

No CGT exemption on company-owned houses

The tax laws generally provide a tax exemption for individuals who dispose of their houses. In other words, the qualifying individuals do not pay any Capital Gains Tax (CGT) when they sell a designated Principal Private Residence (PPR) which they owned for at least 5 years. It is therefore imperative that we understand that the tax exemption strictly applies on a PPR owned by an individual. Conversely, this implies that the exemption does not apply on a disposal of a company-owned house.

As alluded to above, the Income Tax Act provides a tax relief in the form of an exemption to an individual who disposes of his or her principal private residence. Accordingly, such an exemption only applies to houses owned by individuals in their legal capacity. Further, the tax laws require that for a house to be regarded as a PPR, an individual should have owned the residence for the last five years prior to the date of disposal. Technically, this disqualifies houses owned indirectly by individuals through companies from the CGT exemption. In this regard, it is crucial to note that a company on its own is regarded as a legal person which can own assets. Accordingly, the same can also dispose of assets in its own name. Therefore, any assets owned by that company literally belong to the company even though an individual might be the beneficial owner. Consequently, the company is not entitled to the tax exemption when the house is disposed of regardless of the fact that the house was the PPR of the shareholder.

Therefore, disposal of a company-owned house is subject to CGT even though such a house may have been the PPR of the shareholder. You can read more tax articles on our website, www.aupracontax.co.bw under the 'Tax Articles' tab.

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