



## Capital gains

Many wealthy people flock to Belgium to enjoy a bout of its mild tax climate. They have discovered one of Belgium's best-kept secrets since Belgian lace and chocolates. Belgium has no capital gains tax.

A capital gain is the profit you make between buying and selling a house, a car, shares, bonds, ... That is what makes Belgium attractive to foreign millionaires who sell their shareholding in the company they built up. The profit they make is not liable to tax in Belgium. Most countries tax capital gains at the same rates as ordinary income or at special rates. A zero percent rate is quite unique within Europe.

Of course the rules are not just that simple. So, how does it work? The principle is that if a private individual makes a capital gain, that gain is tax exempt, as long as it is made in the normal management of his private assets. These are everything you own apart from the assets that you buy to use for your job. If a lawyer or a physician sells his business assets and make a gain, he has to declare that on top of his/her earnings. It will be taxed at the same rate as his/her earnings, that is about 50 %.

Most of us only have private assets, and that means that when we sell something, with a profit, we do not need to declare it. There are three exception.

First of all, gains from speculation are not exempt. If you regularly buy houses to sell them fast, especially if you have to borrow money, you are speculating. You can also speculate on the stock market. And speculative gains are taxed at a fixed rate of 33 %.

Let us be clear. This does not mean that you cannot invest in shares and sell them for a profit. You are only speculating if you buy and sell regularly almost like a professional, or if you do not have the means and overstretch. [Of course, the situation is different for day traders. These are the people who monitor stock markets from their pc at home, buying when the price is good to sell a couple of hours later. There is a good chance that the taxman wants to tax their profits in the same way as earnings.](#)

But if you are just investing your savings wisely, taking your profit at the right time, you can make your savings work for you, without paying tax. The banks have even made it into a product, the Sicav. Sicavs are investment funds that hold shares in a variety of companies and/or bonds. The main advantage is that Sicavs do not pay out any dividends; they accumulate them. And if you want to take some profit, the Sicav will simply buy one of your units. Sicavs are a completely legal way of avoiding the tax on dividends.

The second exception was introduced to put a halt to speculation in the building sector. Some people were buying cheap houses, doing them up in the black to sell them on immediately with a huge profit. You may have to pay 16.5 % tax if you buy a house or apartment and sell it within five years. This is never a problem for your main residence. But if you cannot wait five years to sell a second residence or another property, you will pay 16.5 %. But only on the part of the sales price that exceeds 125 % of the purchase price plus 5 percent for every year since the purchase. That should still allow you to make a decent tax-free capital gain.

Finally, if you own more than 25 percent of the shares of a Belgian company and sell them to a foreign company, the capital gain on that sale is taxed at 16.5 %. Any tax lawyer worth his salt



knows that this tax can be avoided simply by selling to a Belgian company. Of course, not all foreign groups want to set up a company in Belgium just to buy a company here and save the vendors 16.5 % capital gains tax. The De Baeck family were in that situation. They refused to pay the tax, and went all the way to the European Court of Justice. And the Court agreed with them. It could not accept that the foreign investors would be treated differently from Belgian investors.

That sounds like a victory for the taxpayer, at least for the moment. I fear that Parliament will simply tax the capital gain irrelevant of the nationality of the purchaser. And that will only put another dent in Belgium's reputation as a tax haven.

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