



CAPITAL GAINS TAX

WHAT IS A CAPITAL GAIN?



Capital gains are part of the category “miscellaneous income”.

The notion of capital gain presupposes that 2 quantities are compared with each other and consists of the difference between the present value of an asset and its acquisition cost.

OTHER MISCELLANEOUS INCOME



Real estate located abroad



Income deriving from the concession in usufruct and sublease of immovable property, and income deriving from concession in use of vehicles, machines and other movable property;



Income from the economic use of industrial patents and processes

OTHER MISCELLANEOUS INCOME



WINNINGS FROM LOTTERIES,
GAMES, SWEEPSTAKES



AWARDS RECEIVED IN
RECOGNITION OF ARTISTIC,
SCIENTIFIC AND SOCIAL MERITS

3 HYPOTHESES OF CAPITAL GAINS

The first hypothesis of capital gain derives from the lotization of the land or from the execution of works intended to make buildable the land.



The second hypothesis is that of capital gains realized through the sale for consideration of immovable property purchased or built for no more than 5 years.



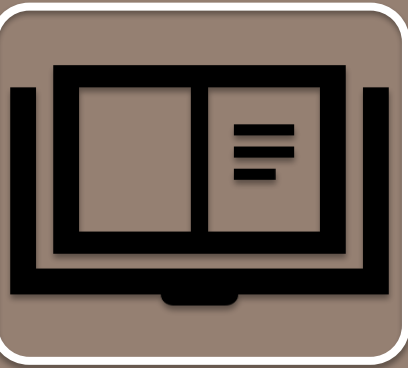
The last hypothesis of capital gains concerns capital gains realized as a result of the sale for consideration of building land.



CAPITAL GAINS FROM THE SALE OF INVESTMENTS



Article 67 paragraph 1 letter c) and c-bis TUIR includes in the other income the capital gains realized, outside the business activity, through the sale of shareholdings and financial instruments



These capital gains are subject to a substitute charge of 26% without any distinction. If the investment is held in a foreign company "with a privileged tax regime" (Article 47 bis TUIR) the capital gain is subject to full and ordinary IRPEF taxation, together with other income.

FOCUS ON THE MAIN NORMATIVE REFERENCES



ART. 67 TUIR



ART. 68 TUIR



Legislative decree
461/97

ART. 67 E ART.68 TUIR



Article 67 of the TUIR lists capital gains



Article 68 of the TUIR describes the criteria for determining the capital gains

APPLICATION OF MISCELLANEOUS INCOME OF A FINANCIAL NATURE



Article 5 of Legislative Decree. 21/11/1997 regulates the substitute tax on capital gains and other income of a financial nature.

Taxable persons for substitute tax are:

A) resident natural persons

B) simple companies and persons treated in the same way

C) the non-commercial entities now indicated in Article 73 TUIR

D) non-residents, if the income is considered to be produced in the territory of the State

SISTEM OF TAXATION LEGISLATIVE DECREE 461/97

The system of taxation of financed income provides for

1) the administered regime

2) the asset management scheme

3) the declaration regime

CONCLUSION

- I've explained briefly capital gains' taxation and I understood that the 'ratio' behind capital gains legislation is to avoid that some cases remain excluded from the taxation regime and therefore to identify and tax those behaviors by speculators.