**Qualified individual.** For purposes of the reduced maximum exclusion, a qualified individual is:
- The taxpayer,
- The taxpayer's spouse,
- A co-owner of the home, or
- A person whose primary residence is the same as the taxpayers.

**1) Change in place of employment.** Employment includes the start of work with a new employer, continuation of work with the same employer, and the start or continuation of self-employment.

***Distance safe harbor.*** A change in place of employment is considered to be the reason a taxpayer sold a home if:
- The change occurred during the period the property was used as a primary residence, and
- The new place of employment is at least 50 miles farther from the taxpayer's home than the former place of employment was. If there was no former place of employment, the new place of employment must be at least 50 miles from the home that was sold.

**2) Health.** Taxpayers can claim a reduced exclusion if the primary reason for the sale is:
- To obtain, provide, or facilitate the diagnosis, cure, mitigation, or treatment of disease, illness, or injury of a qualified individual, or
- To obtain or provide medical or personal care for a qualified individual. The sale of a home is not because of health if the sale merely benefits a qualified individual's general health or well-being.

**3) Unforeseen circumstances.** The reduced exclusion rules do not apply if the primary reason for the sale was a preference for a different home or an improvement in household finances.

***Specific event safe harbors.*** Specific event safe harbors include the following.
- An involuntary conversion of the home.
- Natural or man-made disasters or acts of war or terrorism resulting in a casualty to the home.
- Events that apply to qualified individuals include death, unemployment (if the individual is eligible for unemployment compensation), a change in employment or self-employment status that results in an inability to pay reasonable basic living expenses, divorce or legal separation, or multiple births resulting from the same pregnancy.
- Any event the IRS determined to be unforeseen.

***Facts and circumstances.*** Taxpayers who do not meet the specific event safe harbor rules may still be able to claim a reduced exclusion.

## Contact Us

There are many events that occur during the year that can affect your tax situation. Preparation of your tax return involves summarizing transactions and events that occurred during the prior year. In most situations, treatment is firmly established at the time the transaction occurs. However, negative tax effects can be avoided by proper planning. Please contact us in advance if you have questions about the tax effects of a transaction or event, including the following:
- Pension or IRA distributions.
- Significant change in income or deductions.
- Job change.
- Marriage.
- Attainment of age 59½ or 70½.
- Sale or purchase of a business.
- Sale or purchase of a residence or other real estate.
- Retirement.
- Notice from IRS or other revenue department.
- Divorce or separation.
- Self-employment.
- Charitable contributions of property in excess of $5,000.

This brochure contains general information for taxpayers and should not be relied upon as the only source of authority. Taxpayers should seek professional tax advice for more information.



2017

# Sale of a Principal Residence


Family TAX OFFICE 714.995.2797


# Sale of a Principal Residence

## Exclusion of Gain

**Principal residence defined.** A principal residence is the taxpayer's main home, which is the home where he or she ordinarily lives most of the time. A taxpayer can have only one main home at any one time.

**Individual homeowners.** Individuals can exclude up to $250,000 of gain on the sale of a home if three provisions are satisfied.

1) **Ownership.** The individual owned the home for at least two years during the 5-year period ending on the date of sale,
2) **Use.** The individual used the home as a principal residence for at least two years during the 5-year period ending on the date of sale, and
3) **Two-year period.** The individual did not exclude gain from the sale of another home during the 2-year period ending on the date of sale.

Co-owners must figure gain or loss according to his or her ownership interest in the home and then apply the exclusion rules on an individual basis.

**Married homeowners.** Married couples can exclude up to $500,000 of gain on the sale of a home if:

1) **Joint return.** The married couple files a joint return for the year,
2) **Ownership.** Either spouse (or both spouses) meets the ownership test, above,
3) **Use.** Both spouses meet the use test, above, and
4) **Two-year period.** Neither spouse meets the 2-year period test, above.

If either spouse does not meet all the requirements, the couple can exclude the total of the exclusions that each spouse would qualify for if not married and the amounts were figured separately. For this purpose, each spouse is treated as owning the property during the period that either spouse owned the property.

## Ownership and Use Rules

The required two years of ownership and use during the 5-year period prior to the sale do not have to be continuous. The ownership test and the use test can be met at different times during the 5-year period. Short, temporary absences for vacations or other seasonal absences are counted as periods of use (even if the property is rented out during the absence).

**Surviving spouse.** A surviving spouse who does not remarry before the sale of a home is considered to have owned and used the home as a primary residence during the deceased spouses ownership and use period.

The $500,000 exclusion applies to unmarried individuals provided the sale occurs not later than two years after the date of death of the deceased spouse, and the couple would have qualified for the $500,000 exclusion if the sale had occurred immediately before the date of death.

**Home transferred from spouse.** Individuals who acquire a home in a transfer from a spouse (or former spouse if the transfer was incident to divorce) are considered to have owned the home during any period of time the spouse (or former spouse) owned it.

**Divorced individuals.** An individual is considered to have used a home as a primary residence during any period when (1) the individual owned the home, and (2) the individual's spouse or former spouse is allowed to live in it under a divorce or separation instrument and uses the home as a primary residence.

**Inherited home.** A taxpayer who inherits a home is generally not eligible for gain exclusion unless he or she meets the ownership and use tests for the inherited home.

## Sale of Vacant Land Adjacent to Residence

The sale of vacant land is not treated as a sale of a taxpayer's principal residence unless:

- The vacant land is adjacent to the principal residence,
- The taxpayer owned and used the vacant land as part of taxpayer's principal residence,
- The sale of the principal residence satisfies the requirements for exclusion and occurs within two years before or after the sale of the vacant land, and
- The ownership and use requirements for the vacant land have been satisfied.

If these requirements are met, the sale of the principal residence and the vacant land are treated as one sale. Only one maximum limitation amount of $250,000 ($500,000 for eligible MFJ) applies to the combined sales.

## Reduced Maximum Exclusion

Taxpayers who do not meet the 2-year ownership and use tests, or who have already excluded gain from the sale of another home during the 2-year period prior to the sale of a current home, may claim a pro-rated exclusion on the sale of a home if the primary reason for the sale is due to:

1) A change in place of employment of a qualified individual,
2) The health of a qualified individual, or
3) Unforeseen circumstances.