



## ***Chicken Little Sells Her House***

Life would be a lot easier for *all* of us if tax laws didn't change all the time. Every year, Washington writes new laws. The IRS writes new regulations interpreting those laws. The Tax Court issues new decisions interpreting those regulations. And the IRS issues enough revenue rulings, revenue procedures, private letter rulings, and similar proclamations to keep an army of accountants and attorneys gainfully employed.

Sometimes, in the midst of all that motion, facts get twisted and misinterpreted. Sometimes a rumor gets launched that takes on a life of its own. Right now, there's an email going around that has most of us tax professionals shaking our heads. It warns that, starting in 2013, the healthcare reform act imposes a 3.8% sales tax on home sales. If you sell your \$400,000 home, you'll owe a \$15,200 tax!

If you see it in an email, it must be true, right? The truth, as is often the case with taxes, is a little more complicated than that - and a lot less scary. First, let's take a look at how taxes are figured on home sales *today*:

- First, calculate "adjusted sale price." This is the sale price of the house, minus expenses of actually selling it (last-minute fixups, commissions, etc.).
- Next, subtract "adjusted basis." This is the price you *paid* for the house, plus closing costs, plus any improvements you make that add value, prolong its life, or give it a new or different use. "Adjusted sale price" minus "adjusted basis" equals "gross profit."
- If you've owned your home for more than two of the last five years *and* used it as your primary residence for more than two of the past five years, you can subtract a "Section 121 exclusion" of up to \$250,000 if you file individually or \$500,000 if you and your spouse file jointly. If you *don't* meet the two-year requirement, you can still take a pro-rated exclusion reflecting how long you *did* meet those requirements.
- "Gross profit" minus "allowable exclusion" equals *taxable* gain. If you hold your house longer than a year, it's taxed as long-term capital gain and capped at just 15%.

The bottom line here is that few home sales are taxable - especially in today's down market - because of that Section 121 exclusion. So, where does the new healthcare law come in? Well, it does

impose a new "unearned income Medicare contribution," beginning in 2013, of 3.8% on capital gains, for individuals earning over \$200,000 and families earning over \$250,000. (Don't you love how the folks in Washington spin that 3.8% "unearned income Medicare contribution"? Wouldn't it just be easier to call it a "tax"?)

That means any gain on the sale of your home that isn't already sheltered by the \$250,000 or \$500,000 exclusion *might* be subject to the new tax *if* your adjusted gross income is over the \$200,000 or \$250,000 threshold. That's a pretty far cry from saying there's a new 3.8% sales tax on home sales!

But somewhere along the line, Chicken Little saw the new 3.8% tax, *missed* the rest of the process, and saw the sky starting to fall. Being a thoroughly modern chicken, she hopped on her computer to fire off an email telling all of us that the sky was falling - and that email spread faster than the latest news about Snooki or the Kardashians. So now here *we* are, setting the record straight.

The next time you get an email with a rumor that sounds too awful to be true, don't just run around like Chicken Little. Send it to us. We can tell you if it's something you really need to worry about - and if so, we'll help you craft a *plan* to avoid or minimize the threat!