price may be increased by certain costs, provided that they can be evidenced:

- charges and payments paid to the seller upon purchase ;
- purchase costs: notary's fees, registration fees or VAT paid at the time of purchase, etc.

If you are unable to provide supporting evidence for these, you can deduct a flat-rate amount of 7.5 % of the purchase price.

- costs of construction, reconstruction, extension or improvement under certain conditions (performed by a firm, etc.) on the basis of supporting evidence. For property held for more than 5 years, if you are unable to provide supporting evidence, you can deduct a flat-rate amount of 15 % from the purchase price.
- the costs of roads, networks and distribution for a building lot, whether or not they are imposed by local authorities in the context of the land use plan or the local urban development plan.

If you acquired your property free of charge (by inheritance or as a gift), in the absence of a purchase price, the market value, as determined in the deed of gift or the declaration of succession, is used to calculate the capital gain. Fees paid, such as notary fees and registration fees, increase the market value mentioned in the deed.

For property paid for by means of a lifetime annuity, the purchase price used is the capital value of the annuity. You must not count the interest.

### **Allowance for length of time owned**

For transfers of real estate, the method for calculating the allowance for length of time owned differs depending on whether the capital gain is determined to be taxable by way of income tax (19 %) or social security charges (17.2 %).

In respect of income tax, the allowance is:

- 6 % for each year of ownership beyond the 5th year and up to the 21st year;
- 4 % for the 22nd complete year of ownership.

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

In respect of social security charges, the allowance is as follows:

- 1.65 % for each year of ownership beyond the 5th 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 charges 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 % for income tax (6% x 10);
- 16.5 % for social security charges (1.65% x 10).

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

You can find the table summarising the rates of reduction for length of time owned on the capital gains declaration forms: (2048-IMM-NOT, 2048-M-NOT and 2048-TAB-NOT).

### **Exceptional and temporary allowance**

An exceptional allowance of 70 % is applicable to capital gains for the transfer of real estate 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 transfer must be undertaken by means of a signed unilateral or bilateral promise of sale with a firm date obtained between 1 January 2021 and 31 December 2023;
- The transfer must be carried out no later than 31 December of the second year following that in which the promise of sale obtained a firm date. The allowance is thus applicable to transfers taking place no later than 31 December 2025 in respect of promises of sale which have obtained a firm date 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 transfers of building lots or real estate situated in areas A and A *bis* of the territory defined in Article R. 304-1 of the French Construction and Housing Code (*Code de la construction et de l'habitation – CCH*) entered into by means of signed promises of sale and having obtained a firm date 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 the promise of sale obtained a firm date (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 four 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, the living area of which represents at least 50 % of the total surface area of the buildings referred to in the building permit for the building programme.

#### **Formalities to complete**

#### **As regards capital gains on the transfer of real estate, property rights or building lots (2048-IMM and 2048-TAB):**

The declaration must be submitted, together with the payment of income tax and social security charges, to the Land Registration Service (*Service chargé de la publicité foncière – SPF*).

That submission shall be carried out by the notary within one month of the date of the deed.

Note: for taxable persons resident in France for tax purposes, the net taxable amount of the capital gain subject to income tax must be carried over to overall income tax return no 2042-C (box 3VZ) for the year in which the sale was made. The taxable capital gain is used to calculate the reference tax income and is therefore not taxed a second time or taken into account for the calculation of the rate of tax levied at source.

## **As regards capital gains on transfers of shares in companies mainly dealing in real estate (2048-M):**

### **– When the transfer is established by a deed:**

The deed establishing the transfer shall be registered formally. The capital gain declaration no 2048-M-SD resulting from that transfer shall be submitted at the same time as the deed on completion of the formal registration. The department responsible for registering the deed and the declaration is:

- in the case of a notarial deed, the department responsible for registration in the jurisdiction of which the notary drawing up the deed resides;
- in the case of a private deed, the department responsible for registration in the region in which one of the contracting parties is resident.

This declaration must be submitted together with the deed submitted for formal registration, failing which formal registration will be refused.

### **– When the transfer is not established by a deed:**

Declaration No 2048-M must be submitted to the department responsible for registration in the region in which the seller is resident within one month of the transfer.

*Updated /2022*

## **Textes de loi et références**

[Code général des impôts : articles 150 A bis à 150 VH](#) Plus-values de cession à titre onéreux des biens et droits mobiliers et immobiliers (articles 150 U à 150 VH)

[Code général des impôts : articles 170 à 175 A](#) Indication du montant des plus-values immobilières sur la déclaration de revenus

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

[Bofip-Impôts n°BOI-RFPI-PVI-20-10 relatif à la détermination de la plus-value immobilière brute](#)

[Bofip-Impôts n°BOI-RFPI-PVI-20-20 relatif à la détermination de la plus-value immobilière imposable](#)

## **Quel interlocuteur?**

Service d'information des impôts

Par téléphone :

**0809 401 401**

Du lundi au vendredi de 8h30 à 19h, hors jours fériés.

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