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Tax law lets many homeowners pocket profits without paying taxes

by Robyn Friedman, Special to the Sun-Sentinel

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When Mark Schacht sold his 3,200-square-foot home west of Boca Raton for $485,000 last October, he realized a profit of about $80,000. But Schacht didn't pay any taxes on that gain, thanks to tax code changes contained in the Taxpayer Relief Act of 1997. He estimates that he saved more than $20,000 as a result.

"The tax changes help the economy and allow people to continue to build some equity," said Schacht, an investor and entrepreneur who now lives in Delray Beach.

Under the prior tax law, homeowners had to roll over their gain into a more expensive house in order to defer taxes, or they could exclude taxes on the gain altogether by taking a once-in-a-lifetime exclusion if they met certain age requirements. But those rules no longer apply to a principal residence, much to the delight of homeowners who can now sell their homes and retain their entire equity -- tax free -- even if they decide not to purchase another home.

Today, homeowners who sell can earn up to $250,000 in profits on the sale of a principal residence ($500,000 if married filing jointly) -- tax free -- as long as they owned and occupied the house for at least two of the five years prior to the sale. The exclusion can be taken each time a principal residence is sold, but not more than once every 24 months. It does not apply to rental property or property that is not a taxpayer's principal residence.

"This is one of the best ways to shelter income as long as your homes keep going up in value," said Rich Shavell, president of Shavell & Co. PA, and a Boca Raton-based accountant who specializes in construction and real estate taxation. "Every 25 months, you could flip a home and walk away with a beautiful exclusion."

Shavell said if the profit on a house is more than $250,000 ($500,000 for married sellers who file jointly), the excess is treated "like a good old regular capital gain."

If a portion of the house is used as a home office and depreciated, some of that depreciation might be "recaptured" after a sale, Shavell added.

Real estate taxes are also deductible, but sellers need to be wary about deducting real estate taxes in the year they sold the house, Shavell said. Sellers can deduct only the real estate taxes they actually paid; if

they were reimbursed by the buyer at closing for taxes they prepaid through the end of the year, sellers must reduce their tax deduction accordingly. Shavell advises sellers to carefully examine the settlement statement they sign at closing, since the statement they receive from their bank for tax purposes will probably reflect the entire amount of taxes paid, without reduction for any reimbursement from the buyer.

Another tax benefit available to home sellers (it's actually available to anyone who moves, provided that certain tests are met) is the moving expense deduction. In general, as long as your new job location is at least 50 miles farther from your former home than your old job was, you can write off the reasonable expenses of moving your household goods and traveling (including lodging, but not meals) to your new home. For example, if you originally lived five miles from work, but your new job is 60 miles away from your old home, you would be eligible for the moving expense deduction.

Savvy homeowners (or their accountants) should stay up to date on the tax rules involving homeownership, as they add up quickly.

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