DTBB/010/2016

Domestic Taxes Business Brief 10 (2016): How to Calculate Capital Gains Tax

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Purpose

The purpose of this brief is to explain how Capital Gains Tax (CGT) is calculated taking into account the calculation of the capital gain; allowable costs relating to the disposal of the asset; and the actual CGT calculation.

Who should read this?

This brief is useful to the following class of persons:

- Property Owners, Buyers and Sellers
- Lawyers
- Real Estate Agents
- Property Valuers
- Business Owners
- Shareholders
- Corporate Entities
- The General Public

Background

The Finance Act 2013 introduced a comprehensive Capital Gains Tax (CGT) Regime which is more detailed than what was existent in the Income Tax Act 2000 as amended. Since its re-introduction, the application of CGT has been seen to be complex and this has led to confusion as to how to calculate it and what to pay to the NRA. This is a second of a series of Business Briefs on CGT following ***DTDBB/009/2016 – An Introduction to Capital Gains Tax***.

Current Position

Working out the Chargeable Gain

A Chargeable Gain is defined as the excess of the consideration received or receivable (whether in cash, kind or by any other means) over the cost base at the time of the realisation or disposal.

A gain will not be a chargeable gain if it forms part of your income for income tax purposes.

What is the Consideration received/ disposal proceeds?
In most cases, the consideration or disposal proceeds is the amount you actually receive for disposing the asset, including:

- Cash payable now or in the future.
- The value of any asset you receive in exchange for the asset you have disposed of.
- The value of a right to receive future payments, which are uncertain and depend on future events.
- In certain circumstances, you may be treated as disposing of an asset for an amount other than the actual amount (if any) that you receive. Example, when the asset is sold at a lower price than the market price.

What is the Cost Base of a Chargeable Asset?
The ***Cost Base*** (i.e. costs that are ***allowable*** for the calculation of capital gains) of a chargeable asset is the sum of the cost of acquisition or production or construction incurred; incidental costs of acquisition and disposal; and enhancement or development cost incurred by that person in realising the asset.

These costs can be ***deducted*** (allowable) in working out your capital gain. Costs that could be taken into account when working out your income or losses for income tax purposes are not allowable for CGT purposes.

If you dispose of part of your interest in an asset, or part of a holding of shares of the same class in the same company you can deduct part of the allowable costs of the asset or holding when working out your chargeable gain.

Examples of costs that can be deducted in calculating capital gain are as follows: Legal Fees, Surveyor Fees, and Valuation Fees.

What is Market Value?
This is the price that an asset might reasonably have been expected to fetch if it had been sold on the open market.

Filing of Returns, Assessment and Payment of CGT

A person who accrues or derives a capital gain shall within thirty (30) days after the realisation submit to the NRA a ***Capital Gains Tax Return Form*** obtainable from NRA offices or can be downloaded from NRA website www.nra.gov.sl.

The NRA shall, based on the return submitted and any other information available, make an assessment of the amount of any capital gain of that person and the tax payable on that amount within thirty days from the date the return is filed.

Recharacterisation of the Consideration and Cost Base of the Chargeable Asset

For the purpose of determining the CGT, the NRA may recharacterise a transaction in order to ascertain the actual base cost or consideration received in arriving at the chargeable gain of the person. This will occur when the NRA is not satisfied with the information provided; or the NRA has additional information that contradicts the information provided on the CGT Return Form.

A summary of the Calculation for Capital Gains Tax

A calculation of a chargeable gain on the disposal of an asset will use the format below:

REF	DETAILS	LE	LE
	Consideration/Disposal Proceeds		**150,000,000**
	Less Cost Base (Allowable Cost)		
1.	Initial cost of acquisition	50,000,000	
2.	Incidental cost of acquisition	6,000,000	
3.	Enhancement/development cost	15,000,000	
4.	Incidental disposal/other costs	8,500,000	
	Total Cost Base		**(79,500,000)**
	Taxable Gain		**70,500,000**
	Less Exempt Gain		**(3,600,000)**
			66,900,000
	Capital Gains Tax @ 30%		**20,070,000**

Where can I get further information?

For further information please contact the Domestic Taxes Helpline on Telephone Numbers: 078/025/030/044 - 970844.

The Domestic Taxes Helpline is available Monday to Friday, 8am to 5pm.

We can also be contacted through dtd@nra.gov.sl.

Information on Domestic Taxes and other taxes can be found on the NRA website www.nra.gov.sl.