Is there really no capital gains tax in Belgium ?

A capital gain is the positive difference between the sale price of an asset and its original purchase price, which is, in principle, **triggered when an asset is sold**. Sometimes a distinction is made between **short-term** and **long-term** capital gains. It is also possible that there is a (deductible) **capital loss** when a taxable asset is sold for less than the original purchase price. In general, capital gains treatment only applies to **stocks, investments, movable goods, and real property**. So, when and how are these gains subject to tax in Belgium?

Capital gains realized **by a company** on the disposal of its assets are subject to **the normal corporate tax rate**. This is 25% (tax year 2021), with the exception of SMEs, which pay 20% on the first €100,000 in taxable profit. The tax due **can be deferred** under some conditions, e.g. if the entire sale proceeds are reinvested within a certain period of time.

In general, capital gains realized **by a private individual are not taxable** if this takes place within the **'normal' management of his personal assets** and are not part of a business activity. What is 'normal' and what is 'abnormal' (or speculative) in this context, is not always clear and has led to many discussions with the Belgian tax authorities. In any case, private individuals should be aware that in some cases, a **capital gains tax** (CGT) may apply in Belgium.

If the capital gains are realized outside your business activity, they will not constitute professional income (taxable at the progressive tax rates of 25% up to 50%), but instead will be qualified as '**miscellaneous' income** which is **taxed at a flat rate of 16.5% or 33%** (plus local taxes).

For example, if you decide to **sell your shares in a Belgian company** to a foreign company (i.e. if you sell at least 25% of the shares or a 'substantial participation'), you will pay a **16.5%** CGT (plus local taxes). If the sale takes place **with a 'speculative' intention**, however, the CGT rate will amount to **33%** (plus local taxes) instead.

For **capital gains on real estate**, a distinction is made between buildings and land, but the tax also depends on the holding period of the property. Your **private residence** is always tax-exempt on the condition that you occupied it for at least 12 months. The capital gain on any other **building** that is sold **within 5 years** of its acquisition is taxed at 16.5% (plus local taxes). After that, it is tax-free. For **unbuilt land**, the conditions are stricter: if sold **within 5 years** of acquisition, the rate is 33% (plus local taxes), or 16.5% (plus local taxes) if sold **after 5 years** but **within 8 years** of acquisition. After that, it is also tax-free. **Any expenses** incurred when buying/selling the property are obviously deductible from the sale price. You may also increase the initial purchase price with **a lump-sum amount of 25%,** as well as **an additional 5% per year** for every year that has passed between the purchase and the eventual sale of the property.

We can **help you to better understand** whether a certain transaction might **trigger a CGT** in Belgium and make sure you **are fully compliant** when carrying out the transaction.