

Taxation of income from the transfer of real properties and movables

Income from the transfer of movable property

In order to establish private individuals' income from the transfer of movable property, Section 58 of Act CXVII of 1995 on Personal Income Tax, as amended several times, must be applied.

A movable property is a property not to be considered as a real estate, except currency, securities and (unharvested) crops, grains (e.g. standing timber) sold without change of ownership of the land.

Income received from the transfer of movable property must be established in such a manner that substantiated expenses charged to the transferring private individual are subtracted from the revenues. Such expenses are the amount used for the acquisition of the property and related expenses, investments of value increase and expenses incurred in connection with the transfer.

If the sale of the movable assets is performed within the framework of business activity, the revenue less costs shall qualify and be taxable as income from an independent professional activity. Business activity is any activity performed by a private individual on a professional basis, on a permanent or regular basis, for the purposes of obtaining income or that results in obtaining income, the performance of which is carried out independently.

Irrespective of the above, if the revenues of a private individual from the sale of movable assets does not exceed HUF 600 thousand within a fiscal year, these revenues shall not qualify as income.

The income received from the transfer of movable property qualifies as the so called "income separately taxed" at a rate of 15 percent.

The tax is determined by the private individual selling the movable property, is declared in his annual tax return and is paid by the same deadline as the one prescribed for filing the tax return.

The portion of the tax on the combined income received during a year from the transfer of movable property that is not in excess of HUF 32.000 shall not be paid - if it is not a business activity.

In practice, this means that if a private individual earns HUF 300.000 in income from the transfer of movable property, of the HUF 45.000 tax on this income, only HUF 15.000 has to be paid.

If the private individual's income from transfers of movable property during a year - it does not qualify as a business activity - is less than HUF 200.000 such an amount does not need to be declared.

Income from the transfer of real property

In order to establish private individuals' taxable income from the transfer of real property, Sections 59-63 of Act CXVII of 1995 on Personal Income Tax must be applied.

In order to establish the income, let us look at some important definitions.

Revenues

Revenues means all types of payments received by a private individual in connection with the transfer of real property.

The revenues from the sale of real property serve as a point of reference for the establishment of income. Revenues includes, among other things, the sales price, the fair market value, effective on the day of transfer, of an asset received in exchange, and late payment penalty interest paid by the buyer.

Costs

Another important step in determining the income from the sale of real property is the identification of eligible costs.

As a rule, the following are eligible costs:

- The amount spent on the purchase and related expenditures. Such expenditure includes:
 - in case of immovable property purchased through a sales agreement, the amount specified in the agreement; in the case of property purchased through the exchange of ownership, the value specified in the exchange agreement;
 - in case of property acquired by inheritance, the amount considered for establishing the duty, if there was no duty established, the value specified in the inheritance records;

- in case of property acquired as a gift, the amount considered for establishing the duty, if there was no duty established, 75 percent of the revenue;
- the sums spent on the expansion, implementation, or increasing the floor space of a building after 31 December 2007 until the effective date of the occupancy permit (continuation permit), or up to the deadline for compliance with the conditions specified in the occupancy permit (continuation permit), if there is no official opening for use, then until the time of actual occupancy, failing this the sum shown on the invoice made out to the name of the private individual (owner builder or constructor), or his spouse, on whose behalf the work is performed, or at least the value of materials used;
- in case of property purchased from a local authority as a tenant, the actual purchase price specified in the agreement;
- in case tax has been payed when purchasing the real property, the value which has been the base of the tax payment;
- duties related to purchase, lawyer's and notary public's fees, expert fees, etc. related to the purchase and certified by invoices.
- The value of value-increasing investments. These costs may include, among others:
 - any investment that adds to the value of the property (e.g.: public utilities development; establishing a sauna or swimming pool; installing (a) property protection system(s); in case of arable land, drainage or establishing an irrigation system; the costs of constructions or additions made before 1 January 2008);
 - the costs of preservation work performed within a 24 months period before the sale at a value of more than 5 percent of the purchase price according to the agreement on the transfer of the property.
- expenditures incurred in connection with the transfer and verified by invoices. (e.g. expert's, land agent's fee)

Specifying the date of obtaining income from the sale of real property

Income from the sale of real property is considered obtained on the date when a referent valid contract (document, court or official decision) pertaining to such transfer is filed with the real estate supervisory authority (land registry).

Specifying the date of the acquisition of real property

In respect of real estate properties, the date of acquisition is the date when a referent valid contract (document, court or official decision) pertaining to such transaction is filed with the real estate supervisory authority. In the case of inheritance, the date of acquisition is the date of the testator's death.

As regards the construction of an edifice on a property after 31 December 2007 – as a rule – the effective date of the resolution containing the last occupancy permit, the date of the understanding of the occupancy, and in case of a property built based on a simple statement, the date the official certificate certifying the completion of the construction has been issued is considered the date of acquisition. The foregoing notwithstanding, under the applicable law, the private individual may, at his discretion, identify the date of acquisition of the real property in existence already before the above date and the date of acquisition of the real property constructed or of the extension made subsequent to the above date as separate dates.

Assessment of the income

As a first step of establishing the income, eligible costs must be subtracted from the revenues. The amount thus obtained is the calculated amount. (At this point, it is important to note that eligible costs may be claimed only up to the revenues, so the lowest calculated amount may be 0.)

If immovable property is sold – unless the income is earned by the individual in the course of self-employment – within a business activity framework, the income less costs shall qualify and be taxable as income from an independent professional activity. Business activity is any activity performed by a private individual on a professional basis or on a permanent or regular basis, for a consideration in money, the performance of which is carried out independently.

The calculated amount can be further reduced in regard of the passing of years. The extent of the reduction is the same in case of every type of property (e.g. flat, holiday home, agricultural land, construction site, etc.). In the case of transferring a property or a property right (right of beneficial interest) in 2023, depending on the year of acquisition, the amount determined based on the following is considered to be treated as income:

Year of acquisition	The calculated amount
2023 (0 th year)	100%
2022 (1 st year)	100%
2021 (2 nd year)	90%
2020 (3 rd year)	60%
2019 (4 th year)	30%
2018 (5 th year)	0%

Based on the above, if a private individual sells, in 2023, an immovable property purchased in 2018 or before, no taxable income is generated.

The rate of tax

Income from the sale of real property is taxed separately, i.e. it is not included in the consolidated tax base.

Once the income from the sale of real property has been established, the amount of tax payable on it must be calculated using the applicable tax rate, which is 15 percent.

The tax is determined by the private individual in his annual tax return by self-assessment, and is paid by the same deadline as set for filing the tax return.

Private individuals shall use personal income tax return form no. 23SZJA to declare their income from the sale of real property in 2023. The tax return must be filed by 20 May following year of the tax (fiscal) year and the tax shall be paid by the same deadline as set for filing the tax return.

National Tax and Customs Administration