

Capital gains tax

Capital Gains Tax (CGT) was introduced in South Africa on 1 October 2001. CGT brings the country in line with international practice.

Why did the government introduce CGT?

- CGT exists in most first world countries such as the USA, Canada, UK and Australia.
- The South African Revenue Service (SARS) says it can handle CGT administration and collection because it has improved its computer systems and resources.
- CGT help to widen the tax net, which should help reduce personal income tax.
- It will close any loopholes in the existing tax system.

Who has to pay CGT?

1. All South African residents.
2. Non South African residents who make a profit or loss, when selling fixed property of a capital nature located in South Africa.

What exactly does CGT mean for you and, more especially, for homeowners?

Taxpayers, including individuals, trusts, companies and close corporations, will be taxed on the profit they make when they sell an asset or property of a capital nature, CGT is basically a tax on the resale of assets.

In most cases, it will not affect your primary residence, provided the property is smaller than two hectares and the profit is less than R1 million. However, homeowners will be liable for CGT on second properties or holiday homes that are not occupied as a primary residence or on any portion of a primary residence that is used for business purposes. CGT also affects **all properties** registered in the name of close corporations, trusts and companies.

How is a capital gain or loss determined?

It is the difference between the base cost of the asset and the amount for which it is sold.

How will the base cost of the asset be determined?

The Income Tax Act prescribes that the base cost will be the expenditure incurred to own the asset, the cost of any improvements that are made to it and any other costs directly brought about by the sale of the asset, for example, agent's commission. The base cost does not include any expenditure that may be claimed as an income tax deduction or any borrowing (interest on loans) or repairs.

You must be able to prove the base cost of the asset if no record exists. It is crucial for you to keep records of any capital asset you buy, including costs of improving the asset. This element of CGT has sparked some controversy because it is felt that the effects of inflation on an asset's base cost have not been taken into account. In South Africa this ratio is high and it is felt that increases in value could often be attributed to inflation and not to real increases in value. This concern has been addressed by only taxing a portion of the capital gain. The base cost is the capital cost which includes the cost of getting the asset. For example, legal and conveyancer fees.

What is excluded from the base cost?

- The effects of inflation;
- the cost of upkeep of the asset (maintenance and repairs and insurance premiums); and
- devaluation, for example, the wear and tear on a motor vehicle.

For what period does CGT apply?

CGT only applies to gains from 1 October 2001, in cases where assets were owned before that date and parted with after that date. The Income Tax Act specifies two methods to determine the value of the asset on 1 October 2001:

- You have two years from October 2001 to have your asset valued. We suggest that you contact a professional property valuer or associated valuer (see details below)
- Time apportionment - calculate the asset's value taking into account how long you have had the asset. For example, if you bought a holiday house 10 years ago for R350 000 and sold it after five years for R950 000 the house gained R600 000 in value in those 15 years. The gain attributable to the last five years is:
 - $\frac{5}{15} \times R600\ 000$

What is excluded from capital gains tax?

Excluded	Included
<ul style="list-style-type: none"> • Primary residences in your name ** • Your private motor vehicle (if not used for business). • Personal belongings, such as art, antiques, clothing, stamp collection and jewellery. • Proceeds from pension, provident, retirement annuity funds and life insurance policies. • Winnings from lotteries, casinos and prizes (if you are not a professional gambler). • Compensation for injury, illness and defamation. • Profit (not more than R500 000***) from the sale of a small business, pending retirement if: <ul style="list-style-type: none"> ○ you are older than 55; ○ or the disposal is a consequence of ill-health, other infirmity, superannuation or death. • Gains made when changing foreign currency into rands after an overseas trip. 	<ul style="list-style-type: none"> • Primary residences owned by a company, close corporation or trust. • Portion of gain on part of primary residence such as a cottage that is let to a tenant or used as a home office. • Your holiday homes or second homes and properties let to tenants. • Boats, aircraft and caravans. (Unless the boat or caravan qualifies as a primary residence.) • Shares, unit trusts, private investments and second-hand policies. • Krugerrands or other silver or gold minted coins. • Sale of business. • All other assets except those specifically excluded.

** Provided that the profit is not more than R1 million and the property is smaller than two hectares.

***The sum of the amounts excluded by a natural person may not exceed R500 000 during that person's lifetime.

What percentage of CGT is payable?

For legal persons, 50% of their net profit will attract CGT and for natural persons 25%. This portion of the net gain will be taxed at your marginal tax rate. As an effective tax rate this means you will pay a maximum effective rate of 10% and corporate taxpayers a maximum of 15%. For example, for natural persons the maximum marginal tax rate is 40%. Assuming the aggregate capital gain for the year of assessment is R25 000, 25% of R25 000 is R6 250, which is taxed at 40%, therefore R2 500 is payable. The R2 500 as a percentage of the original profit made is 10%.

Are there any exemptions?

Individuals and special trusts do not have to pay CGT on the first R10 000 of capital gains per year.

How will SARS find out about profits made?

SARS's computer software, the New Income Tax System (NITS), will interface with systems in the Deeds Registry, Motor Vehicle Registry, JSE Securities Exchange (JSE) and financial institutions.

Information

- For more tax related information contact your local SARS office, visit www.sars.gov.za consult a tax adviser
- The South African Institute of Valuers can be contacted on
 - (Cape Town branch and General Secretary's Office) 021 762 3313
 - Gauteng 012 342 7574
 - KwaZulu-Natal 031 309 7431

www.saiv.org.za or simply visit www.valuer.co.za for a link to the South African Council for Valuers and other valuation firms.

From www.standardbank.co.za/SBIC/Frontdoor_02_02/0,2454,176061_1975572_0,00.html