

INCOME TAX ALERT

Normally when most individuals sell their personal residence, such individuals are benefited by a provision in the income tax law which exempts up to \$250,000 of gain from income taxes arising on the sale of a personal residence for single persons and \$500,000 for married persons. A recent decision determined that if two non-married individuals each owned a half interest in the house, each of them is eligible to claim the \$250,000.00 exemption against income tax gain.

Congress made a change in December of 2010 which can, in certain circumstances, cause a certain tax called "Medicare surtax" on a portion of the gain when one sells one's personal residence.

Essentially, if a personal residence is sold after 2012 a 3.8% Medicare surtax applies. The surtax is designed to apply on "investment income" namely on the smaller of "net investment income" or the "excess of adjusted gross income" over a \$200,000 threshold for an individual and \$250,000 threshold for married individuals. The trick is though that capital gains are treated as "investment income". Thus, if a personal residence is sold for a substantial gain after 2012, the sale may subject the homeowner to the 3.8% Medicare surtax.

The surtax will even be applied in a harsher circumstance on the sale of second homes after 2012. The Home Sale Exclusion does not apply to second homes so the surtax gain will apply to the entire gain.

Some individuals who are considering selling their house at a substantial gain either the primary residence or a second residence might want to consider consummating the sale before the end of 2012.

The Medicare surtax is part of the "Obama Healthcare Plan" and is designed to raise money to provide healthcare benefits to others in need of healthcare who do not have the resources or insurance to cover needed healthcare. Commentators have referred to a tax such as this as part of the Obama "spreading the wealth" or, "wealth redistribution". In any event being aware of the Medicare surtax may help certain individuals in planning to avoid or minimize the Medicare surtax.

This article was authored by Charles W. Stopp, Senior Partner of the Steckel & Stopp Law Firm with offices at Main Street and Walnut Street, Slatington; Schnecksville and Northampton which has been serving the needs of the Lehigh Valley areas for over sixty years.