DYKES VAN HEERDEN GROUP OF COMPANIES
professionals striving for excellence

# FOUR POSSIBLE METHODS FOR CALCULATIONS FOR CAPITAL GAINS TAX

**A For properties acquired at any time (i.e. before or after the 1st of October 2001):-**

1. The normal method

The capital gains tax is calculated on the difference between the price for which the property is eventually sold and the purchase price which was initially paid for the property. In addition transfer costs, estate agent's commission (on the sale of the property) and the documented costs of any capital improvements to the property can be deducted from the capital gain. It is important to note that capital improvements refer to items which increase the value of the property and do not constitute maintenance of the property. This would include things such as adding an extra bedroom to the house or installing a swimming pool. It would not include costs of repainting the property, repairing the roof or any other items which are treated as expenditure for income tax purposes. Thus the interest on the bond, rates and taxes, charges for water and electricity and similar charges cannot be deducted for the purposes of calculating the capital gains profit.

**B Only for properties purchased prior to the 1st of October 2001:-**

2. Time apportionment method

The capital gain is calculated as in (1) above. The net capital gain is then pro-rated according to the number of years for which the property was held after the 1st of October 2001 in relation to the number of years in respect of which the property was owned prior to the 1st of October 2001 with a maximum of 20 years prior to the 1st of October 2001 being taking into account. Thus for example if the property was purchased 10 years before the 1st of October 2001 and sold 5 years after the 1st of October 2001 only one third of the resultant capital gain would be added to the tax payers tax i.e. only 5 years of the 15 years will be taken into account as the property was owned for 15 years but only 5 of those years were after the 1st of October 2001.

3. The 80/20 principal

In terms of the same, 20% of the capital gain is effectively exempted from capital gains tax. Accordingly 20% of the proceeds is considered as the value of the property as at the 1st of October 2001 and the capital gains tax is then calculated on the remaining 80%.

**C For properties purchased prior to the 1st of October 2001 and a valid valuation was obtained before the 30th of September 2004**

4. The valuation method

Capital gains tax is calculated on the difference between the price for which the property is eventually sold and the valid valuation of the property as at the 1st of October 2001. In addition estate agent's commission (on the sale of the property) and the documented costs of any capital improvements to the property affected after the 1st of October 2001 can be deducted from the capital gain. Capital improvements prior to the 1st of October 2001 cannot be deducted as they have already been taken into account in the valuation of the property as at the 1st of October 2001.

Any tax payer who owned the immovable property before the 1st of October 2001 and sold the property subsequent to the 1st of October 2001 is entitled to elect which of the four methods referred to above such party wishes to utilize (assuming of course that such party obtained a valid valuation prior to the 30th of September 2004). If the party did not obtain such valid valuation prior to the 30th of September 2004, then the party can only use methods 1, 2 and 3 referred to above. It is advisable for a taxpayer to work out the net effect in respect of each of the methods before electing which of the methods to utilize. Once one has determined the capital gain, one has to take into account the inclusion rate of 40% linked to the individual tax payer's income tax rate of between 0% and 41% which means that the capital gains tax payable by the tax payer will be between 0% and 16,4% as a maximum. For a Close Corporation, Company or a Trust, one has take into account the inclusion rate of 80% linked to the Company and Close Corporation income tax rate of 28% which means that a Company or Close Corporation will pay capital gains tax at a rate of 22,4% and the Trust income tax rate of 40% linked to the inclusion rate of 80% means that the capital gains tax payable by a Trust is 32,8%. However if the income is taxed in the hands of a beneficiary of a Trust, the rate will then be a maximum of 16,4%.

One must of course take into account the fact that any natural person who is the owner of an immovable property where the property is the primary residence of such person and does not exceed 2 hectares in size is exempted from paying capital gains tax on the two million Rands profit. A primary residence is the residence in which the person lives. The question is often raised as to whether the husband could have one primary residence and the wife another. Unless the parties are separated from each other and genuinely live in separate residences this could not be the case as a husband and wife normally reside together. The Receiver of Revenue would check on one's water and electricity account, postal address and other such items in ascertaining whether or not the property is in fact the primary residence of the taxpayer.


**COMPANIES WITHIN THE DYKES VAN HEERDEN GROUP**

**DYKES VAN HEERDEN INC**
Tel : (011) 279-5000
Fax : (011) 955-4799
E-mail info@dvh.net.za
19 Ontdekkers Road
Roodepoort 1724, South Africa

Docex 24, Roodepoort
Web-site: http:/www.dvh.law.za

**DYKES VAN HEERDEN (CAPE) INC**
Tel : 0861 110 210
Fax : (021) 910-4911
E-mail admin@dvh.law.za
Unit E4/2, Edward IV
120 – 122 Edward Street
Bellville 7530, South Africa
Docex 42, Tygerberg
Web-site: http:/www.dvh.law.za

**DYKES VAN HEERDEN (KZN) INC**
Tel : (031) 903- 1851
Fax : (031) 903-1101
E-mail thomas@kzndvh.za.net
Nr. 18 Ridge Road
Amanzimtoti
Durban 4120, South Africa
Docex 7, Amanzimtoti
Web-site: http:/www.dvh.law.za

**DYKES VAN HEERDEN SLABBERT HOPKINS INC**
Tel : 0861 110 210
Fax : (021) 910-4911
E-mail admin@dvh.law.za
Unit E4/2, Edward IV
120 – 122 Edward Street
Bellville 7530, South Africa
Docex 42, Tygerberg
Web-site: http:/www.dvh.law.za