

The Bright-Line Property Rule

By Paul Sheehan

From 1 October 2015, any residential property sold within two years of purchase will attract income tax at the individuals marginal rate of tax. This new rule(Section CB 6A of the Income Tax Act 2007) is known as the bright-line rule and will only apply to residential property and not business premises and farmland. However, even if the property is sold beyond the two year period it may still be taxable under Section CB 6 if it was purchased with the intention of making a profit.

There will be exemptions for residential property that is a persons main home or that is inherited or received as part of a relationship settlement. For the main home exemption to apply the property needs to be used for 50% or more of the time it was owned and more than 50% of the area needs to be used. The main home exemption can only be used twice over any two year period. There are rules that permit the main home exemption to apply to residential property held inside a trust.

Bare land that has no house on it but which is zoned for residential use will also be taxed if sold within two years

Since New Zealand residents pay income tax on their world income the new rule will also apply to any overseas residential property sold within two years of purchase.

In ascertaining the profit from the sale of a property the following costs will be deductible:

- the initial cost of the property.
- fees for lawyers,surveyors and real estate agents.
- any other costs of disposal.
- any capital improvements made since the date of acquisition.

Holding costs such as interest, insurance, rates and repairs and maintenance will not automatically be deductible. For example if the property was being rented they would deductible against any rent

received. But if the property was a holiday home purchased solely for private use then the holding costs would not be deductible.

If a loss results from the sale of residential property sold within two years of purchase the loss will be ring fenced and carried forward and offset against any future profits under Section CB 6A.

You should contact your chartered accountant or financial advisor before committing to any particular course of action.

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