

Use house CGT exemption as free funding in Botswana

Isn't it a frustrating and stressful situation if a bank or any other financial institution is to turn down your business loan application? In some cases, individuals struggle to get funding for their businesses due to various reasons which include insufficient credit history or simply failing to meet or provide financiers' strict requirements. However, individuals who own a house or multiple houses may self-fund themselves by way of disposing of a house using the proceeds to accomplish the desired endeavour without paying tax. In other words, the Income Tax Act provides relief from paying Capital Gains Tax (CGT) to any person who disposes of his or her principal private residence (PPR). The relief applies to any person regardless of the various reasons that may compel the individual to sell their house. In this article, words importing the masculine shall be deemed to include the feminine.

The PPR

Firstly, we must highlight what exactly is regarded as a PPR for tax purposes and the implications thereof. The Income Tax Act does not provide a legal definition of this term, i.e., Principal Private Residence, however, it is generally construed as a natural person's sole or main place of residence. Consequently, this technically disqualifies houses that are indirectly owned through companies, trusts or any other juridical persons. In the case of individuals who own multiple residential houses, the PPR is construed to be his or her main house where that person habitually lives. Now that we have a good appreciation of what a PPR is, let us now have a look at what the law says regarding the disposal of the same and why the proceeds may be enjoyed tax-free.

Enter tax

The Income Tax Act exempts from tax, 'gains from the disposal of such property (the principal private residence) of any individual who has owned the residence for the last five years before the date of the disposal, provided that the exemption shall not be allowed for any subsequent disposals for a period of five years from the tax year on which the exemption was allowed.' Simply put, the tax relief or exemption from paying tax only applies where the PPR was owned for at least 5 years. Consequently, any subsequent exemption will only be granted after another 5 years from the disposal of the first PPR. The exemption applies whether or not the individual replaces the principal private residence. Conversely, CGT will be levied on any gains realised from a disposal of a house that is not regarded as a principal private residence or on gains realised on the disposal of a principal private residence owned for less than 5 years.

Having regard to the above, it is axiomatic that an individual who disposes of his or her house that qualifies as a PPR can do so without suffering tax i.e., CGT. Accordingly, this creates an opportunity which can be used to fund one's business where need arises, particularly for individuals who own multiple residential houses.

Conclusion

Essentially, gains realised from a disposal of a PPR are tax-free. This technically means that individuals can fund their businesses without suffering tax or interest should they opt to dispose of a PPR, provided the house was owned for at least 5 years and the house was that person's main place of residence.

Well, folks, we hope that was insightful. As us the two Yours Truly say goodbye, remember to pay Caesar what belongs to him. If you want to consult, join our free Tax WhatsApp group or to know about our 9 Tax e-books, send a text to +267 7181 5836 or email us at jhore@aupracontax.co.bw. You can read more tax articles on our website, www.aupracontax.co.bw under the 'Tax articles' tab.