

Real Estate Sale — Don't Pay the Taxes Until You Get Paid!

By Casey Murray, CPA, CA, LPA

Principal, Assurance & Advisory Services GGFL LLP

You've sold real estate and turned a profit on the sale, and now it's time to report that gain to the taxman.

But, here's the financial wrinkle. You loaned money to the person who bought your property – known as taking back a mortgage – and the buyer has yet to pay you back. The taxes on that profit you made are coming directly out of your pocket due to the unpaid loan you made to the buyer.

Enter the capital gains reserve, a financial safety net designed to ease the pain for those who find themselves in just that situation. Simply put, the capital gains reserve allows taxpayers to defer a portion of taxes payable on that real estate deal for a maximum of five years.

There are aspects to the capital gains reserve that, for example, allow the taxpayer flexibility in the amount of income reported from one year to the next, or flexibility in how the original sales deal is structured.

When property is sold in the ordinary course of business, i.e., land inventory, the capital gains reserve does not apply. However, a reserve is still permitted where some or all of the proceeds are not due at the end of the taxation year.

A reasonable reserve could be calculated as the gross profit on the sale, multiplied by the unpaid proceeds

at the end of the year, and then divided by the total proceeds. Income reserves can be claimed for up to three years on a particular sale.

It's hard enough knowing that a big chunk of the profit on a real estate sale will be lost to taxes, and worse still when the taxes are coming out of the seller's own pocket.

The capital gains reserve allows taxpayers to ease the burden of paying capital gains taxes when they haven't received the sale proceeds. It can improve cash flows, defer taxes, and, in certain instances, reduce the portion of the gain that ends up in government hands. 



With a quick call to your accountant and a properly structured sale, it's a seller's market.