Taxes when you Sell a property

Selling property

If you're selling a residential property and one of your intentions when you bought the property was to sell it, then you'll have tax to pay on any profit you make from its resale.

When selling a residential property you will need to provide information to your property lawyer or conveyancer. This may include:

- your IRD number
- your taxpayer identification number (another country's equivalent of an IRD number), if you have one
- a completed **Residential land withholding tax declaration (IR1101)**, and
- details of your relationship to the buyer if they are considered to be "immediate family", which in this case means a person:
    - who is your:
        1. spouse, civil union partner, or de facto partner
        2. parent, sister, or brother, or
        3. child, or a child's spouse or partner
    - who is the parent, child, sister, or brother of your spouse, civil union partner, or de facto partner.

The tax you pay depends on four things

- Your intent when you purchased.
- Your history of buying and selling.
- Whether you're in or associated with the property industry.
- Whether you buy and sell a property within five years (two years if the property was purchased on or after 1 October 2015 through to 28 March 2018 inclusive).

It's your intention when buying a property that matters

Nearly everyone buying a property will sell it at some stage. Most people will hope that their property will gain in value, and we know that an increase in value is common. However, this alone isn't enough for any profits to be taxed. In most cases you don't have to pay tax on the eventual sale of your family home. If you bought a property as a long-term rental, then you may not have to pay tax on the sale either. However, when a property has been bought with the firm intention of resale you'll have to pay tax on any profit from the sale. The intention to sell does not need to be the main reason for buying the property – it could be one of a number of reasons for buying.

Your history of buying and selling counts

If you have a pattern of buying and selling property, then you may be a property dealer and may have to pay tax when you sell property, even on your family home. If you're unsure whether you're a property dealer, you should seek advice from your tax advisor.

If you're a dealer, developer or builder

You are liable to pay tax on the profit from any properties you sell, which were bought as part of your property or building business.

Selling within 10 years

If you sell a property you will be liable for tax if the sale is within 10 years of purchase and you were a property dealer or developer at the time you bought the property. This is regardless of whether the purchase was part of your property business or not.

If you sell a property you will be liable for tax if the sale is within 10 years of building work being completed on the property, and you were a builder or in the building business at the time you bought the property. This is regardless of whether the purchase was part of your building business or not.

If you're associated with a dealer, developer or builder

If you're associated with someone in the property industry – you're an "associated person". This means you may have to pay tax on all or some of your property transactions, even if you're not personally a property dealer, developer or builder.

These transactions include tax on the sale of a property if you had an association with:

- a property dealer or developer when you brought the property
- a builder when significant improvements started on a property.

The associated person rules changed for land acquired on or after 6 October 2009, and the definition of what's meant by some associations has widened. For more information about associated persons and property transactions, read these guides:

You buy and sell a property within five years – the bright-line test

If you buy and sell a residential property within five years, you'll pay tax on the income you earn from the sale, unless you're selling your family (main) home or another exclusion applies. This is regardless of your intention at the time of the purchase. A withholding tax may also be deducted at the time of sale.

The bright-line test only applies to residential properties bought and sold on or after 1 October 2015.

Properties purchased on or after 1 October 2015 through to 28 March 2018 inclusive are subject to the bright-line test if sold within two years.

Generally the bright-line period starts on the date the property transfer is registered with Land Information New Zealand (LINZ). If the property is in another country, it's the date the transfer was registered under that country's laws.

Different dates apply if you:

- sell the property before your purchase is registered with LINZ (for example a sale or purchase "off the plan")
- subdivide a section.

Exclusions to the bright-line test

There are three exclusions to the bright-line test:

- It's your family/main home.
- You inherited the property.
- You're the executor or administrator of a deceased estate.

A property transferred to you under a relationship break-up isn't excluded from the bright-line test.

If you receive a property as part of a relationship settlement agreement, you won't need to pay income tax on the property when it's transferred to you.

However, if you go on to sell this property within five years of its original purchase date, the bright-line test will apply.

Deciding if the main home exclusion applies

The person selling a property decides if it's their main home. You'll do that based on the exclusion criteria.

You can only use the exclusion **twice** over any two-year period.

The main home exclusion does not apply if you show a regular pattern of buying and selling residential property.

The property sells at a loss

Under the bright-line test, if a residential property is sold at a loss, the loss will be "ring-fenced". This means you can subtract the "ring-fenced" loss from income you earn on a future property sale and pay less tax.

You can only offset the loss against income from a property sale. For example, you can't offset the loss against salary, wage or rental income.

Selling overseas property

New Zealand tax residents pay tax on their worldwide income under New Zealand tax laws.

If you're a New Zealand tax resident and earned income selling a property in another country, you may need to pay tax there. You'll also need to include this information on your New Zealand income tax return and pay any tax.

Please contact your tax advisor if you need advice on this type of situation.

Residential land withholding tax (RLWT)

If you buy a residential property on or after 1 October 2015 and sell it within five years, (two years for properties purchased on or after 1 October 2015 through to 28 March 2018 inclusive) RLWT may be deducted at the time of sale. This applies to customers who are an "offshore RLWT person".

When your circumstances change

Sometimes things change, but it's your intention when buying a property that matters.

You decide to sell your rental property or portfolio

There may be a number of reasons you decide to sell a rental property sooner than you thought. Or you may decide it's time to sell your entire portfolio of rental properties.

In both cases it doesn't mean you'll have to pay tax on any profit from the sales. It comes back to your original intentions when you bought the properties, if you have a regular pattern of buying and selling or you bought and sold within two years.

Everyone's case is different.

You become a dealer

You may find the returns from buying and selling rental properties are a lot higher than the actual rental income those properties can provide – so you switch from being a landlord to becoming a dealer. If so, any profits on your sales from the time you become a dealer will be taxable.

This probably won't affect the sale of any rental properties you owned before becoming a dealer. That's assuming you bought them to provide rental income, not for resale.

You sell the family home

If you buy a family home then your circumstances change and you decide to sell, it's unlikely that you'll be taxed on any gain you make.

However, some people buy a family home intending to resell it, and they may do this regularly as a way of earning income. If you have a regular pattern of buying and selling your family home, you're probably liable for tax.

You want to move house

You can move house whenever you want – changing jobs, changing schools or changes in your neighbourhood are all good reasons for selling a property.

However, if you buy and sell a number of properties and there doesn't appear to be genuine reasons for moving, we may question your intent when you bought the properties.

Common misconception

If I only sell one property or hold a property for 10 years before I sell, I won't have to pay tax.

What the law says: Wrong on both counts. It always comes back to your intention when you bought the property. If one of your intentions was resale, you'll pay tax on any profit you make when you sell. It's a popular misconception that holding a property for 10 years means you avoid paying tax.