

December 2015

Newsletter

New property tax rules

New legislation affects property sales made from 1 October onwards. The changes hit in a variety of ways.

Bright-line test and residential land

New tax rules now apply to residential property sales made from 1 October. A new 'bright-line test' will apply where a person who has purchased a residential property on or after 1 October 2015 then sells it within two years. The sale will be taxed unless the property is the seller's main home, inherited from a deceased estate or sold as part of a relationship property settlement. The bright-line test does not apply to business premises or farmland.

How the start and end date of the bright-line test is counted varies with the type of sale and purchase it is. For instance, where it's a standard purchase, the start date will be the date a person obtains registered title for the property and the end date will be the date of entry into agreement for sale. However, start and end dates will be calculated differently where the registration date may not take place immediately or be the definitive point of transfer - sales off the plan, sales of subdivided land, mortgagee sales or where property is gifted to a trust.

Selling the main home

The seller's main home is exempt from the bright-line test. Where the seller has more than one home, their 'main home' is the property with which they have the greatest connection. Just to prove that the tax system has a sense of humour, a person will not be able to use the main home exception if they have already used it twice in the previous two years.

It may get tricky for family trusts where family assets are distributed between individual owners and the trust. If a trust owns the property being sold, the main home exception will apply when it's the main home of a beneficiary of the trust. However, if the principal settlor of the trust has a main home that the trust doesn't own, the main home exception cannot apply to any property owned by the trust.

Claiming tax deductions

There are provisions for allowable deductions when a property subject to the bright-line test is sold. However, where losses arise as a result of the bright-line test they have been ring-fenced so they may only be offset against taxable gains arising on other land sales. It is not possible to claim a loss arising from a transfer of property to an associated person.

Companies and trusts

Inland Revenue will keep a close eye out for where land-rich companies and trusts try to get round the bright-line test. They may view a transaction as subject to the bright-line test where:

- § 50% or more of the shares within a 12-month period are sold
- § there is a change in the trust deed
- § a decision-maker under the trust deed changes

This applies where at least 50% of the value of the company or trust is attributable to residential land either directly or indirectly.

Please contact us if you are considering buying or selling residential property; your company is thinking about a large scale share transfer; or there are any changes to the family trust's trust deed or trustees.

You might also like to have a catch up with us on whether the changes affect your tax profile or investment strategy.



IRD numbers for property sales

All vendors and purchasers of property other than their main home must now provide an IRD number as part of the land transfer process.

Non-residents

Offshore buyers must provide a New Zealand bank account number before they can obtain a New Zealand IRD number. And all non-resident buyers and sellers must provide their tax identification number from their home country, along with current identification requirements such as a passport.

Family trusts

Where a family's main home is owned by the family trust, the trust is not exempt from providing an IRD number.

It's quite common for a trust to own the family home, protecting the family from business or other relationship property risks. Up till now family trusts haven't needed IRD numbers unless they operated a business or owned rental properties. Now, when the family home is transferred into the trust or when the trust buys or sells property, the trust needs an IRD number. Trustees' own personal IRD numbers aren't acceptable.

The new requirements also affect changes of title. So, if a trustee dies or retires and the new trustee's name needs to be registered on the property title, the trust needs an IRD number to register the change.

If you are arranging for the family trust to buy, sell or transfer property, please contact us. If the trust does not already have an IRD number we can take care of this. Otherwise you could face costly and stressful delays while you sort out the paperwork.

Sensible seasonal housekeeping

- Ü If your business peaks during the holidays, have your marketing organised and plan your staffing. Is there a planned approach to when everyone is taking their holidays?
- Ü Have extra business cards or other marketing giveaways on hand - it's a great season for networking. Magnetic car signs can attract enquiries as well
- Ü Everyone is used to being cash strapped in the New Year but no one ever really prepares for it. Follow up with debtors to encourage payment before Christmas - help your cashflow off to a good start for the New Year
- Ü Speaking of cashflow - check what tax payments are coming up in January and make sure you're prepared. Ask us about the new Flexitax option
- Ü Are you sending gifts to top clients? Splashing out on an event? What about presents or bonuses for your staff? Call us for a reminder about the rules around entertainment expenses and FBT
- Ü What needs to happen while you're at the beach? Is payroll all set up for the holiday period? It's worth it to do a double check on your calculations, especially if there are tricky elements in the mix such as holiday pay, schedular payments, on call payments or time and a half rates. Call us if you need a sanity check
- Ü Do you have something coming up where you'll need professional advice from us or your lawyer? Connect with your advisors before Christmas - most offices shut down for a minimum of two weeks and senior professionals can be away longer
- Ü Have you done a computer health check, updated your virus protection and backed up your server offsite or to the cloud?
- Ü If your business is shutting down, make sure your voicemail message and website mention closing date info and emergency contact details. Also, who will be responding to work related emails?

Disclaimer

This publication has been carefully prepared, but it has been written in general terms only. The publication should not be relied upon to provide specific information without also obtaining appropriate professional advice after detailed examination of your particular situation.

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