CGT AND THE HOME OFFICE

The generosity of the tax system towards people who work from home is well known, but there is a sting in the tail when it comes to selling a primary residence that has been used for purposes of trade, writes **Franscois van Gijsen.**

FEW PEOPLE ARE AWARE OF THE INTERESTing interplay between income tax and capital gains tax (CGT) that results from having a home office. Although you may be eager to know what you have to do to qualify for a tax deduction in respect of home-office expenses, it is equally important to understand the negative CGT consequences that result from using a portion of your home for business purposes.

Home-office expenses qualify for a deduction from income tax if a number of requirements are met, and these are spelled out in sections 11 and 23 of the Income Tax Act. They can be summarised as follows:

- A portion of your home must be occupied for the purposes of trade;
- That portion must be regularly and exclusively used for the purposes of such trade; and
- That portion must be exclusively equipped for the purposes of such trade.

But if that "trade" arises from your being an employee, or holding an office for which you earn an income, a tax deduction will be permitted only if:

- More than 50 percent of your total income is based on commissions, or variable performance payments resulting from that employment; and
- Your work is usually performed in that part of your home and not in an office provided by your employer.

Ordinary employees are therefore unlikely to qualify for a deduction, because they would receive a predetermined salary and/or work at their employer's place of business.

Assuming, however, that you meet the criteria, what specific expenses qualify for deduction? According to the South African Revenue Service's interpretation note on the matter, typical home-office expenses are:

- The rental paid in respect of the premises;
- The interest on your mortgage bond;
- The cost of repairs to the premises;
- Other expenses in connection with the premises;
- Municipal rates and taxes;
- Electricity and telephone expenses;
- Stationery;
- Cleaning; and
- Office equipment, and wear and tear thereon.

Where the expense is a determinable and specific business expense, such as stationery, the whole cost is deductible. If, on the other hand, the expense relates to the property as a whole, such as rates and taxes or rental, the expense has to be apportioned. This apportionment is done by multiplying the expense by a fraction arrived at by taking the floor space of the home office over the total floor space of the house.

For example, if the rental is R60 000 for the year and the floor area of the office is 40 square metres, while the floor area of the entire house is 400 square metres, the deduction in respect of the rental is calculation as follows: R60 000 x 40 ÷ 400 = R6 000.

Unwanted CGT consequences

HOMEOWNERS ARE AFFORDED A CONSIDERABLE measure of tax relief in respect of the capital gains resulting from the sale of their primary residence. The Income Tax Act provides for a primary residence in its 8th Schedule. The lesser-known flip side of this generosity is that the Act also excludes a >>