

NEWSLETTER

October 2019

Inside this edition

IRD – Moving on from cheques.....1
Residential bright line.....2
New provisional taxpayers beware....3



IRD - Moving on from cheques

From 1 March 2020, Inland Revenue will no longer be accepting cheques if customers have an alternative payment option available. This includes post-dated cheques (cheques dated after 1 March 2020).

Cheque usage continues to decline every year. Last year cheques only accounted for 5% of payments to Inland Revenue and some people who used cheques also used other payment methods.

There are many different ways to pay – electronically or in person.

Ways to pay

Here's a summary of payment options:

- myIR: You can pay by direct debit and make debit card and credit card payments securely through myIR online services. Visit our website (ird.govt.nz) and login or register for myIR.
- Online banking: You may be able to make payments using online banking. Contact your bank for more information.
- Credit or debit card via our website: Use your credit or debit card to make online payments through our website. Visit ird.govt.nz/pay.
- In person at Westpac: Pay by EFTPOS or cash at a Westpac branch or Smart ATM.
- Money transfer: If you are overseas you can pay us using a money transfer service. Search for “make a payment” on our website for more information.

Charges may apply for some payment options.

Residential bright line

The Income Tax Act 2007 has long contained provisions to tax the sale of property (or other assets) acquired with the intention of disposal. However, 'intention' is a subjective concept and has been difficult for Inland Revenue to police. Hence, the brightline test, (section CB 6A) was introduced as a means to tax profits made on property purchased and sold within a short space of time. It has been in effect for a few years and it is now worth revisiting how it works.



The brightline test applies to land for which a person first acquired an interest in, on or after 1 October 2015. Typically, a person acquires an interest in land when a Sale and Purchase Agreement (S&P) is executed. This is important because if this occurred before 1 October 2015, the brightline test does not apply. When the brightline test was first introduced it applied if the period between the change of title to the purchaser and the date they subsequently entered into a S&P to sell, was less than 2 years. If the change in title was not registered, it is measured from the date the person first acquires an interest in the land (e.g. the date of the S&P).

When the current coalition government took office, the 2 year period was extended to 5 years. The extended 5 year period applies if the owner first acquired an interest in the land on or after 29 March 2018. Again, this is important because the shorter period of 2 years applies if a person acquired their interest in their land between 1 October 2015 and 28 March 2018.

The provision captures a broad array of residential land, including land with a consent to erect a dwelling, and bare land zoned for residential purposes. However, the provision does not apply to the 'main home', farmland, and property used predominantly as business premises. Properties acquired by way of inheritance are exempt, while roll-over relief applies to transfers under a relationship property settlement.

In most cases, people will apply the 'main home' exemption. To do so the person must have lived in it for most of the period of ownership. If the house is in a trust, the main home exemption is basically only available if a beneficiary and the trust's principal settlor lived in it. The main home exclusion can only be used twice in the two-year period prior to a disposal and cannot be used if a person has a regular pattern of buying and selling residential land.

Because the section has been drafted narrowly, it can apply unfairly. For example, if an investment property owned by an individual for 20 years is transferred to their family trust on 30 March 2018. For brightline purposes, 30 March 2018 becomes the acquisition date to the trust and a sale within 5 years will be taxable, even though 'the family' has owned it for over 20 years.

The brightline provisions are straightforward at first glance, but the devil is in the detail and deciphering the exemptions and timing requirements can be complex.

New provisional taxpayers beware



Changes to the provisional tax regime, effective from the 2018 tax year, have generally been well received by taxpayers.

Prior to the change, Inland Revenue charged interest from each provisional tax date if a taxpayer's actual liability exceeded their 'uplifted' amount from prior year(s). This effectively meant taxpayers were required to predict their full year results as early as five months into the year. Now, providing payments are made under the standard uplift method, no interest is payable - providing any excess tax is paid by the third provisional tax date where tax payable is over \$60k, or by terminal tax date where Residual Income Tax (RIT) payable is less than \$60k.

However, there is a caveat for "new provisional taxpayers". IRD have released "Questions we've been asked" 19/04 for taxpayers in their first year of business. If the first year's tax liability exceeds \$60,000, then the 'Use of Money Interest' (UOMI) concession is not available, and will apply to from the first provisional tax date, as per the old rules.

For example, where a large business is restructuring and diverges part of its business into a new company, the new company cannot rely on having a nil standard uplift liability, so if RIT exceeds \$60,000 interest will be charged on any tax shortfall from each provisional tax date. New taxpayers should pay heed of this rule to avoid unexpected interest charges in their first year.

If you have any questions regarding this Newsletter, please don't hesitate to contact the office - 09 5799157

All information in this newsletter is to the best of the authors' knowledge true and accurate. No liability is assumed by the authors, or publishers, for any losses suffered by any person relying directly or indirectly upon this newsletter. It is recommended that clients should consult a senior representative of the firm before acting upon this information. If you have any questions about the newsletter items, please contact our office.