There is currently an email circulating that contains erroneous information about the new National Sales Tax on home sales. Below is an example of one such email.

> Did you know that if you sell your house after 2012 you will pay a 3.8% sales tax on it?
>
> That's $3,800 on a $100,000 home etc.
> When did this happen? It's in the healthcare bill. Just thought you should know.
> SALES TAX TO GO INTO EFFECT 2013 (Part of HC Bill)
>
> REAL ESTATE SALES TAX
>
> Under the new health care bill - did you know that all real estate transactions will be subject to a 3.8% Sales Tax? The bulk of these new taxes don't kick in until 2013 (presumably after Obama's re-election). You can thank Nancy, Harry and Barack and your local Democrat Congressman for this one. If you sell your $400,000 home, there will be a $15,200 tax. This bill is set to screw the retiring generation who often downsize their homes.
>
> Oh, you weren't aware this was in the ObamaCare bill? You aren't alone. There are more than a few members of Congress that aren't aware of it either (result of clandestine midnight voting for huge bills they've never read). AND, there are a few other surprises lurking.
>
> Why am I sending you this? The same reason I hope you forward this to every single person in your address book.
>
> People have the right to know the truth because an election is coming in November!

Within the new HealthCare bill is a new "Unearned Income Medicare Contribution Tax" of 3.8 percent tax on net investment income of high-income persons. This tax does not take effect until tax years after 2012. The new tax would apply to net investment income for individuals who earn more than $200,000 annually and joint filers reporting more than $250,000.

Net investment income includes interest, dividends, annuities, royalties and rents. Also included in net investment income are the gains from the sales of stocks and real estate.

The erroneous email gives an example of a home selling for $400,000 with resulting $15,200 tax bite ($400,000 X 3.8% = $15,200.) This is a false statement! Let's analyze the law on that home sale.

First, we must know whether the person selling the home is married or single. Second, we need to know what they paid for that home. We also need to know how long they lived in that home as a primary residence or if it was a rental property they owned. And we need to know their current income during the year of the sale. Let's look at some examples.

Example 1:

A Single person sells a home he had for $400,000. We will assume that the person purchased the home as a residence 25 years ago for $125,000 and that his regular income (wages, interest, dividends) is $65,000. The individual has made no capital improvements to the residence during the time of ownership. The tax code let's a single taxpayer who has resided in that home and used it as his primary residence for 2 out of the last 5 years to exclude up to $250,000 of gain on the sale. Excluding costs of selling the home like Real Estate commissions, the gain on the sale is $275,000 ($400,000 - $125,000). Since the gain is $275,000, the individual in this example is allowed to exclude $250,000 of the gain, so, the taxable portion of the gain is $25,000 ($275,000 - $250,000). This taxable gain is added to his other income which as stated in this example is $65,000, so his total income is now $90,000 ($65,000 + $25,000). He will pay income tax on that gain of 20% for long-term capital gains, but, the new Unearned Income Medicare Contribution Tax will be $0.00 since his total income is below the level for paying the tax ($200,000 for a Single person). The email circulating is calculating this tax at $15,200, which is not correct.

Example 2:

A Married couple sells their large home so they could down scale to a smaller home in anticipation of retirement. They sell the larger home for $950,000. We will assume that the couple purchased the home as a residence 25 years before for $255,000 and that their joint regular income (wages, interest, dividends) is $228,000. The couple has not made any capital improvements to the residence during the time of ownership. The tax code let's Joint Filing taxpayers who have resided in that home and used it as their primary residence for 2 out of the last 5 years to exclude up to $500,000 of gain on the sale. Excluding costs of selling the home like Real Estate commissions, the gain on the sale is $695,000 ($950,000 - $255,000). Since the gain is $695,000, the couple in this example is allowed to exclude $500,000 of the gain, so, the taxable portion of the gain is $195,000 ($695,000 - $500,000). This taxable gain is added to their other joint income which as stated in this example is $228,000, so their total income is now $423,000 ($228,000 + $195,000). They will pay income tax on that gain of 20% for long-term capital gains, but, the new Unearned Income Medicare Contribution Tax will be $7,410 ($195,000 taxable gain X .038). The email circulating would make you believe the new tax would be $36,100 on this sale, which is not correct.

Example 3:

The same assumptions in this example are as in Example 1 except that the home was a rental home and not the individual's primary residence. The individual sells the rental home for $400,000. We will assume that the person purchased the rental home 25 years before for $125,000 and that the regular income (wages, interest, and dividends) is $65,000. The individual has made no capital improvements to the rental house during the time of ownership but has claimed $99,800 in depreciation. Since this is a rental property, the tax code does not allow any exclusion on the gain like under the residence rules. Excluding costs of selling the home like Real Estate commissions, the gain on the sale is $374,800 ($400,000 -$125,000 + $99,800). Prior depreciation claimed is added back to the gain since tax savings were claimed on this in the prior 25 years. Since the gain is $374,800 and there is no exclusion allowed, the individual's total income is now $439,800 ($374,800 + $65,000). He will pay income tax on the long term capital gain of 20%, and the new Unearned Income Medicare Contribution Tax will be $ 14,242 ($374,800 taxable gain x .038). The new tax is due since his total income is over the $200,000 threshold for Single taxpayers. The email circulating would make you believe the new tax would be $15,200 on this sale, which is not correct.

From these three examples, you can see that not everyone will be affected by the new Unearned Income Medicare Contribution Tax. There are situations that will create the tax, but, for most taxpayers this may not be an issue.