

# Personal Residence Gain Exclusion Property Tax Basis “Roll-Over”

Are you afraid to sell your personal residence because of the tax consequences? Do you know what these tax consequences actually are? If you buy a new house will your property taxes go up? Hopefully this short article will clarify the current law with regard to selling your personal residence and property taxes.

Before we begin, please be advised that this is general information and should not be relied upon for your specific tax situation. You should seek out advice from a tax professional to address your specific needs.

## ***Section 121 – Personal Residence Gain Exclusion***

In the past you could sell your home and roll the gain over into a more expensive home. This would defer any taxable gain to the point when you finally sold your home for cash, or downsized your home. Fortunately, this law was changed in 1997.

The current law allows for one to sell their personal residence and exclude up to \$250,000 of gain per person (or \$500,000 for a married couple). Of course, there are pre-requisites that must be met in order for this personal residence gain exclusion to apply. Very generally these are:

- 1) You must have owned the home for at least 2 out of the last 5 years, and
- 2) You must have lived in the home for at least 2 out of the last 5 years

There are many caveats and special circumstances that could affect the home sale gain exclusion. Newlyweds, divorcing couples and renting of the property are some of the various situations which could drastically affect your qualifications in meeting the favorable gain treatment. Specific employment, health, and unforeseen circumstances can also qualify a person for partial gain exclusion. These are known as safe-harbor exceptions.

## ***Property Tax Issues:***

Since the advent of Proposition 13 in California property tax rates have been determined by the original purchase price of your home, plus a small yearly inflation adjustment. Unless you move and purchase a new home, your property tax will remain fairly stable and predictable.

Once you sell your home and purchase a new home your property tax is re-calculated using your new home purchase price. This generally works out to about 1.25% to 1.4% of the new purchase price of your home in California. Various county bond issues, special service districts, etc. are the cause of the variation in tax rates.

Fortunately, some counties in California have special provisions for people over the age of 55 or disabled. They allow these “seniors” and disabled to “roll over” their property tax basis to new homes in the same county. Proposition 60 allows any person who is 55 years old or older, or their spouse, or who is severely and permanently disabled, as defined, who resides in a property eligible for the Homeowners' Exemption or is currently receiving the Disabled Veterans' Exemption to transfer the base-year value of their principal residence to a replacement dwelling of equal or lesser value within the same county. Other qualifications apply and this is only a general guideline.

In any case, it is highly recommended that one speak with a tax advisor before listing their property for sale so they are fully aware of the tax consequences. While most will qualify for the personal residence gain exclusion if they meet the ownership and use tests, some will not for any number of reasons. Thus it is much better to plan ahead than be caught with a huge tax bill.

Written by Mark Allen of Allen & Allen, LLP. Mark Allen is an Enrolled Agent and partner with the firm of Allen & Allen, LLP, a CPA Firm where he provides tax preparation, tax planning, and general financial planning services. He has his Masters Degree in Financial Planning and has passed the Certified Financial Planner™ exam. Allen & Allen, LLP was opened in Cameron Park by Mark & his mother, a CPA, in August of 2002. In addition to general tax services, the firm specializes in tax planning for individuals with stock options, employee stock purchase plans, real estate investments, education funding, and investment planning.