Title:
Change in Capital Gains

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527

Summary:
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Keywords:
real estate investing, selling property, selling real estate, capital gains

Article Body:
If you own a property which you are planning to sell, be sure to consult a tax advisor or get informed about tax law before doing so. Many real estate agents also know the subtleties of property selling and taxation. Several small points can make the difference between having to pay capital gains tax or not.

Capital gains is something that not many of us worry about because we only have the one home which is often only sold in order to buy another property. Usually the next property will cost more money and will be a like-kind property so the question of capital gains tax never arises.

However, until now, there has been a little known tax clause which had taxed the most unsuspecting of people with capital gains. These people are newly widowed women, who suddenly find that they will now be taxed as a single woman. On top of losing a spouse, they also had to worry about losing a large chunk of their assets in the form of money from the sale of their family home.

When a home is sold, it has usually been the property of joint owners (most commonly husband and wife) and each owner is allowed to claim $250,000. This means that, for tax purposes, the average couple can exclude up to $500,000 of gain - provided that they have used the house as a principal residence for a cumulative two of the previous five years.

In most cases, being able to 'write off' a $500,000 profit margin means most of us are not concerned with capital gains tax.

But what happens when a spouse suddenly dies? The capital gains or the profit allowed on the sale of the house is now only one person's allowance of $250,000. If you and your husband were married in the 1940s and lived all your life in the same house, then death of one of the spouses would incur heavy taxes on the sale of the property.

The IRS has just stepped in to change this situation, but with all the mortgage rate controversy, it has slipped by almost unnoticed.

Until now, the only way to qualify for the full $500,000 capital gains allowance was to sell your home in the same year in which your spouse died. In other words, it would be the last year that you could file a tax return as a married person, so it would be the last year that any taxation could be applied to the married -deceased- spouse.

Apart from the shock of losing a spouse and thinking about selling your home all in the same time period - what happens if your spouse dies in November? You have one month to get your act together!

Theoretically, most husbands or wives inherit their spouse's share of the property at what is called a 'stepped-up' tax basis, but now that the IRS has introduced new legislation for the spousal death situation, everyone can breathe more easily.

The new change in the law, introduced at the end of 2007, now gives surviving spouses a full two years to claim the "double" allowance of $500,00 on capital gains, even though, by law, they are now single.