3. *Holding period* (not applicable on corporations)
   a. Short-term (not more than 12 months)-100%
   b. Long-term (more than 12 months) - 50%

4. Carry over
   a. The amount allowed is limited to the net income during the year in which the loss was sustained.
   b. Carry-over is good only for one year.

B. Sale of real property (capital asset)

1. *By individual* – 6% final tax
   Tax Base: Whichever is the higher between:
   - Gross Selling price and
   - Current market value based on the Schedule of Market Values (Republic Act No. 12001)

   If SMV is not yet available, the base shall be the highest amount among the following:

   (1) Selling price
   (2) Market value in the Tax Declaration
   (3) Zonal value

   Exemption: Capital gains realized from sale of principal residence if -

a. The proceeds are utilized in acquiring new residence *within 18 calendar months* from the date of sale;
b. Commissioner is notified *within 30 days* from the sale or disposition;
c. The exemption can be availed of only once in every 10 years.
d. The 6% capital gains tax due on the presumed capital gains shall be deposited in interest bearing account with an authorized bank under an *escrow agreement.*

If the real property is sold or disposed in favor of the government or any of its political subdivisions or agencies or to the government owned or controlled corporations, the taxpayer shall have the following options:

(a) Pay the 6% capital gain tax, or
(b) To include the gain in his gross income subject to the graduated rates of tax.

2. *By corporation* - 6% final tax on sale of lands and/or buildings not used in the business.

Tax on sale of real property (ordinary assets)
In case of real property sold, other than capital assets, it will be subject to the following rules:

A creditable withholding tax based on the *gross selling price/total amount of consideration or the fair market value, whichever is higher,* paid to the seller/owner for the sale, transfer or exchange of real property shall be imposed upon the withholding agent/buyer, in accordance with the following schedule:

Exempt - Where the seller/transferor is exempt from creditable withholding tax

6.0% - Where the seller/transferor is not habitually engaged in the real estate business

Where the seller/transferor is *habitually engaged in real estate business,* upon the following values of real property:

1.5% - With a selling price of P500,000 or less

3.0% - With a selling price of more than P500,000 but not more than P2,000,000

5.0% - With a selling price of more tha P2,000,000

The seller/transferor shall be considered a habitually engaged in real estate business if:

1. He/it is registered with the Housing and Land Us Regulatory Board (HLURB) or the Department o Human Settlements and Urban Developmen (DHSUD); OR

2. He/it consummated at least six taxable real estat transactions during the preceding year, regardles of amount.

Notwithstanding the foregoing, *banks* shall not b considered as habitually engaged in the real estat business.

C. Sale of shares of stocks

1. *Not traded shares*
   Tax Base & tax rate: 15% of Net Capital Gain

2. *Traded shares* in a local or foreign stoc exchange – the sale is exempt from income ta but subject to Other Percentage Taxes (Stoc Transaction Tax - 1/10 of 1%).

D. Transactions resulting to capital gains or losse even if there is no sale of capital assets:

1. Retirement of bonds, etc.
2. Short sales of property
3. Option gains or losses
4. Worthless securities
5. Liquidating dividend
6. Liquidation of partnership

E. *WASH SALES* occur when substantially identica securities are acquired within a 61-day perio beginning 30 days before the sale and ending 3 days after the sale.

Rule: Gains on wash sales are taxable, while losse on wash sales are not deductible.

The wash sales provisions do not apply to:

a. *Dealers in stocks or securities* if the sale o disposition is made in the ordinary course of trad or business.

b. *Short sale transactions.* – A sale of stock whic the seller does not own (he merely borrows th stock certificate through or from the broker) an subsequently buys or covers the stock t complete the transaction.

DEDUCTIONS FROM GROSS INCOME

I. Itemized Deductions

A. EXPENSES in general

1. Requisites for deductibility:
   a. Must be ordinary and necessary;
   b. Paid or incurred during the taxable year;
   c. Connected with trade, business or professio
   d. Supported by sufficient evidence; and
   e. Not against the law or public policy.

2. Travelling expenses
   - Include transportation expenses, meal lodging and laundry expenses
   - Incurred while away from taxpayer's tax hom

3. Rentals and/or other payments
   A reasonable allowance for rentals and/ other payments which are required as a conditi for the continued use or possession, for purpos of the trade, business or profession, of property

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