



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

COMMUNICATIONS AND LIAISON

September 25, 2018

Rep. Dan Newhouse
1318 Longworth HOB
15 Independence Ave SE
Washington, D.C. 20515

Dear Representative Newhouse,

This is in response to your inquiry regarding the tax treatment of capital gains. You ask whether tax on capital gains is considered an excise tax or an income tax? It is an income tax. More specifically, capital gains are treated as income under the tax code and taxed as such.

The Internal Revenue Code, Subtitle A – Income Taxes, covers capital gains. At § 61, Gross Income Defined, the code says gross income means all income from whatever source derived, including (but not limited to) gains derived from dealings in property (capital gains).

Gross income is the starting point for determining taxable income. The various forms Schedule D, Capital Gains and Losses, are all used in conjunction with income tax returns, individual, corporate and so on. More on gains and losses is in Part 3 of IRS [Publication 17, Your Federal Income Tax](#).

On the IRS website, Excise Taxes are defined as: Taxes paid when purchases are made on a specific good, such as gasoline. There are also excise taxes on activities, such as on wagering or on highway usage by trucks. Excise taxes are often included in the price of a product or service.

Internal Revenue Code [Subtitle D – Miscellaneous Excise Taxes](#), covers excise taxes on retail sales, manufacturing, facilities and services, and a myriad of other purchases and activities.

Subtitle E – Alcohol, Tobacco, and Certain Other Excise Taxes, covers taxes on the named items and related products along with taxes on certain firearms, destructive devices, greenmail and structured settlement factoring transactions.

IRS [Publication 510, Excise Taxes](#), has more information including 11 chapters on the items subject to federal excise taxes. Note that the words capital and gain do not appear in the publication.

I hope this addresses your question. If I can provide more information, Elizabeth Daniels of your staff knows how to reach me.

Sincerely,

Paul Axelson

Paul Axelson
IRS Legislative Affairs Office