

# Tax Newsletter

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## **Freeze your 'historical capital gains' on 31.12.2025, but ...**

- If, as of 2026, a natural person realizes a 'normal' capital gain, other than through a contribution in kind of shares, on tainted financial assets (e.g. shares, cryptocurrency, ETF, gold, certain insurance products) he will very likely be exposed to 10% capital gains tax. However, in case of a minimum 20% shareholding, you can benefit from a EUR 1.000.000 exemption; otherwise the exemption amounts to EUR 10.000.
- So-called 'historical capital gains' – i.e. built-up until 31.12.2025 – are tax-exempt as well. Up till 31.12.2026 the taxpayer will be able to demonstrate the market value per 31.12.2025 of non-quoted financial assets.
- In order to avoid discussions with the tax authorities, the legislator allows to use the highest amount stemming from the following valuation methods: a value resulting from a 3<sup>rd</sup> party transaction, from the incorporation or from a capital increase taken place in 2025, the market value resulting from a contract or contractual sales offer existing in 2026. Specifically for shares and similar assets: the company's net equity increased by 4 times its EBITDA of the financial year being most recently closed before 2026 can be used as well. However, practice shows that a multiple of 4 is rather low.
- The taxpayer can also use the services of an auditor (other than its regular statutory auditor) or a certified independent accountant. Be careful: if there are indications that the market value would thus not be at arm's length, the tax authorities can challenge it.
- In case of life insurance contracts, the investment reserve or the higher sum of all premiums paid up till 31.12.2025 should be considered.
- The taxpayer may also demonstrate a pre-2026 acquisition value exceeding the market value per 31.12.2025. If these financial assets are alienated until 31.12.2030, the taxable capital gain will be calculated in function of such higher acquisition value. If you made spread acquisitions before 2026, the average acquisition value per financial asset should be used.
- Be careful: if a financial asset has been acquired before 2026, 'historical capital losses' are not deductible from taxable capital gains realized as of 2026.
- Be careful: ordinary dividends distributed regarding the financial year 2025 will decrease the market value. If so, the distribution of an intermediary dividend in 2026 may be the better option.
- Be careful: a (high) market value per 31.12.2025 may have a (tax) impact on subsequent transactions, e.g. the taxable basis for inheritance tax purposes or in case of a taxable gift, the redemption of a shareholder, a divorce, etc.