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Sell Or Hold (Given Year-End Tax Rates)?

Should you sell it or keep it? Whether you have appreciated stock or real estate, you may be tempted to cash in on the lowest long term capital gain rates in a generation. You may only be realizing it now, but the 15% capital gain rate in effect through December 31, 2010 has ***never*** been lower. Along with uncertainty about the future, that is prompting some strange behavior.

Non-tax considerations should control whether you sell or hold, so don't obsess over tax rates. You should probably be fretting only if it makes sense to sell for non-tax reasons and the ***only*** question is whether you'll do it in 2010 or 2011. No one knows what will happen to capital gain rates at midnight December 31st.

In fact, we won't know until November 15th at the earliest. It could be early or mid December before Congress gets its act together, so don't hold your breath. I think it's unlikely that the vaunted Bush tax cuts will expire wholesale. That means long term rates come January will stay at 15%, at least for some. The big question is whether the 15% rate will stick for all or only a select few.

President Obama's plan calls for extending the 15% rate only for couples making less than $250,000 in joint income or $200,000 if you're single. If you make less, your long term capital gain rate will probably remain 15% regardless of whether you sell in 2010 or 2011. You could pay even less. If Congress fails to act and actually lets the Bush rates expire in

December, the long term capital gain rate would be only 10% for joint filers with gross income below $58,200.

For everyone else the rate would be 20%. Surprisingly, though, if you are selling an asset you've held for more than five years—call it super long-term—your rate would only be 18%. Again, this is the result if the Bush tax cuts are allowed to expire, which seems unlikely.

For higher income taxpayers, the possibilities are more complex and the choices tougher:

- If the Bush tax cuts are extended for everyone, you'll pay 15%.
- If the Bush rates simply expire, your rate will be 20%, but you would pay only 18% if you hold the assets for more than five years.
- If President Obama's plan passes, joint filers with taxable incomes above $250,000 will pay a 20% long term capital gain rate.

Consider losses too. One place where tax considerations may propel you to sell something is to soak up losses. Long term capital gains and losses offset each another. You may have losses this year and large accumulated losses carried over from prior years. If you run out of long term capital gains to offset long term capital losses you can only offset $3,000 of ordinary income each year. That means it would take 100 years to soak up $300,000 of accumulated losses!

Collectibles? Incidentally, if you think selling your coin collection this year will be taxed at only 15%, think again. Collectibles such as coins and art are taxed at a maximum rate of 28%, so there's no rush to sell those by year end.

Waiting for Godot. If you're trying to optimize returns and minimize taxes, you may have a nerve-wracking wait. If it is mid-December when Congress finally acts—or makes it clear it ***won't*** act—you won't have much time left. That may argue for acting in advance of the year-end scramble. You may want to calculate your gain, loss and tax figures under several scenarios. Whatever you do, there's plenty else to worry about this year end.

For further reading, see Tea Leaves And Tax Moves In 2010 and Making Tax Decisions In Limbo.

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