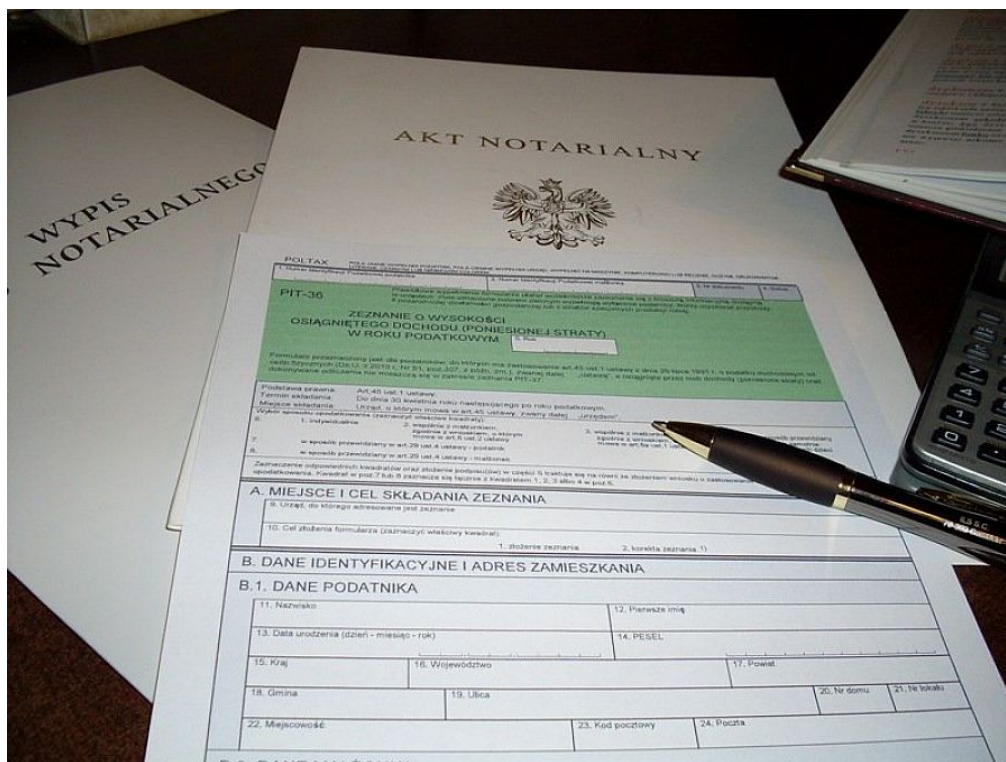




Before you decide to sell the property check what tax will you pay, this will allow you to save up several thousand PLN. An individual person which are selling the property is required to pay the tax on the property sale which height and calculation method has changed for the last few years.

So what to do to avoid the tax?

The first step is to know when and how (purchase, inheritance, gift) we became the owner of the property and then check the tax laws which are applicable to that date.

The tax amount, accounting method and the possibility to take advantage of the tax benefits for transactions related to the properties depends on the date of purchase the property.

This is the effect of double change in the law about PIT in this area. First was introduced on 1st January 2007, the second - on 1st January, 2009. And so the properties sold today but:

purchased to the end of 2006 are accounted under the law provisions about PIT tax which were valid until the end of 2006

purchased in 2007-2008 are accounted under the law provisions about PIT tax which were valid until the end of 2008

purchased from the beginning of 2009 are accounted under the law provisions about PIT tax which are valid from 1st January, 2009

Properties purchased during the period:

To 31.12.2006 in case of selling the property which we owned by the end of 2006 we did not pay the tax because we are using the statutory exemption which provides that we don't pay the tax if the property sale occurred after 5 years from the date of purchase.

Properties purchased to the end of 2006 from 1st January, 2012 their sale is free from tax.

Legal ground:

The act from 26th July, 1991 about an income tax from individual people (journal of law from 2000 no. 14 item 176 as amended in the version valid until 31st December, 2006)

Properties purchased during the period:

From 01.01.2007 to 31.12.2008 in case of selling the property which we owned between 2007 and 2008 we must pay the tax to the local tax office in the amount of 19% of earned income from the sale. Income is the difference between the proceeds from the sale and costs of achieving it, for example the cost of buying the property, or its renovation.

Example:

30th May, 2007 Ms Anna has bought a flat in Szczecin for 150.000 PLN and then she sold it on 1st May 2011 for 230.000 PLN. The tax is:

$230.000 \text{ PLN (sales revenue)} - 150.000 \text{ PLN (deductible income)} = 80.000 \text{ PLN (income from sale)}$

$80.000 \text{ PLN (income from sale)} \times 19\% = 15.200 \text{ PLN (tax)}$

I should be paid within the period of giving tax return for the year in which the flat was sold to the account of competent local tax office.

WHEN WE WILL NOT PAY THE TAX:

if the property sale will occur after 5 years from the date of purchase

if the taxpayer was registered in the selling property for permanent residence not less than 12 months before the date of sell the property, but we don't include the time before the taxpayer became the owner of the property. To take advantage of this exemption it must be submitted to the competent local tax office a declaration about required register at the property within 14 days from the sale date. No declaration will cause an obligation to pay 19% tax from income of the property sale.

"Deductible income" - it allows to reduce the amount of income earned by selling the property

proven costs of purchase or generation increased by proven expenses which has increased the property value and its rights made at the time of ownership

in case of properties purchased by inheritance, donation or other unpaid way is considered that proven expenses which increased the goods and property rights made at the time of its having and the paid amount of tax on inheritances and donations in part in which the value of sold goods or right adopted to the taxation on inheritance and donations is a equivalent of the total value of the goods and property rights adopted to a taxation on inheritance and donations

the amount of these investments is determined basing on VAT invoices defined in provisions about the tax on goods and services and documents stating suffered administrative fees. Purchase or generation costs referred above are raising every year. From the year following the year in which was the purchase or generation of the sold goods or property rights, to the year preceding the tax year in which the sale is occurring the index of increase the prices of goods and consumer services in time of first three quarters in the tax year compared to the same period in the last year announced by the Chairman of the Central Statistical Office in the Official Journal of Republic of Poland "Polish Monitor".

Example:

30th May, 2007 Ms Anna has bought a flat in Szczecin for 150.000 PLN and then she sold it on 1st May, 2011 for 230.000 PLN. The tax is:

$230.000 \text{ PLN (sales revenue)} - 150.000 \text{ PLN (deductible income)} = 80.000 \text{ PLN (income from sale)}$

$80.000 \text{ PLN (income from sale)} \times 19\% = 15.200 \text{ PLN (tax)}$, but Ms Ania has showed in the tax office within 14 days that she was registered for permanent residence in the selling flat from 30th of June, 2007 to the 1st of July 2008 (12 months) what resulted exemption from the tax.

Example:

Ms Anna had inherited a flat in Szczecin on 30th May, 2007 and then she sold it on 1st May, 2011 for 230.000 PLN, she revealed also basing on invoices the cost of renovation of the flat in the amount of 30.000 PLN. The tax is:

$230.000 \text{ PLN (sales revenue)} - 30.000 \text{ PLN (deductible income)} = 200.000 \text{ PLN (income from sale)}$

$200.000 \text{ PLN (income from sale)} \times 19\% = 38.000 \text{ PLN (tax)}$.

Taxpayers who received the property for free (inheritance, donation) and they want to sell it should remember that it will be profitable to register (not in the case of lands) for permanent residence at least 12 months if they want to avoid the income tax on its sale. Otherwise they will pay 19% an income tax from the property sale. The income is determine by deducting from an income from the sale only proven expenses which increased the property value , made at the time of having it eg. renovation costs, inheritance and donations tax if there was such.

Legal ground:

The act from 26th July, 1991 about an income tax from individual people (journal of law from 2000 no. 14 item 176 as amended Legal status to the 1st January, 2007) in particular Art. 10, art. 22 and art. 30 of this act.

Properties purchased during the period:

From 1st January, 2009 in case of selling the property which we owned from the beginning of 2009 it should be paid the tax to the competent tax office in the amount of 19% from an income which we get from the property sale. Income is the difference between the proceeds from the sale and costs of achieving it, for example the cost of buying the property, or its renovation.

Example:

30th May, 2009 Ms Anna has bought a flat in Szczecin for 200.000 PLN and then she sold it on 1st May, 2011 for 220.000 PLN. The tax is:

$220.000 \text{ PLN (sales revenue)} - 200.000 \text{ PLN (deductible income)} = 20.000 \text{ PLN (income from sale)}$

$20.000 \text{ PLN (income from sale)} \times 19\% = 3.800 \text{ PLN (tax)}$

I should be paid within the period of giving tax return for the year in which the flat was sold to the account of competent local tax office.

WHEN WE WILL NOT PAY THE TAX:

if the property sale will occur after 5 years from the date of purchase,

if the income from the flat sale "will be spend on flat purposes" in the period of 2 years from the property sale. Those are 2 tax years so, counted from the beginning of the year following each event. So, the taxpayer selling such property on 1st May, 2010 has time until 31th December, 2012 to spend money for his own flat purposes. There is no obligation to make a declaration in a tax office about spending an income on flat purposes. When we are unable to spend whole amount received from the sale we will pay the tax on not exempt income.

Example:

30th May, 2009 Ms Anna has bought a flat in Szczecin for 150.000 PLN and then she sold it on 1st May, 2011 for 250.000 PLN. The tax is:

$250.000 \text{ PLN (sales revenue)} - 150.000 \text{ PLN (deductible income)} = 100.000 \text{ PLN (income from sale)}$

$100.000 \text{ PLN (income from sale)} \times 19\% = 19.000 \text{ PLN (tax)}$ but Ms Ania has bought new flat for 250.000 PLN during two years (house expense) what resulted the tax exemption.

$100.000 \text{ PLN (income from sale)} \times 250.000 \text{ PLN (house expense)} / 250.000 \text{ PLN (sales revenue)} = 100.000 \text{ PLN (exempted income)}$

So a taxable income 100.000 PLN is equal to the amount of exempted 100.000 PLN income, Ms Ania will not pay the tax.

Or

30th May, 2009 Ms Anna has bought a flat in Szczecin for 150.000 PLN and then she sold it on 1st May, 2011 for 250.000 PLN. The tax is:

$250.000 \text{ PLN (sales revenue)} - 150.000 \text{ PLN (deductible income)} = 100.000 \text{ PLN (income from sale)}$

$100.000 \text{ PLN (income from sale)} \times 19\% = 19.000 \text{ PLN (tax)}$ but Ms Ania has bought new flat for 250.000 PLN during two years (house expense) what resulted the partial tax exemption.

$100.000 \text{ PLN (income from sale)} \times 200.000 \text{ PLN (house expense)} / 250.000 \text{ PLN (sales revenue)} = 80.000 \text{ PLN (exempted income)}$

So a taxable income 100.000 PLN is higher than the exempted income amount 80.000 PLN, Ms Ania will pay the tax in an amount:

$100.000 \text{ PLN (taxable income)} - 80.000 \text{ PLN (exempted income)} = 20.000 \text{ PLN} \times 19\% = 3.800 \text{ PLN (tax to pay)}$.

"Housing expenses":

for the purchase of a residential building, its part or participation in such building, dwelling which is a separate property or participation in a such premises and for purchase of a plot, the perpetual usufruct of land or participation in it which are relate to the building or premises,

for the purchase of cooperative member`s ownership right to residential premises or participation in such right, the right to the one-family house in housing co-operative or participation in such right,

for purchase of a plot for the build the residential building or participation in such land, perpetual usufruct to such land or participation in such right including initiated build of residential building and purchase of other land or participation in land, perpetual usufruct or participation in such right if during the period of two years the land will change designation on the land for the build a residential building,

for build, extension, superstructure, reconstruction or renovation of own residential building, its part or own residential premises,

above mentioned applies to properties located in a country which is a member of the European Union or in other country belonging to European Economic Area or the Swiss Confederation

for the credit (loan) repayment and interest on the credit (loan) raised by the taxpayer before the day of revenue earning from the paid property sale

for the repayment of every other credit (loan) and interest on the credit (loan) raised by the taxpayer before the day of revenue earning from the paid property sale,

above mentioned applies to the bank or savings and credit union seated in a country which is member of European Union or in other country belonging to European Economic Area or the Swiss Confederation.

By own building, premises or space is understood the building, premises or space being owned or co-owned of the taxpayer or the taxpayer is entitled to cooperative ownership right to the property, right to the one-family house in housing co-operative or participation in such rights.

In case of incurring the expenses for housing purposes in the other than Republic of Poland country which is a member of European Union or in other country belonging to European Economic Area or the Swiss Confederation, the exemption mentioned above applies on condition of existence the legal basis resulting from the an agreement about double taxation avoidance or other ratified international agreements in which Poland is a party, to obtain tax information from the tax authorities in the country in which territory the taxpayer pay expenses for housing purposes. Expenses for housing purposes are not – land purchase or participation in the land, perpetual usufruct of land or participation in such right, building, its part or participation in the building or construction, extension, superstructure, conversion, adaptation or renovation of the building or its part – intended for recreation.

"Revenue earning costs" – allows to reduce the amount of income earned by selling the property.

proven costs of purchase or proven costs of production extended by proven outlays which increased the value of goods and ownership rights made during their possession

in case of properties acquired by inheritance, donation or other free of charge way shall be proven outlays which increased the value of goods and ownership rights made during their possession and the amount of tax paid on inheritance and donations in part in which the value of sold goods or its right accepted to the taxation on inheritance and donations is equal to the total value of goods and ownership rights accepted to the taxation on inheritance and donations.

The amount of the above outlays is determined basing on VAT invoices under provisions of the tax on goods and services and documents confirming incur an administrative fee.

Purchase costs or production costs which are mentioned above are increased annually, starting from the year following the year in which was the purchase or production of the sold goods or the ownership rights, to the year preceding the tax year in which the sale took place in the level which is an equivalent to the price of goods and services increases in the period of first three quarters in the tax year compared to the same period in the last year announced by the Chairman of the Central Statistical Office in the Official Journal of Republic of Poland "Polish Monitor".

Legal ground:

The act from 26th July, 1991 about an income tax from individual people (journal of law from 2000 no. 14 item 176 as amended Legal status to the 1st January, 2007) in particular Art. 10, art. 22 and art. 30 of this act.

Ladies and Gentlemen,

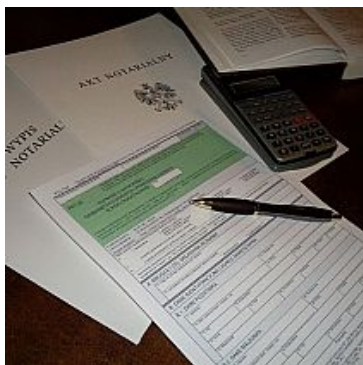
presented article brings only few problems of the taxes during properties sales, the above examples are only simple accounts.

Experience shows that clients often have much more complicated tax situation so I really urge you to contact ILS POLAND GROUP to clarify any doubts about calculating the tax.

It should also remembered that every citizen has the right to writing request to his Tax Office to get binding response

about amount and legal basis of the payable tax.

Ilona Biercewicz



Więcej na stronie **www.ilspoland.com**