FINANCE & LAW

When the fiscal reaches

Taxes are payable on both the sale and acquisition of real estate. Judge Gerald Ehgartner gives an overview of what has to be considered in tax terms.

When selling a property tax deduction must be observed. Judge Gerald Ehgartner before the Federal Finance Court in Vienna. Who sells a property in private assets, is subject to tax liability since April 2012. Gerald Ehgartner, judge at the Federal Fiscal Court, explains in the SN-Interview, which tax consequences are connected with the sale of real estate and which exemptions there are.

Suppose I want to sell my condo. Which taxes are due?
Gerald Ehgartner: The sale of a property for sale is subject to real estate income tax (ImmoESt). Among other things, this includes the sale of your condominium, provided that the sale does not fall under a tax exemption.

What is the property income tax?
The difference between the purchase price of the property and the selling price is in principle subject to the tax rate of 30 percent. For example, if you bought the condominium for $ 250,000 and resold it for $ 300,000, the difference is $ 50,000. This amount is subject to the 30 percent tax rate, the ImmoESt would thus amount to 15,000 euros. This approach applies to so-called new assets, which are real estate acquired as of March 31, 2002. In the case of old assets, the tax burden is usually much cheaper.

What does the taxation of "old assets" look like?
In principle, "old property" includes real estate that was bought before March 31, 2002. In simple terms, the actual tax burden on the sale of "legacy assets" is normally 4.2 percent of the proceeds of the sale. If you bought the condominium in 1995 and sell it now for 300,000 euros, fall from the retail price 4.2 percent - 12,600 euros - ImmoESt.

Why is "old assets" so favoured for tax purposes?
This is because the taxation of real estate was redefined in 2012. Previously, real estate sales were taxable only in the context of speculative transactions, namely, when a property was sold within ten years of their purchase. For example, anyone who bought a condominium in 1995 could expect to sell it tax-free after a lapse of ten years.

Does ImmoESt always come up with the sale of a property?
No, there are various tax exemptions. One of the most relevant in practice is home residence and manufacturer exemption. The main residence exemption applies on the one hand, if you have used your condominium or your home for a minimum of two years as a main residence since the acquisition until the sale. However, this only applies if the principal place of residence was established there within one year from the date of the purchase of the real estate and that remains permanent until the sale. On the other hand, a sale under the "5-out-of-10" regime is tax-exempt even if the property has been used as a primary residence for at least five years throughout the last ten years prior to the sale, regardless of when exactly your primary residence is there have relocated or abandoned. Also, land is basically covered by this exemption to the extent of 1000 square meters. The manufacturer's exemption applies to the sale of a self-manufactured building.

What is meant by that?
A self-fabricated building is used when a building has been rebuilt and the installer bears the risk of any cost overruns. However, only the sale of the building is covered by the exemption, the land remains taxable. Another condition is that the building has not served to generate income within the last ten years. So, there is no exemption if the property was previously rented.

Do inheritances and donations fall under the scope of ImmoESt?
No, the real estate income tax is only subject to paid purchases.

How is the real estate income tax levied?
As a rule, the tax is levied by the notary or lawyer and paid to the tax office. This is associated with private wealth a compensation effect. This means that income from real estate sales does not normally need to be included in the tax return and does not affect the progressive income tax rate.

Apart from ImmoESt, is there any additional levy on the sale of a property?
In the case of a real estate sale - even in the case of a free transfer - the real estate transfer tax (GrESt) and the land register registration fee apply.

How much are these taxes?
Basically, the land transfer tax is 3.5 percent of the value of the consideration, so the purchase price. However, if the real value of the property is higher or a free transfer takes place, this actual value is used as the basis of assessment. In the case of inheritance, donation or sale between close relatives, a favourable tiered tariff will be between 0.5 and 3.5 percent for use. In addition, the registration fee of1.1 percent.

Who has to pay the land transfer tax and the registration fee?
As a rule, it is contractually agreed that both the land transfer tax and the registration fee will be borne by the buyer of the property. Also, in this case, collection and removal are usually carried out by the notary or lawyer.

Can I deduct the costs of notary, lawyer or brokerage tax?
Costs incurred for the contract, the land register applications or the broker can usually not be deducted for tax purposes. Exempted from this are those costs that the lawyer or notary bills for the calculation and removal of ImmoESt. These can generally be taken into account for tax purposes.

Source: SN