Transfer of property privatised with the right of pre-emption

Gains from the transfer of immovable property are **not subject to income tax** if the essential part of the immovable or the object of apartment ownership or the right of superficies is a dwelling and all the following three conditions are met:

1. the dwelling has been transferred to the taxpayer's ownership through privatisation with the right of pre-emption
2. the land adjacent to the dwelling has been transferred to the taxpayer's ownership through privatisation with the right of pre-emption
3. the size of the registered immovable property does not exceed 2 hectares.

EXAMPLE
The dwelling house was inherited; 0.6 hectares of land was privatised with the right of pre-emption, and the owner did not use the house as a residence.
The total costs related to the inheritance process and improving or upgrading the dwelling were 19,670 euros.
The costs of privatising the land with the right of pre-emption were 1,800 euros. The registered immovable was sold for 70,000 euros.
Taxable income is calculated as follows: 70,000 – 19,670 – 1,800 = ***48,530 euros.***

Since one of the above-mentioned conditions is not met in this example (the dwelling is not privatised with the right of pre-emption), the income tax exemption cannot be applied and the income received is taxed.

Transfer of property restituted after being unlawfully expropriated if...

...THE PROPERTY IS INHERITED

If a person inherits and transfers a property privatised with the right of pre-emption, he or she cannot benefit from the tax incentive and income tax is payable on the gains received, unless he or she used the property (dwelling) as his or her place of residence. Only the costs incurred by the successor are the acquisition costs of the property, which may be deducted from the taxable gains (subsection 1^1 of § 38 of the Income Tax Act).

...THE PROPERTY IS RECEIVED AS A GIFT

Gifting is a transfer transaction and the tax exemption cannot be used upon transfer of property privatised with the right of pre-emption and received as a gift. If the owner of such property gives this property as a gift and the recipient of the gift transfers it, then he or she must pay income tax on the gains received.

...THE PROPERTY IS RECEIVED AS A LEGACY

If the property privatised with the right of pre-emption has been obtained by a contract for the transfer of a legacy, it is deemed to be the first transfer transaction. If the legatee transfers the property, he or she must pay income tax on the gains received.

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