

Residential property

Bright Line Test extended

On 29 March 2018 the Taxation (Annual Rates for 2017-2018, Employment and Investment Income, and Remedial Matters) Bill became law. It extends the period of the bright line test from 2 years to 5 years.

What is the bright line test?

The bright line test was introduced in 2015 to supplement the existing "intention test" in the land sale tax rules.

The "intention test" provides for gains from the sale of land to be taxable when the land was bought with an intention or purpose for resale and the taxpayer is required to pay tax on any gain as if it was income. Because of the subjective nature of the intention test, it was difficult for the Inland Revenue Department to enforce.

The bright line test is easier for the Inland Revenue Department to enforce and is applied to determine whether profits from the sale of a residential property are taxable.

The bright line test provides that, subject to an exclusion applying, anyone who acquired an interest in residential property after 1 October 2015 and sold that land within 2 years of the date on which they acquired the interest, was liable to pay tax on the profits from the sale as if those profits were income. This test still applies to those who acquired an interest in a residential property before 29 March 2018.

What has changed?

For those who acquire an interest in a residential property on or after 29 March 2018, the 2 year period above is extended to 5 years. Again, subject to an exclusion applying, from 29 March 2018 anybody who acquires an interest in residential property will be liable to pay tax on any profits if that property is sold within 5 years of the date on which they acquire their interest in the property.

Main Home Exclusion

Generally, exclusion to the bright line test applies if the residential property being sold has predominantly been the main home of the seller (and the seller does not have a history of buying and selling properties).

The main home exclusion can also apply if the residential property is owned by a trust and is the main home of the settlor of that trust.

Exclusions to the bright line test can also apply where a residential property is transferred as part of an inheritance or as part of a relationship property agreement.

Want to know more?

Please contact our specialist [property team](#) if you have any questions about the bright line test or the sale or purchase of residential property.