



New Rules Regarding Your Real Estate Reporting Obligations

By
Paul De Francesca
Lawyer

Abstract

Starting January 1, 2016, if you sell your principal residence you must report the sale on your income tax return. Sellers are only exempt from payment of capital gains tax by claiming the principal residence exemption on your tax return. If sellers do not report the sale correctly on their income tax return, they may not be able to claim the principal residence exemption.

Full Article

Homeowners have been eligible to claim the principal residence exemption if their property was their principal residence for every year they owned it without having to report the sale on their income tax and benefit return. A property qualifies as a principal residence if it meets all of the following conditions: 1. It is a housing unit, 2. The property is owned alone or jointly with another person, 3. The house is inhabited by the owner, their spouse or common-law partner, or any of their children at some time during the year, and 4. The property is designated as a principal residence. The principal residence exemption provides an exemption from tax on the capital gain realized when the property is sold that applies for each year the property is designated as a principal residence. A capital gain occurs when an individual sells capital property such as land.

On October 3rd, 2016, Canadian Finance Minister Bill Morneau changed the rules regarding homeowners being able to sell their home and claim the principal residence exemption without having to report anything on their income tax return. For taxation years ending on or after October 3rd, 2016, in order to claim the principal residence exemption sellers must report in their tax return basic information regarding sales of principal residences such as date of acquisition, proceeds of disposition and description of the property. For example, if a seller sold their home in April 2016, since this sale occurred in the 2016 tax year this sale must be reported in the seller's 2016 income tax return to claim the principal residence exemption.



New Rules About Reporting Obligations

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As a result of these rule changes, the Canada Revenue Agency can now very easily audit questionable transactions to verify whether an individual is really entitled to receive the principal residence exemption. The penalty for making a false statement or omission such as falsely attempting to claim the principal residence exemption in an income tax return can be extremely high. The penalty is the greater of (a) \$100.00, and (b) 50% of the understated tax and/or the overstated tax credits related to the false statement or omission. Targets of this proposal are those who sell properties that aren't their principal residence, such as owners who buy properties for investment purposes or to earn income, such as house flippers.

What happens when someone sells their property, wanted to claim the principal residence exemption, but forgot to report the sale on their income tax return for the year of disposition? The CRA's website states that if a seller forgets to make a designation of principal residence in their income tax return for the year of sale, it is very important to ask the CRA to amend the seller's income tax and benefit return for that year. The CRA will be able to accept a late designation but a penalty may apply, the penalty being the lesser of 1. \$8,000; or 2. \$100 for each complete month from the original due date to the date the request was made in a form satisfactory to the CRA. If the disposition is not reported the CRA will not face the normal three-year limitation period for auditing and perhaps reassessing the disposition.