



SPECULATION TAX

Please note: these questions and answers contain some useful information for investors. They should not be regarded in any way as tax advice. Please be aware that matters may change in the future.

As of 1 January 2016 you have to pay 33% speculation tax on:

- capital gains realised on certain financial instruments listed on the stock market;
- if you transfer (for example in a sale) them again within six months of acquiring them (for example with a purchase).

Who has to pay the speculation tax?

- natural persons subject to personal income tax in Belgium;
- natural persons who are non-residents, subject to taxation as tax non-residents;
- joint ownerships, civil law partnerships and factual associations.

Which financial instruments does this tax apply to?

- listed shares and share certificates;
- listed options, listed warrants and other financial instruments listed on the stock exchange (turbos, speeders, sprinters, futures, etc.) where the underlying asset consists solely of one or more well-defined, listed shares or share certificates.

How do we calculate the speculation tax?

We base our calculations on:

- [the sale price MINUS the stock exchange tax] MINUS [the purchase price PLUS the stock exchange tax].

We do not take into account other costs, such as transaction costs.

This is important if the bank is not in possession of the original purchase date and purchase price (for example in the case of transfers). In that case you will **pay 33% on the entire sale price, minus the stock exchange tax, if you sell within six months of the transfer.**

The speculation tax will be levied according to the last-in, first-out (LIFO) principle. To clarify: the legislator assumes the following when you sell:

- you always sell the most recently purchased shares and
- not the shares you have held for the longest time.

How do we deduct the speculation tax?

The bank is the financial intermediary. As the financial intermediary, in principle, we deduct the speculation tax automatically. We do this as soon as the realised capital gain is paid out in Belgium. This means that you will not need to declare this on your personal income tax return.

However, you will have to declare any capital gains you realise in a foreign custody account on your tax return. Be aware that if you use a foreign custody account, foreign financial institutions, just like the foreign brokers, are obliged to exchange account information with the financial authorities of the country where you are resident for tax purposes.

The law has been announced lately. All the details still have to be processed in the bank's computer systems. How will we approach this during the transition phase?

- In the transition phase we will collect the speculation tax separately and a posteriori.

What about the transfer of securities from a BNPPF securities account to another BNPPF securities account?

You wish to make a transfer of financial instruments from a BNPPF securities account to another BNPPF securities account on which speculation tax applies.

Please note if this is a transfer by which:

- The information concerning the date and price of the security acquisition will not be automatically transferred.
Example: If you transfer to a securities account of which you are not the holder.

or

- The information concerning the date and price of the security acquisition will be automatically transferred, but contains no data relating to the date and price.
Example: If you transfer securities coming from another bank or broker.

As of 1 January 2016, your bank is obliged, if this information is not available, to do the following, if the beneficiary sell within six months of the transfer these securities.

- Deduct a speculation tax of 33%;
- Calculated based on the entire sale price, minus the stock exchange tax.

If you wish to avoid paying this amount, submit the missing information to your branch **before** the sale. Your bank will then calculate the tax based on the capital gains.

Information that you need to submit to your branch:

- The date and price of each security acquisition; or
- If you are transferring the securities as the result of a gift:
 - o The price and date of the security acquisition by the person providing the gift along with the gift certificate; or
- Other information which the bank can use after a transfer to calculate the capital gains in the event of a sale.

You can submit this information based on the following documents:

- documents from financial institutions: statements of account, statements, periodic securities statements (originals or duplicates, no photocopies). An excellent document for this is the settlement statement for the original purchase;
- documents with a fixed date, such as a notarial deed.
- In addition to the notarial deed of the gift, the following private documents can be provided as proof of the gift:
 - o Within six months of the transfer, a private bilateral document in which the person providing the gift confirms the provision of the gift to the recipient, and whereby the date of the document is indisputable due to the postmark being on the document itself;
 - o In the event of an indirect gift (via transfer), the document for the acknowledgement of the gift along with the account statements as proof of the transfer of the securities (by the person providing the gift to the recipient).

What about the transfer of securities coming from another bank or broker?

What if you cannot provide information about the date on and price at which you bought the securities you are transferring? In that case you will pay **33% on the entire sale price, minus the stock exchange tax if you sell within six months of the transfer**. You can reclaim any excess tax paid by submitting an appeal to the tax authorities.

You want to avoid this:

Submit the following information to your branch **before** the sale:

- The date and price of the security acquisition; or
- If you are transferring the securities as the result of a gift:
 - o The price and date of the security acquisition by the person providing the gift along with the gift certificate; or
- Other information which the bank can use after a transfer to calculate the capital gains in the event of a sale.

Come into consideration, for example:

- documents from financial institutions: statements of account, statements, periodic securities statements (originals or duplicates, no photocopies). An excellent document for this is the settlement statement for the original purchase;
- documents with a fixed date, such as a notarial deed.
- In addition to the notarial deed of the gift, the following private documents can be provided as proof of the gift:
 - o Within six months of the transfer, a private bilateral document in which the person providing the gift confirms the provision of the gift to the recipient, and whereby the date of the document is indisputable due to the postmark being on the document itself;
 - o In the event of an indirect gift (via transfer), the document for the acknowledgement of the gift along with the account statements as proof of the transfer of the securities (by the person providing the gift to the recipient).

Do you have to pay speculation tax on corporate actions?

You may have to. It depends on the type of corporate action.

Do you have to pay speculation tax on financial instruments you inherited?

You do not have to pay speculation tax on financial instruments which you inherit, for example listed shares.

Do you have to pay speculation tax on financial instruments you receive as a gift?

For the person giving, this counts as a transfer 'free of charge'. Thus the giver pays no speculation tax.

For the recipient it is different. The recipient acquires the financial instruments at their original price and stating the date of purchase on which the giver acquired them. Thus the period of time during which the giver owned them is added to the period of time the recipient owns them. If the recipient of the gift sells them within six months of the date that they were acquired by the person who gifted them, then the recipient has to pay speculation tax.