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COMMUNICATION TO THE SELLER

Capital gain on the sale of property and the 26% substitute tax

If you sell within five years of purchase (or ten, after the Superbonus) the gain may be taxed. Here are the rules, the choice that is yours to make and what to bring to the Office.

1. WHEN A SALE GENERATES A TAXABLE CAPITAL GAIN

Art. 67 T.U.I.R. (D.P.R. 917/1986, the Italian Consolidated Income Tax Act) treats as "other income", among other things: **a)** capital gains from the subdivision of land, or from works making it buildable, followed by its sale; **b)** capital gains from the sale for consideration of property **bought or built no more than five years earlier**, and in any case those from the sale of land classed as buildable under the planning instruments in force; **b-bis)** from 1 January 2024, capital gains from the sale of property on which works subsidised by the Superbonus were carried out, if the sale takes place **within ten years** of the end of the works (L. 213/2023).

The following are **excluded**: property acquired by **inheritance** and urban units which, for most of the period between purchase (or construction) and sale, were used as the **main residence** of the seller or of his family members. For property received as a **gift**, the five years run from the date of purchase by the donor and the cost taken into account is that borne by the donor.

2. HOW IT IS CALCULATED

The capital gain is the difference between the **sale price** received and the **purchase price or construction cost**, increased by any other documented cost relating to the property: taxes and notary's fee on the purchase, estate agent's commission, renovation costs supported by invoices and bank transfers. Special rules apply to "b-bis" (Superbonus) property: within five years of the end of the works, costs subsidised through the invoice discount or credit transfer do not count; between five and ten years they count at 50%.

3. THE CHOICE: 26% SUBSTITUTE TAX IN THE DEED OR INCOME-TAX RETURN

The seller may ask the notary, **at the time of the sale**, to apply a **26% substitute tax** (art. 1, comma 496, L. 266/2005): the notary calculates it on the capital gain declared by the seller, collects it at the deed and pays it to the Italian Revenue Agency (Agenzia delle Entrate) by electronic F24 form. A capital gain taxed in this way is not included in the income-tax return. Alternatively, the capital gain is declared in the following year's Redditi or 730 tax return and is subject to IRPEF (personal income tax) at the ordinary rates, which are often higher than 26%.

> **Our advice.** Consider in good time, with your accountant, whether the substitute tax is worthwhile: for most sellers it is, but it depends on your total income and on the costs you can document. The notary applies the choice you communicate to us, but cannot take the place of your tax adviser in reconstructing the costs.

4. WHAT TO DELIVER TO THE OFFICE IF YOU CHOOSE THE 26%

- The Italian Revenue Agency's **"plusvalenze immobiliari" (property capital gains) form**, completed (one for each seller and each property), which can be downloaded from the Agency's website, "tassazione delle plusvalenze" section: you will also find it in our download area.
- Copy of the purchase deed or of the documents proving the construction cost, and of the **invoices and bank transfers** for the additional costs.
- The amount of the tax (26% of the capital gain), which must be paid to the Office **before signing** by non-transferable banker's draft made out to the notary or by bank transfer to the dedicated account indicated by the secretariat, with the reference "imposta sostitutiva plusvalenza - [seller's name]". Calculating, collecting and paying the tax is included in the fee estimate for the deed.

5. EXAMPLE (INVENTED FIGURES)

Luca bought a two-room flat in Fuorigrotta in 2023 for 150,000 euros (plus 6,000 euros in taxes and notary's fees and 4,000 in agency commission) and in 2026 sells it for 190,000 euros without ever having lived in it. Capital gain: 190,000 - 160,000 = 30,000 euros. With the substitute tax he pays 7,800 euros at the deed and has nothing more to do; with ordinary IRPEF, if his income falls in the 35% bracket, he would pay 10,500 euros the following year. If instead he had lived there for most of the time, or had inherited it, there would be no taxable capital gain at all.

6. BUILDABLE LAND

For land suitable for building, the capital gain is **always** taxed, regardless of the five-year period, and the 26% substitute tax is not available: it is declared under separate taxation (art. 17 T.U.I.R.). Alternatively, the value of the land can be stepped up by sworn appraisal with payment of a substitute tax (a rule extended year by year: check the deadline in force).

✓ SELLER'S CHOICE

to be returned to the Office before the deed

Seller ____________________ Tax code (codice fiscale) ____________________

Property ____________________ Sale price € ____________________

Bought / built / received as a gift on ____________ Purchase price or construction cost € ____________

Other documented costs € ____________

Having read this communication, the undersigned declares:

- ☐ that the property was my main residence (or that of my family members) for most of the period: no taxable capital gain
- ☐ that more than 5 years have passed since the purchase (and more than 10 since the end of any Superbonus works): no taxable capital gain
- ☐ that I **do not ask** for the substitute tax and will declare the capital gain in my income-tax return
- ☐ that I acquired the property by inheritance: no taxable capital gain
- ☐ that I **ask for the 26% substitute tax to be applied** in the deed, on the capital gain I have declared, and will deliver the form and documents
- ☐ that the property is buildable land: separate taxation, substitute tax not applicable

The seller is responsible for the accuracy of the information provided for the calculation. The notary pays the substitute tax on the basis of the capital gain declared and is not liable for undocumented costs or for later adjustments by the Italian Revenue Agency.

Place and date ____________________ Seller's signature ____________________