

Taxes of selling a property

What type of taxes one should pay when selling a property, including on capital gains

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What type of taxes one should pay when selling a real estate

Where will you pay the tax

Income from the sale of real estate located in Poland is taxed in Poland.

When will you pay the tax in Poland

You will pay the tax if you transfer real estate:

- against consideration,
- within 5 years from the end of the calendar year in which:
 - you acquired or built the real estate,
 - the real estate was acquired or built by the testator (if you sell real estate you inherited),
- and real estate transfer is not effected within economic activity.

Important: the income from the sale of the real estate will not be subject to taxation in Poland if you sell the real estate after 5 years. In such a case, you do not submit a tax statement in Poland.

Taxation rules

The taxable amount is the income from the sale of the real estate. You will calculate it according to the following formula:

Income = revenue - tax deductible expenses

Revenue – the price specified in the agreement with the buyer, reduced by the cost of transfer against consideration (e.g. notary fees, the cost of an agent's services).

Tax deductible expenses – expenses associated with the acquire of the real estate and outlays which increased the value of real estate, which were made during the possession of this real estate.

Please note: if, without due cause, the price specified in the agreement differs significantly from the market value of the real estate, then the Revenue Office will determine your revenue on its own, taking the market value into account. In such a case, you take into account the revenue determined by the revenue office when calculating the tax, not the one specified in the agreement.

Tax deductible expenses include most of all documented expenses you incurred on the purchase or construction of the real estate.

If you sell real estate you acquired free of charge, e.g. by donation or inheritance, then tax deductible expenses are:

- documented expenses incurred by the testator on the purchase or construction of the real estate,
- the inheritance and gift tax paid,
- the inheritance encumbrances you bore (inheritance debts paid, satisfied claims for reserved portions, and the testator's bequests and instructions honoured).

You may also include in tax deductible expenses documented expenditure that you incurred to increase the value of the real estate when it belonged to you. The amount of the expenditure is determined on the basis of VAT invoices and documents confirming that administrative fees were incurred).

Important: if the amount of expenses incurred is higher than the revenue, it means that you sold the real estate at a loss. In such a case, you do not pay tax.

Revenues exempt from taxation

In certain situations, the revenue from the sale of the real estate may be exempt from taxation.

The following revenues are tax-free:

- from the sale of real estate, parts of real estate or a share in real estate forming part of an agricultural holding for consideration.
This exemption does not apply to revenue from the sale of land for consideration if this land has lost its agricultural status as a result of the sale for consideration.

- from compensation paid under provisions on real estate management or from the sale of real estate for purposes justifying its expropriation for consideration and from the sale of real estate in cases where the buyer exercises the right of pre-emption, in accordance with the provisions on real estate management.

You will not be eligible for this exemption if you purchased the real estate 2 years before the initiation of expropriation proceedings or the sale of the real estate for consideration for a price lower by at least 50% than the compensation obtained or the sale price of the real estate for purposes justifying its expropriation or in connection with the exercise of the right of pre-emption.

Please note: You do not submit a tax statement if you benefit from the tax exemption.

Housing relief

The income from the sale of the real estate may be exempt from tax, in whole or in part, if you allocate the revenues obtained for your own housing purposes. You should do this within 3 years from the end of the fiscal year (calendar year) in which you sold the real estate.

Expenditure on one's own housing purposes is expenditure incurred on, inter alia:

- the purchase of a residential building or a dwelling constituting a separate piece of real estate, as well as the acquisition of land or a share in land, or the right of perpetual usufruct of land attached to this building or dwelling;
- the acquisition of a cooperative ownership right to a dwelling;
- the acquisition of land for the construction of a residential building, including land on which the construction of a residential building has already begun, and the acquisition of other land if, within 3 years from the end of the calendar year in which the transfer against consideration took place, its intended purpose is changed to land for the construction of a residential building,
- the construction, adaptation or renovation of your own residential building or your own dwelling;
- the modernisation or adaptation for residential purposes of your own non-residential building or your own non-residential premises.

Important: Within 3 years you have to spend the revenue generated on the transfer of real estate on your own housing purposes (e.g. new house, dwelling), but also you must become an owner of this real estate.

You may pursue your own housing purposes not only in Poland but also in other Member States of the European Union and of the European Economic Area or in the Swiss Confederation.

Important: the revenue may be spent on housing purposes in another country if the revenue office is able to (under international agreements in force) obtain tax information from the country in which you incur expenditure on housing purposes.

Expenditure on housing purposes may also include expenditure on the repayment of loans together with interest (including refinance and consolidation loans) obtained from a bank or from a credit union to finance your own housing needs.

Please note: In order for the expenditure on the repayment of a loan together with interest to be exempt from tax, you must take out the loan before selling the real estate.

How to calculate income exempt from taxation

If you allocate all the revenue from the sale of the real estate for your own housing purposes, then the income obtained will be totally exempt from tax.

You may, however, allocate only part of the revenue for your own housing purposes. In such a case, the income exempt from taxation is calculated according to the following formula:

(declared expenditure on housing purposes / revenue from the transfer real estate against consideration) x income = income exempt from tax

How to determine the tax base

The tax base is determined according to the following formula:

income – income exempt from tax = tax base

How much will you pay

The tax on the sale of real estate is 19%.

What tax statement to submit

If you sold real estate located in Poland, you should submit the PIT-39 tax statement.

Important: you submit the PIT-39 tax statement regardless of whether you sold the real estate at a profit or at a loss.

When to submit tax statements

The PIT-39 tax statement should be submitted between 15 February and 30 April of the year following the year in which you sold the real estate.

Please note: Tax statements submitted before the beginning of the period are considered to be submitted on February 15 of the year following the tax year.

If 30 April falls on a Saturday or a holiday, the first working day following the holiday(s) is considered the last day for submitting tax statements.

Where to submit tax statements

If your place of residence is in Poland, then a tax return statement for income earned or losses sustained during the fiscal year is submitted to the revenue office having jurisdiction over competent for the taxpayer's place of residence on the last day of the tax year.

If your place of residence is not in Poland, a tax statement for income earned or losses sustained during the fiscal year is submitted to the revenue office having jurisdiction over the province in which you concluded the notarial deed transferring ownership of the real estate. In this case, there is one designated revenue office per province where you may submit the tax return:

1. Dolnośląskie Province – the Wrocław-Psie Pole Revenue Office;
2. Kujawsko-Pomorskie Province – the Second Revenue Office in Bydgoszcz;
3. Lubelskie Province – the First Revenue Office in Lublin;
4. Lubuskie Province – the First Revenue Office in Zielona Góra;
5. Łódzkie Province – the Łódź-Śródmieście Revenue Office;
6. Małopolskie Province – the Kraków-Śródmieście Revenue Office;
7. Mazowieckie Province – the Warszawa-Śródmieście Third Revenue Office;
8. Opolskie Province – the Head of the First Revenue Office in Opole;
9. Podkarpackie Province – the First Revenue Office in Rzeszów;
10. Podlaskie Province – the First Revenue Office in Białystok;
11. Pomorskie Province – the First Revenue Office in Gdańsk;
12. Śląskie Province – the First Revenue Office in Katowice;
13. Świętokrzyskie Province – the Second Revenue Office in Kielce;
14. Warmińsko-Mazurskie Province – the Revenue Office in Olsztyn;
15. Wielkopolskie Province – the Poznań-Nowe Miasto Revenue Office;
16. Zachodniopomorskie Province – the Third Revenue Office in Szczecin.

Important: if the notarial deed was concluded in another country, then you submit the PIT-39 tax statement to the Warszawa-Śródmieście Third Revenue Office.

What taxes you will pay on the sale of shares or stocks in a Polish company

Where you will pay the tax

If you reside in an EU country other than Poland and sell shares or stocks a Polish limited company, the income you earn may be taxed in Poland.

Please note: in order to find out in which country your income from the sale of shares or stocks will be taxed, refer to the relevant double taxation agreement concluded between Poland and the country where you reside. Please make sure that you do not pay tax on the same income twice.

Taxation rules

If the income you earned is subject to taxation in Poland, you will pay tax on that income. The income is calculated according to the following formula:

Income = revenue - tax deductible expenses

Revenue – the price specified in the agreement with the buyer.

Please note: if, without due cause, the price specified in the agreement differs significantly from the market value of shares or stocks, then the Revenue Office will determine your revenue on its own, taking the market value into account. In such a case, you take into account the revenue determined by the revenue office when calculating the tax, not the one specified in the agreement.

Tax deductible expenses – the price you paid for the shares or stocks sold.

Please note: If the shares or stocks sold were acquired by you in exchange for a contribution in kind in a form other than a business or an organised part thereof, tax deductible expenses will be determined at the level of the contribution you made.

If you sell shares or stocks you inherited, then tax deductible expenses will be the expenses incurred by the testator in connection with the acquisition or taking up of these shares or stocks.

How much you will pay

The tax on the sale of shares or stocks is 19%.

Please note: If the amount of expenses incurred is higher than the revenue, this means that you sold the shares or stocks at a loss. In such a case, you do not pay tax.

What tax return to submit

If you sold shares or stocks in a Polish limited company and the income earned is subject to taxation in Poland, you must submit a PIT-38 tax return.

Important: You must submit the PIT-38 tax return regardless of whether you sold the shares or stocks at a profit or at a loss.

When to submit tax statements

The PIT-38 tax statement should be submitted between 15 February and 30 April of the year following the year in which you sold shares or stocks.

Please note: Tax statements submitted before the beginning of the period are considered to be submitted on February 15 of the year following the tax year.

If 30 April falls on a Saturday or a holiday, the first working day following the holiday(s) is considered the last day for submitting tax statements.

Where to submit tax returns

If your place of residence is in Poland, then a tax return statement for income earned or losses sustained during the fiscal year is submitted to the revenue office having jurisdiction over competent for the taxpayer's place of residence on the last day of the tax year.

If your place of residence is not in Poland, then a tax return for income earned or losses sustained during the fiscal year is submitted to the revenue office having jurisdiction over the province in which you sold the shares or stocks. In this case, there is one designated revenue office per province where you may submit the tax return:

1. Dolnośląskie Province – the Wrocław-Psie Pole Revenue Office;
2. Kujawsko-Pomorskie Province – the Second Revenue Office in Bydgoszcz;
3. Lubelskie Province – the First Revenue Office in Lublin;
4. Lubuskie Province – the First Revenue Office in Zielona Góra;
5. Łódzkie Province – the Łódź-Śródmieście Revenue Office;
6. Małopolskie Province – the Kraków-Śródmieście Revenue Office;
7. Mazowieckie Province – the Warszawa-Śródmieście Third Revenue Office;
8. Opolskie Province – the Head of the First Revenue Office in Opole;
9. Podkarpackie Province – the First Revenue Office in Rzeszów;
10. Podlaskie Province – the First Revenue Office in Białystok;
11. Pomorskie Province – the First Revenue Office in Gdańsk;
12. Śląskie Province – the First Revenue Office in Katowice;
13. Świętokrzyskie Province – the Second Revenue Office in Kielce;
14. Warmińsko-Mazurskie Province – the Revenue Office in Olsztyn;
15. Wielkopolskie Province – the Poznań-Nowe Miasto Revenue Office;
16. Zachodniopomorskie Province – the Third Revenue Office in Szczecin.

Important: If cannot determine the correct jurisdiction in this manner, you must submit the PIT-38 tax return to the Warszawa-Śródmieście Third Revenue Office.



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