Doron F. Eghbali Business Law Blog on Lawyers.com

Long-Term Capital Gains Rates Might Differ

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The belief that if you hold an asset for more than one year, the item would be categorized as long-term capital gains and as such the gain would be taxed at 15%, is not always correct.

In fact, long-term capital gains rates depend on the following factors:

- In which Income tax bracket you are at the time of filing.
- The type of asset you sell.
- How long you hold the asset. And,
- When you sell it.

Note, short-term capital gains, i.e. assets held for less than one year, are taxed at your ordinary income rate, which varies from 10% to 35%.

The following breakdown helps you determine how long-term capital gains are computed based on the factors just outlined:

INVESTMENT SECURITIES

Who is Eligible for 0% Capital Gains Rates?

Taxpayers in the income bracket between 10%-15% who hold an investment security for more than one year are exempt from paying net long-term capital gains taxes. The 10% to 15% covers people with the following taxable incomes for 2009:

- Single taxpayers with taxable income of $33,950.
- Joint filers with taxable income of up to $67,900.
- Heads of households with taxable income of up to $45,500.
- Married individuals who file separately with taxable income of up to $33,950.

For example, let's say you are a joint filer with taxable income of $65,000. You have net long-term capital gains of $5,000 for selling stocks. The first $2,790 of the gains would be taxed at 0%. The $2,210 remaining would be taxed at 15%. Now, if your net long-term capital gains were anything up to $2,790, your rate would be 0%.

Who Is Eligible for 15% Long-Term Capital Gains?

Individuals in the 25% or higher tax bracket with net long-term capital gains of investment securities held for more than one year.

REAL ESTATE PROPERTIES OWNED AS AN INVESTMENT

Investment real estate properties held for more than one year are taxed at 15% or 25%. This is somewhat tricky. Let's look at the following example: Let's say you bought an investment property and held it for more than one year. In the years you hold the property, you take advantage of depreciation deduction in the amount of $20,000. When you sell the investment property, your net long-term gain taxes are $80,000. The first $20,000 of the gains are taxed at $25% and the $60,000 remaining ae taxed at usual 15%.

COLLECTIBLES

If taxpayer is in the 28% tax bracket or higher, the net long term capital gains on collectibles (stamps, coins, baseball card and the like) are subject to a maximum rate of up to 28%. However, to the extent the net long term capital gains fall into 10%, 15% or 25%, the gain will be taxed at that rate.