Inland Revenue
Te Tari Taake

IR1227
July 2024

Bright-line property tax

For residential property sold before 1 July 2024

Introduction

On 1 October 2015 the bright-line test was introduced applying to residential property bought and sold within a certain period of time (the bright-line period). Since 2015, a number of changes have been made to the rules.

This guide explains:

- how the bright-line test applies for residential property sold before 1 July 2024
- the exclusion for main home, business premises and farmland
- rollover relief for ownership transfers of inherited property, relationship property and non-individuals
- what expenses you can deduct from this income for tax purposes
- what bright-line income to include in your income tax return
- what happens if you sell the property for a loss.

This guide is not intended for people in the business of property speculating, dealing, developing or building who include property sales as business income in their income tax return. If you have purchased and sold several residential properties or you're a commercial operator, we recommend you use a tax agent. However, it's still your responsibility to be aware of your tax obligations.

Note

Properties affected by a North Island adverse weather event and purchased by the Crown or local authority are not taxable under the bright-line test. For more information refer to **ird.govt.nz/2023-weather-events**

Changes to the bright-line test

From 1 July 2024 the bright-line test changed.

- If you sell a property on or after 1 July 2024 the bright-line test looks at whether your bright-line end date is within 2 years of your bright-line start date.
- An exclusion for selling your main home is still available but the criteria changed.
- The rollover relief rules were extended to the associated person rules. This is limited to situations where the transferor and the transferee are associated for 2 years before the transfer and you can only claim rollover relief once in any 2-year period.

For more information on how the bright-line test applies to residential property sold from 1 July 2024, see our guide **Bright-line property tax – IR1229**.

The information in this guide is based on current tax laws at the time of printing.

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Part 1 - Bright-line test

The bright-line test taxes profit made on the sale of residential property when it is sold within a certain period of time (bright-line period) and no exclusions or rollover relief apply.

The bright-line test also applies to New Zealand tax residents who buy and sell residential property overseas.

Your intention or purpose for purchasing or selling the property is not relevant.

Note

There are other land taxing rules that should be considered before the bright-line test.

You can use the **Property tax decision tool** on our website to work out if you need to pay tax on the sale of your property under the land taxing rules, including the bright-line test. For more information go to **ird.govt.nz/bright-line**

Residential property

Residential property includes:

- land with a house on it
- land the owner has an arrangement to build a house on
- land the owner can build a house on under the district plan rules.

Residential property does not include farmland or land used predominantly as business premises, unless it is a business providing accommodation in a dwelling that is not the owner's home. For more information, see Part 2 - Exclusions.

Example

Robert buys a section zoned for residential purposes in June 2020. He plans to build a home for his family. His situation changes and he sells the section in August 2021.

Even though there is no house on the land at the time of sale, the bright-line test applies.

Bright-line period

The bright-line test applies to residential property acquired on or after:

- 1 October 2015 through to 28 March 2018 and sold within 2 years.
- 29 March 2018 through to 26 March 2021 and sold within 5 years.
- 27 March 2021 and sold within 5 years to the extent the property has a qualifying 'new build' on it when sold or 10 years for all other properties.

Note

The changes to the bright-line test starting on 1 July 2024 means you no longer have to separate out new builds from all other properties. Your property sale will come under the bright-line test if you acquired the property on or after 29 March 2018 and you are selling it within 5 years or before 1 July 2024 (whichever comes first).

For information about how the bright-line test works for property sold from 1 July 2024, see our guide **Bright-line property tax – IR1229**.

When a property is acquired

The date a property is acquired determines the bright-line period that applies (2, 5 or 10 years) and the main home exclusion criteria that applies. For more information about the main home exclusion, see Part 2 of this guide.

In a typical sale and purchase, a property is acquired for tax purposes when there is a binding sale and purchase agreement between the vendor and purchaser (even if some standard conditions like getting finance or a building report still need to be met).

For more information on when a property is acquired, go to **taxtechnical.ird.govt.nz** and refer to **Question we've been asked (QB) 17/02: Date of acquisition of land, and start date for 2-year bright-line test**.

Note

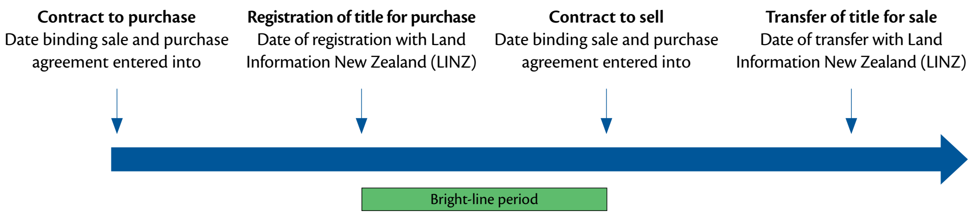
A property acquired on or after 27 March 2021 is treated as having been acquired before 27 March 2021, if an offer was made by the purchaser on or before 23 March 2021 and the offer could not be revoked or withdrawn before 27 March 2021 (for example by tender).

Bright-line start and end dates

The date you acquire a property determines the bright-line period that applies. But there are other dates that are relevant for figuring out whether your property sale is taxable under the bright-line test.

For a standard purchase of property, your bright-line period starts from the date the transfer of the property's legal title is registered to you under the Land Transfer Act 2017 (usually the settlement date).

For a standard sale, the bright-line period ends when you enter into a binding sale and purchase agreement to sell the property (even if some conditions still need to be met).



Example

Marie signs an agreement to buy a residential property on 19 March 2021 for short-stay accommodation. The transfer to Marie is registered on the title with LINZ on 17 May 2021.

She decides to sell the property and signs an agreement on 26 March 2024. The transfer is registered on the title on 30 April 2024.

The start date for the bright-line period is 17 May 2021 (the day the transfer to Marie is registered) and the end date is 26 March 2024 (the day the agreement for sale is entered into).

There are other situations that do not follow the standard land sale process. For these situations, there are separate rules for when the bright-line period starts and ends.

Start date

The table below shows various types of purchase and acquisition and the date the bright-line period starts for each.

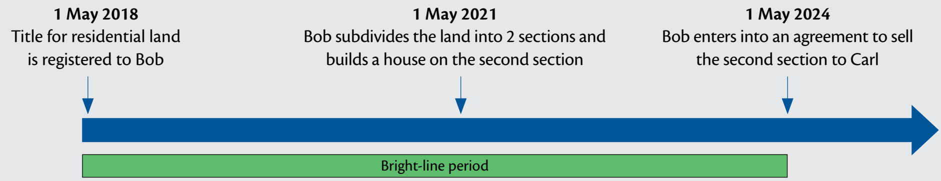
Type of purchase/acquisition	Date to use
Standard purchase of property	Date the transfer of the property is registered to you with Land Information New Zealand (LINZ) (usually the settlement date)
Subdivided land – property you have subdivided	The original date of registration for the undivided property
Off the plans – property acquired relying on the completion of a land development or subdivision	Date you entered into a sale and purchase agreement
Change of trustee – land transferred from a trustee of a trust to another trustee of the trust	Bright-line start date for the original trustee
Joint tenancy converted to a tenancy in common or tenancy in common converted to a joint tenancy	To the extent the person's share in the land is unchanged, the bright-line start date for the land before the tenancy was converted
Purchase where no registration happens before the sale date	Date you acquired an interest in the property
Freehold estate converted from a lease with a perpetual right of renewal	Date you were first granted the leasehold estate
Land outside New Zealand	Date the transfer of the property is registered to you under foreign laws

For more information on what start date to use, go to **taxtechnical.ird.govt.nz** and refer to **Question we've been asked (QB) 17/02: Date of acquisition of land, and start date for 2-year bright-line test**.

Subdivided land

When land is subdivided, the start date for the bright-line period is the date the legal title for the subdivided land was originally registered to the owner under the Land Transfer Act 2017.

Example



The start date for the bright-line period is 1 May 2018 and the end date is 1 May 2024. Bob's sale of the second section to Carl is not taxable under the bright-line test because Bob has owned the property for more than 5 years. However, Bob may still need to consider whether any of the other land taxing rules apply.

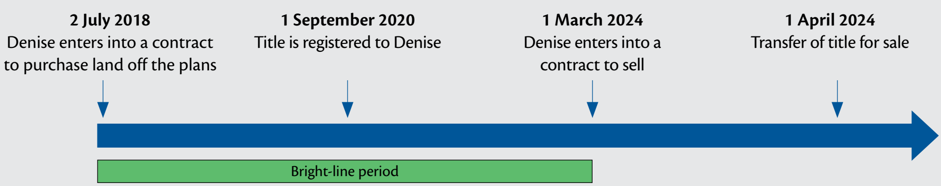
For more information go to **taxtechnical.ird.govt.nz** and refer to our **Question we've been asked (QB) 18/16: Income tax – bright-line test – main home exclusions – sale of subdivided section**.

Off the plans

A purchase off the plan occurs when a person enters into a contract to purchase a parcel of land being developed or subdivided. At the time the person enters into the contract, the title does not yet exist (as the land needs to be subdivided or developed before a separate title can be issued). The person agrees to be registered on the title once it exists.

In this situation an earlier start date for the bright-line period is used. The start date is the date the person enters into an agreement to buy the land.

Example



The 5 year bright-line period applies, because Denise entered into the contract to purchase off the plans after 29 March 2018.

The start date for the bright-line period is 2 July 2018 (the date Denise entered into a contract to purchase off the plans) and the end date is 1 March 2024 (the date she entered into a contract to sell). Denise's profit on the sale of the property is not taxable because she has owned the property for more than 5 years.

Freehold estate converted from a lease with a perpetual right of renewal

When a person has a lease with a perpetual right of renewal which they then convert into freehold land, the start date for the bright-line period is the date the person is granted the lease. This is consistent with other tax provisions that treat a lease with a perpetual right of renewal similar to freehold estates.

Example

The 5 year bright-line period applies, because Kelly was granted the lease with perpetual right of renewal after 29 March 2018. The start date for Kelly's bright-line period is 1 July 2018 (the date the lease with perpetual right of renewal was granted) and the end date is 1 April 2024 (the date she entered into an agreement to sell the land).

Any profit made by Kelly on the sale of the land is not taxable under the bright-line test.

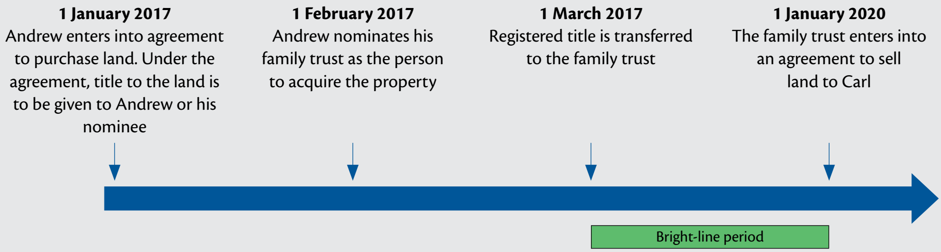
Contract with purchaser and/or nominee

Often when someone enters into a contract to buy land, the person is named as the purchaser and/or nominee. Before settlement, the person may choose to nominate someone else to complete the purchase, for example a family trust.

In this situation, the bright-line period starts for the nominee on the date the transfer of title is registered to them (this typically happens on the settlement date). If there is no registered transfer of the land, the bright-line period will start on the date they were nominated as purchaser.

This situation will not give rise to any potential bright-line implications for the nominator (the original named purchaser). This is because the nominator does not transfer their interest in the land to the nominee when they make the nomination (there is no disposal). When the legal title is transferred to the nominee, the nominator's interest in the land simply ceases to exist, it is not disposed of.

Example



Andrew acquired an interest in land (the right to purchase the land) on 1 January 2017 (the date he entered into the sale and purchase agreement). The nomination of the family trust as purchaser does not give rise to any bright-line implications for Andrew. This is because Andrew did not transfer his interest in the land to the family trust when he made the nomination, so there is no disposal of land by him. On settlement when legal title transferred to the family trust, Andrew's interest in the land ceased to exist and it was not disposed of.

The bright-line period starts on 1 March 2017 for the family trust which is the day the legal title to the property is registered to the trust.

End date

The table below shows various types of sales and disposals and the date to use for the bright-line end date. This can include situations where a property is disposed of but there is no agreement in place to dispose of it.

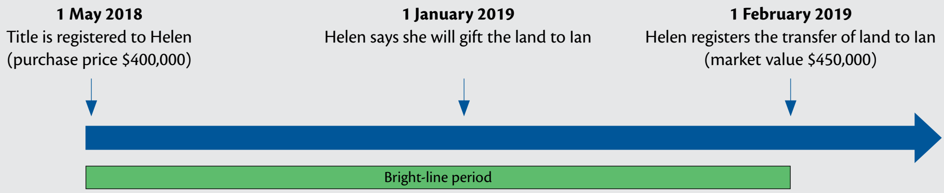
If more than 1 type of sale or disposal applies, then use the earliest date for your bright-line end date.

Type of sale/disposal	Date to use
Standard sale of a property	Date you entered into a sale and purchase agreement
Gifting of property	Date the gift was made (generally registration of title)
Compulsory acquisition by the Crown, a local authority or a public authority	Date of compulsory acquisition
Mortgagee sale	Date the property is disposed of by or for the mortgagee because the mortgagor defaulted (usually the settlement date)
Disposals not covered above	Date you disposed of the property

Gifts

For gifts, the end date for the bright-line period is the date the person makes the gift of the residential property. This is the date you have done everything necessary to transfer the property to the new owner. This means for a gift of a residential property, it is generally the date the interest is registered to the new owner.

Example



Presuming Helen entered into the contract to purchase the land on or after 29 March 2018, the 5 year bright-line period applies. The start date for the bright-line period for Helen is 1 May 2018 (the date title is registered to Helen) and the end date is 1 February 2019 (the date title is transferred to Ian). Helen's disposal of the land is taxable under the bright-line test because she has disposed of it by gifting it to Ian within 5 years of owning it.

Under ordinary tax rules, gifts of land are treated as if they are transferred at market value. As a result, Helen is deemed to have transferred the land to Ian at market value and $50,000 is taxable.

Part 2 - Exclusions

A property will not be taxed under the bright-line test if you meet one of the following exclusions:

- it's your main home and your use meets the criteria
- it's used predominantly as business premises
- it's being used as farmland or capable of being used as farmland.

Main home

Your main home is the property where you lived for most of the time. You cannot have more than 1 main home.

It's important to note that having the intention to use the property as your main home is not enough, you must have actually used it for this purpose.

The main home exclusion will also not apply when only a family member and not you (the owner) has used the property as their main home.

More than 1 home

If you have more than 1 home, your main home is the property you have the greatest connection with. This depends on:

- the amount of time you live in each home
- where your immediate family (if any) lives
- where your personal property is kept
- where your social ties are strongest
- your use of each home
- what other ties (for example employment, business and economic) you have with the surrounding community.

Example

Lisa rents an apartment in Wellington, where she lives with her son. The apartment is close to her office from which she runs her consulting business. She is a member of a local tramping club and is on the Board of Trustees of her son's local school.

She owns a house on Lake Taupō with views over the lake that she does not rent out when she is not using it. She spends 5 weeks with her son in this property over Christmas and New Year and also uses the property for 4 weekends during the ski season.

When Lisa sells the Lake Taupō property, she cannot use the main home exclusion because it is not her main home. It is not the property she had the greatest connection with.

For more information go to **taxtechnical.ird.govt.nz** and refer to **Question we've been asked (QB) 24/01: If a person has two or more homes, which home is their main home for the purpose of the main home exclusion to the bright-line test?**

Main home exclusion

To get the full main home exclusion you need to meet the main home exclusion criteria below.

Different rules apply depending on when you acquired the property (usually the date a binding sale and purchase agreement is entered into).

Date property acquired	Main home exclusion criteria
Before 27 March 2021	You must have: • used more than 50% of the property's area as your main home (including things like the yard, gardens, and garage) • lived in the property as your main home for more than 50% of the bright-line period.
On or after 27 March 2021	You must have: • used more than 50% of the property's area as your main home (including things like the yard, gardens, and garage) • lived in the property as your main home for 100% of the bright-line period. This includes any period of up to 12 months where it was not used as your main home (for example, a period between moving out and when the property is finally sold).

Note

For information about the main home exclusion for property sold from 1 July 2024, see our guide **Bright-line property tax - IR1229**.

Partial main home exclusion

If you acquired your property on or after 27 March 2021 and you do not meet the above criteria for the full exclusion, you are eligible for a reduction in the amount of tax you need to pay based on how much of and for how long the property was used as your main home. For more information on how to calculate this reduction, see the 'Properties acquired on or after 27 March 2021' section in this part of the guide.

Limits to claiming the main home exclusion

The main home exclusion does not apply when you:

- have a regular pattern of either buying and selling or building and selling your main home (even if you live in the property before it is sold)
- have already used the main home exclusion twice over the 2-year period immediately before you sold.

Regular pattern

If you (either alone or with a group or persons) have a regular pattern of either buying and selling or building and selling your main home, you cannot claim the main home exclusion even if you live in the property before it is sold. This means you will need to pay tax under the bright-line test on any profit made.

Determining whether there is a regular pattern can be complex. If you have purchased and sold several properties we recommend you seek advice from a tax advisor.

For more information see our **Tax Information Bulletin (TIB), Vol 33, No 6 (July 2021)** page 22 and **Question we've been asked (QB) 16/07: Income tax – Land sales rules, main home and residential exclusions, regular pattern of acquiring and disposing, or building and disposing** at **taxtechnical.ird.govt.nz**

Claiming the exclusion twice in 2 years

You can only use the main home exclusion twice in 2 years. If you sell your main home within the bright-line period and you have already claimed the exclusion twice in the 2-year period immediately before you sold, you will need to pay tax under the bright-line test.

Example

Property	Bright-line period start – registration of title for purchase	Bright-line period end – date sale and purchase agreement entered into	Title Transfer for sale
1	26 July 2022	7 November 2022	7 December 2022
2	7 December 2022	9 December 2023	23 January 2024
3	23 January 2024	15 May 2024	4 June 2024

Emma has purchased and sold 3 properties and lived in all of them the entire time of the bright-line period. Both properties 1 and 2 were sold within their bright-line periods.

Emma claimed the main home exclusion for properties 1 and 2 and therefore the bright-line test did not apply to the sale of these 2 properties. The bright-line periods for properties 1 and 2 ended on 7 November 2022 and 9 December 2023 respectively.

Emma enters into an agreement to sell property 3 on 15 May 2024. As of 15 May 2024, Emma had already claimed the main home exclusion on 2 previous occasions within 2 years of 15 May 2024 (7 November 2022 and 9 December 2023). This means she is unable to claim the main home exclusion for property 3. Any profit on the sale of property 3 is taxable under the bright-line test.

Using the main home exclusion for 2 properties

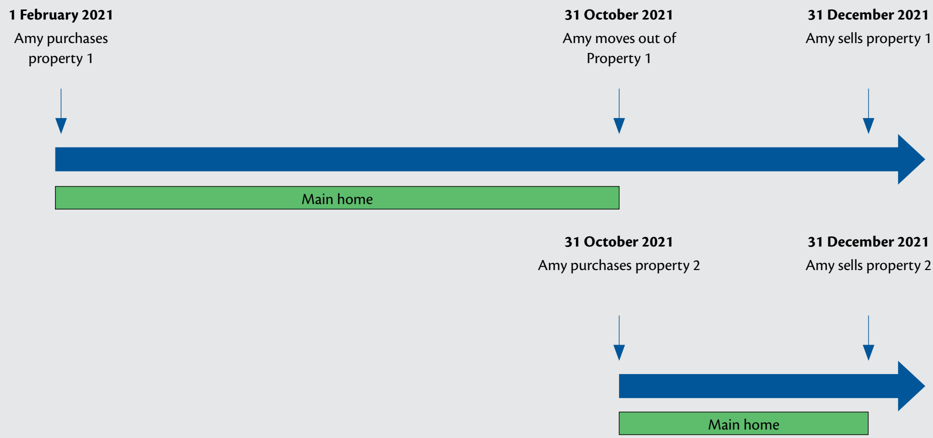
If you own 2 properties at the same time, it is possible to use the exclusion for both properties but you can only do this for 1 property at a time.

An example is when you live in 1 house as your main home and then you move into a new house while trying to sell the first property. The original house may satisfy the requirements to be your main home for the period before moving into the new house. The new house may also satisfy the requirements to be your main home for the subsequent period.

The ownership overlap of the properties does not mean the original house fails to satisfy the requirements to be a main home. If you sell both properties within their relevant bright-line period, you are able to use the main home exclusion for both properties, if they both satisfy the requirements to be your main home for the different periods.

Example

Amy purchases a property in Napier on 1 February 2021 and moves in. She decides the house is too small and puts it on the market. She buys another, larger house on 31 October 2021 and moves in immediately. In November 2021 Amy is promoted to a role in Auckland. She puts the second property on the market and they both sell on 31 December 2021.



The main home exclusion is available for both of Amy's properties. Property 1 was the main home for 9 of the 11 months of the bright-line period. Property 2 was the main home for the entire time of the bright-line period.

Rollover relief and main home exclusion

If rollover relief applies, any period of time a property is used as a main home by the original owner is also attributed to you and can be taken into account when you sell the property. This means the usage is attributed and there is no tax to pay at the time of the transfer if the main home exclusion applies.

For information about when rollover relief applies, see Part 3 - Rollover relief.

Renting to flatmates

Generally, when you're renting out a room in your home to a flatmate, the main home exclusion may still apply and you will not be taxed under the bright-line test.

For more information go to **taxtechnical.ird.govt.nz** and refer to **Question we've been asked (QB) 24/02: Income tax – bright-line test – main home exclusion – renting to flatmates**.

Co-owners

Co-owners of property can have different main homes. On disposal, the bright-line test will only apply to an owner who has not used the property as their main home. For example, a person living in one city may have a different main home from their spouse or partner living in another city. The partner who co-owns the property and has not used it as their main home is required to pay income tax on their portion of any profit made when the property is sold, if sold within the bright-line period.

Where property is held:

- by joint tenant co-owners (that is, they do not have distinct shares in the property), profits/losses are allocated equally between owners
- by tenants in common co-owners (that is, where each owner has a distinct share in the property), profits/losses are allocated according to each owner's share of the property.

Main home held in trust

A residential property held in trust can use the main home exclusion if the property sold was the main home of a beneficiary of the trust and 1 of the following apply:

- the principal settlor does not have a main home, or
- it is the main home of the principal settlor of the trust that is being sold.

If a principal settlor of a trust has a main home that is not the one being sold by the trust, the main home exclusion cannot apply to any property owned by the trust.

Who is a principal settlor?

A principal settlor is the person who has provided the greatest (or equal greatest) value to the trust based on the market value of settlements on the trust. The principal settlor is a different concept from the settlor recorded in the Trust Deed.

The principal settlor will need to be established by examining the settlements for the trust.

For the purposes of determining a principal settlor, all provisions of value are counted except for the provision of services at below market value. If there are multiple people who have provided the equal greatest value to the trust, they are all considered principal settlors.

In addition, a person is not a principal settlor if they have provided an unconditional 'no-strings attached' gift to the trust. A transfer of value will also be disregarded unless that transfer is by:

- a beneficiary
- a trustee
- a person with the power of appointment or removal of trustees
- a person with a contingent interest in the trust property, in the case that the trust fails, or
- a decision-maker under the trust.

Example

According to a Trust Deed, Joe and Anna are trustees and their children are beneficiaries of the trust. The settlor of the trust was Rangi, who provided $10 to settle the trust.

Joe and Anna settled $500,000 on the trust to be managed in accordance with the terms of the trust deed. The trust later purchased a property. Joe an Anna lived in the property with their children until it was sold a year later.

By settling $500,000 on the trust Joe and Anna became the principal settlors of the trust, even though they are not recorded as settlors on the Trust Deed.

The property sold by the trust was the main home of the principal settlors of the trust and the beneficiaries of the trust, and therefore the main home exclusion applies.

Example

Aaron has 2 properties, a family home which he lives in, and a student flat which his son lives in while studying. Aaron settles the student flat in a trust and makes his son a discretionary beneficiary of the trust.

The trust cannot use the main home exclusion because Aaron, the principal settlor of the trust, has another main home.

Properties acquired before 27 March 2021

For a property acquired between 1 October 2015 and 26 March 2021 you can claim the main home exclusion if you:

- used more than 50% of the property's area as your main home, and
- lived in the property as your main home for more than 50% of the bright-line period.

If either of these is less than 50%, then the main home exclusion does not apply and you will need to pay tax on any profit.

Area of land usage

To be a main home, more than 50% of the area of the land must have been used. To calculate this you need to consider all areas including the yard, gardens and garage.

In some circumstances, you will be required to determine the area of land used for your private residential purposes and the area of land used for other purposes.

For example, when a single property has been used by you partly as a residential home and partly as a rental property, you will need to determine the relative areas of each. In some cases, you may have determined the relative areas in working out any tax deductions you can claim for example, insurance and rates.

Example

Mele owns a property which is 600m^2. The property includes a house (500m^2) and a fenced off flat (100m^2). She lives in the flat and the house is rented out.

The main home exclusion does not apply because Mele is living in the flat which is 100m^2 and less than 50% of the total property area.

Example

In February 2019, Priyanka buys a country store that has living quarters attached. She resides in the living quarters and runs a retail business from the front of the property. She calculates that the retail business uses 45% of the property and claims expenses (insurance and rates) on that basis against the retail income. Priyanka sells the property. Priyanka is not able to use the business premises exclusion as the land is not used predominantly for her retail business.

However, Priyanka can use the main home exclusion because the property was purchased prior to 27 March 2021 and she has lived in it as her main home for 55% of the bright-line period.

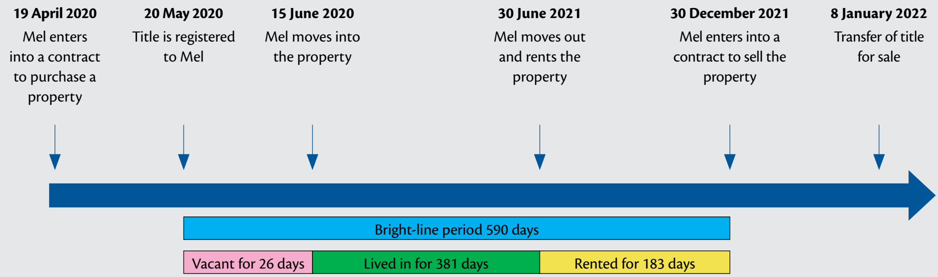
Living in your main home

You must have lived in the property as your main home. Having the intention to use the property as your main home is not enough. The exclusion also does not apply when only a family member (and not you) has lived in the property as their main home.

The property must have been lived in as your main home for more than 50% of the bright-line period. However, the property does not need to have been used without interruption as your main home. For example, a main home can be rented out for short periods while you are on holiday or before settlement of the sale of the property, as long as the total time it was used as your main home is more than the total time it was not used as your main home.

Example

Main home exclusion applies - Land area used and lived in for more than 50%



On 19 April 2020, Mel entered into an agreement to purchase a property. Title was transferred to Mel on 20 May 2020. Mel lived in the property from 15 June 2020 to 30 June 2021. On 30 December 2021, Mel entered into an agreement to sell the property and the title was transferred to the new owner on 8 January 2022.

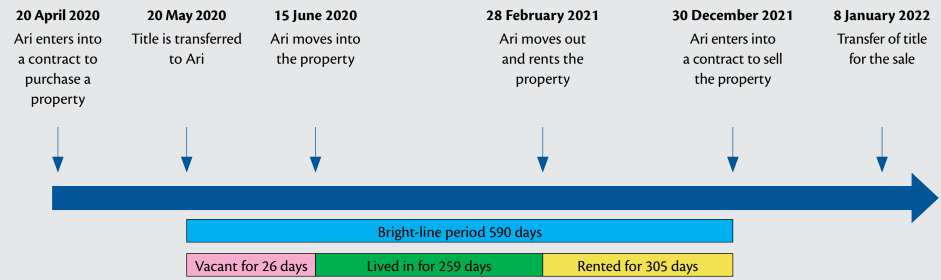
The bright-line period is 590 days, starting on 20 May 2020 and ending on 30 December 2021.

Mel lived in the property for 381 days, using it as her main home 65% of the bright-line period (381 / 590 days).

The main home exclusion applies as the property was purchased prior to 27 March 2021 and all of the property has been used by Mel as her main home for more than 50% of the bright-line period. Any profit on the sale is not taxable under the bright-line test.

Example

Main home exclusion does not apply - Land area used more than 50% and lived in for less than 50%



On 20 April 2020, Ari entered into an agreement to purchase a property. Title to the property was transferred to Ari 20 May 2020. Ari lived in the property from 15 June 2020 to 28 February 2021. On 30 December 2021, Ari entered into an agreement to sell the property and the title was transferred to the new owner on 8 January 2022.

The bright-line period is 590 days, starting on 20 May 2020 and ending on 30 December 2021.

Ari lived in the property for 259 days, using it as her main home 44% of the bright-line period (259 / 590 days). Since the property was purchased prior to 27 March 2021, the main home exclusion does not apply because the property was used by Ari as her main home for less than 50% of the bright-line period. Ari's profit on the sale is taxable.

No reduction in tax is available for Ari's main home use because this property was purchased prior to 27 March 2021, before the apportionment rules were introduced.

Construction period

When you build a new home, you can ignore the construction period when determining if your usage of the property qualifies for the main home exclusion. Only look at your usage for the period before construction began, and from when construction was completed to when the property was sold.

Construction is the work to build or erect the home, including the design phase. Construction is usually considered complete when the code compliance certificate is issued under the Building Act 2004. The exact length of the construction period depends on the facts and circumstances of each case.

Example

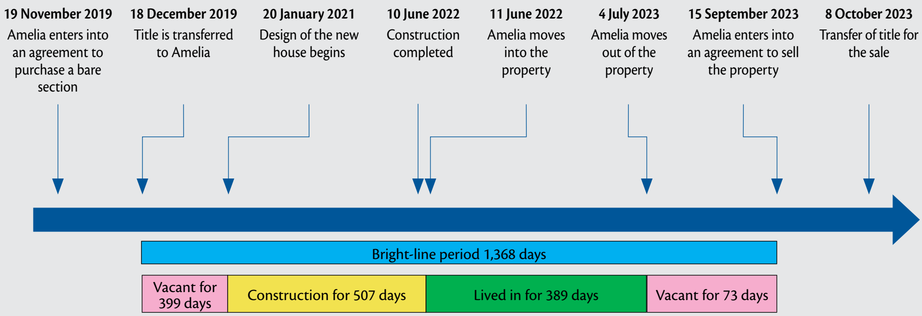
On 1 December 2019, Ben entered into an agreement to purchase a property off the plans in a new development. Construction was due to be completed in early 2021, but due to delays, construction was not completed until 2 June 2022.

Ben moved into the property immediately following settlement on 3 June 2022 and used it as his main home until he entered into an agreement to sell the property on 4 December 2023.

Ben can ignore the 30-month construction period and only look at the period from 3 June 2022 to 4 December 2023 when determining whether he qualifies for the main home exclusion. He qualifies for the main home exclusion because he lived in the property as his main home for that whole period.

Any profit on the sale is not taxable under the bright-line test.

Example



On 19 November 2019, Amelia entered into an agreement to purchase a bare section. The title was transferred to Amelia on 18 December 2019. On 20 January 2021, Amelia engages an architect to start drawing up plans, starting the design of the new house. Construction was completed on 10 June 2022.

Amelia moved into the house on 11 June 2022 and used it as her main home until 4 July 2023.

Amelia entered into an agreement to sell the property on 15 September 2023 and the title was transferred to the new owner on 8 October 2023.

Summary of Amelia's situation

- **The bright-line period** is 1,368 days, from 18 December 2019 to 15 September 2023.
- **Total vacant days** is 472 days. This is the period before construction began from 18 December 2019 to 19 January 2021 (399 days) and when Amelia moves out of the property to the end of the bright-line period from 5 July 2023 to 15 September 2023 (73 days).
- **The construction period** is 507 days from 20 January 2021 to 10 June 2022.
- **Amelia lived in the property** for 389 days from 11 June 2022 to 4 July 2023.

To work out if the main home exclusion applies, Amelia can ignore the 507 construction days in the bright-line period. 861 days (1,368 – 507) is the total days used to calculate the main home exclusion.

Amelia used the property as her main home for 389 days, so it was used as her main home for 45% of the time (389 / 861 days).

The main home exclusion does not apply to Amelia because the property was used as her main home for less the 50% of the bright-line period. Amelia's profit on the sale is taxable.

Properties acquired on or after 27 March 2021

For properties acquired on or after 27 March 2021, you can claim the main home exclusion in full if you:

- used more than 50% of the area of the land as your main home, and
- lived in the property as your main home for 100% of the bright-line period. This includes any period of up to 12 months where it was not used as your main home.

If you qualify for the full main home exclusion, you do not need to pay tax on any profit from the sale of the property.

If you do not qualify for the full main home exclusion, you can still claim the main home exclusion for any period or periods the property was actually used as your main home. This means you can reduce the amount of tax you need to pay based on how much of the property you used as your main home and for how long.

Non-main home days within 12-month period

If the property has not been used as your main home for any period of 12 months or less, these days are still treated as main home days.

For example, if you take a few months to move into a property, or you own it for a few months after moving out, those days are treated as main home days.

You can have more than 1 of these periods 'treated as' main home days as long as they are not back-to-back with each other. For more information see our **Tax Information Bulletin (TIB), Vol 34, No 5 (July 2022)** page 126.

Qualifying non-main home days for a period 12 months or more

Days you do not live in the property as your main home, for periods longer than 12 months, can qualify for the main home exclusion if you:

- built a new home and the construction period was reasonable, and you lived in the property
- needed to vacate the property for a reasonable period to repair damages for a North Island flooding event.

What's reasonable depends on the facts and circumstances.

Example

Main home exclusion applying to reasonable construction period

Riley purchased bare land in April 2021 to construct a house. The construction period took longer than expected due to delays with their local council, supply constraints for building materials, and difficulties finding a qualified builder. It took 2 years before the house was completed and Riley could move in. As the construction period is reasonable, and Riley lived in the property after construction was completed it qualifies as main home days.

Reducing the amount of tax to pay based on actual usage

If you do not qualify for the full main home exclusion because you have not used the property as your main home for 100% of the time (including the days that can be 'treated as' your main home) or if less than 50% of the area has been used as your main home, then an apportionment calculation reduces the amount of tax you need to pay under the bright-line test.

The following formulae for 'reduced income' and 'reduced cost' are used to calculate what portion of your income and expenses relate to your main home use. Subtract these from your total sale price and total cost of the property in your **Bright-line residential property sale information – IR833** form:

- sale price – reduced income (Box 6)
- cost – reduced cost (Box 7)

For more information on how to complete the IR833 and your income tax return see Part 6 of this guide.

This is how you calculate 'reduced income' and 'reduced cost':

Reduced income:

$$\text{sale price} \times \frac{(\text{'non-predominant main home days'} \times \text{'main home \%'}) + \text{'predominant main home days'}}{\text{'Total days'}}$$

Reduced cost:

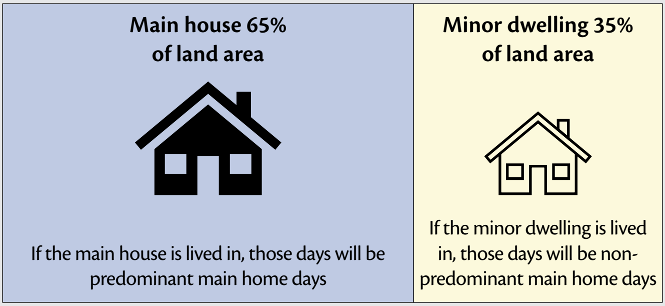
$$\text{cost} \times \frac{(\text{'non-predominant main home days'} \times \text{'main home \%'}) + \text{'predominant main home days'}}{\text{'Total days'}}$$

The terms of the formula are defined as follows:

- **Sale price** is the full amount the property was sold for.
- **Cost** is what was paid for the property and any capital improvements.
- **Non-predominant main home days** is the total number of days in the bright-line period where 50% or less of the land was used as your main home. This includes any days that qualify as 'treated as' main home days, but excludes 'treated as' days that are counted under 'predominant main home days'. If there is only 1 dwelling on the property, then you generally do not need this calculation.
- **Main home %** is the percentage of the land used as the main home during the non-predominant main home days. If there is only 1 dwelling on the property, then you generally do not need this calculation.
- **Predominant main home days** is the total number of days in the bright-line period where more than 50% of the land was used as your main home. This includes any days that qualify as 'treated as' main home days.
- **Total days** is the total number of days in your bright-line period for the property. See Part 1 of this guide but for most people the bright-line period generally starts on the date the property is transferred to you and ends on the date a binding sale and purchase agreement to sell the property is entered into.

Example

2 houses on 1 legal title



If the main house is lived in, those days are 'predominant main home days' for the formula. This is because the main house uses more than 50% of the total land area (including yard, gardens and garage). Tax is not payable under the bright-line test for any days that are predominant main home days.

If the minor dwelling is lived in, those days are 'non-predominant main home days' for the formula. This is because the minor dwelling uses less than 50% of the total land area. Tax is payable under the bright-line test for non-predominant main home days, but only to the extent (by land area) the property is not used as the main home.

If you have some days that are 'treated as' main home days, but the continuous period is between 'predominant main home days' and 'non-predominant main home days', those days can only be treated as 'non-predominant main home days'. This could occur for example, if you lived in the main house, moved elsewhere for 6 months and then moved into the minor dwelling. The 6 months are counted as main home days for the minor dwelling.

Example

Full main home exclusion – most of the land area used for the main home for 100% of the bright-line period

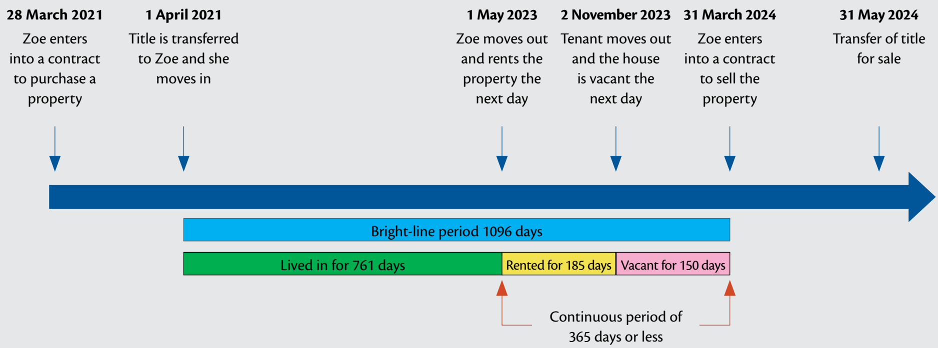
Louis has 2 houses on a property. The large house uses 55% of the land and the smaller house uses 45%. Louis lives in the large house and rents out the smaller house for the entire bright-line period. The property was purchased on 13 March 2022 and sold on 31 December 2023.

Since the property was purchased after 27 March 2021 and disposed of within the relevant bright-line period of 5 years, the bright-line test applies.

However, as the house and land portion used by Louis is more than 50% of the entire property, and he has lived in the large house for 100% of the bright-line period, Louis qualifies for the full main home exclusion and is not taxed on the profit under the bright-line test.

Example

Full main home exclusion – Property used as the main home for less than 100% of the bright-line period, but non-main home days within 12-month continuous period



On 28 March 2021, Zoe entered into an agreement to purchase a property. Title to the property was transferred to Zoe on 1 April 2021. Zoe lived in the property from 1 April 2021 to 1 May 2023 and the property was rented and also vacant after that date. On 31 March 2024, Zoe entered into an agreement to sell the property and the title was transferred to the new owner on 31 May 2024.

The bright-line period is 1096 days, starting on 1 April 2021 and ending on 31 March 2024.

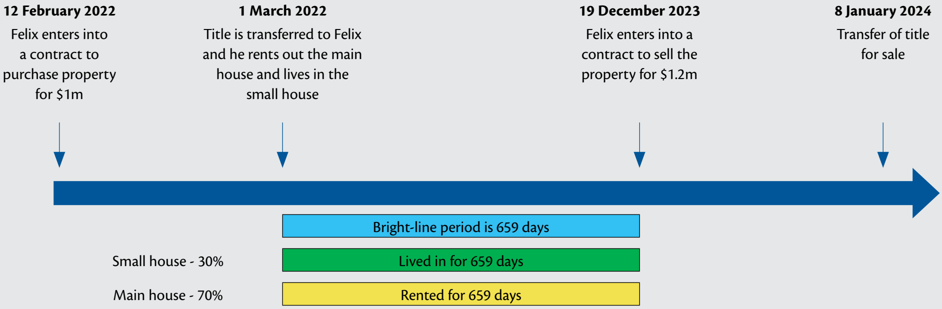
Zoe lived in the property for 761 days, using it as her main home. Zoe did not live in the property for 335 days (185 rental days plus 150 vacant days), however these days are counted as main home days. This is because this period is less than 365 days, the start of the vacant period is immediately after Zoe moved out, and the end of the vacant period is immediately before the end of the bright-line period. Zoe's total main home days is therefore 761 + 335 = 1096 days.

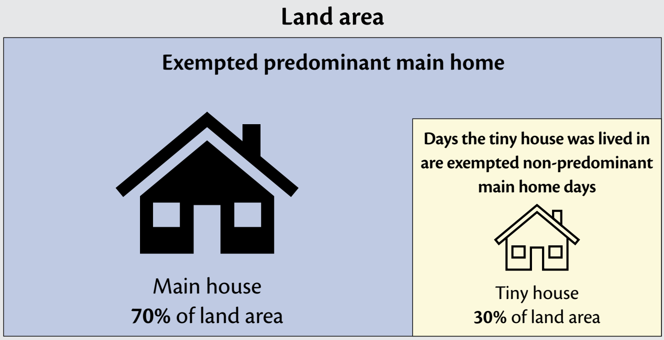
The full main home exclusion applies and Zoe's profit on the property is not taxable under the bright-line test. This is because the entire property was used by Zoe as her main home (or treated as being used as her main home) for all of the days in the bright-line period.

Fact variation:
If Zoe had moved out on 20 March 2023 and rented the property from that point, the period it was not Zoe's main home would be more than 365 days and those days would not be treated as main home days. An apportionment calculation would be required, with tax being payable under the bright-line test for the non-main home days.

Example

Partial main home exclusion – Less than 50% of the land area used for the main home for 100% of the bright-line period





On 12 February 2022, Felix entered into an agreement to purchase a property for $1,000,000 and the title to the property was transferred to Felix on 1 March 2022. The property has 2 houses, with the main house comprising 70% of the total land area and the smaller house (a tiny home) comprising 30%.

On 19 December 2023, Felix entered into an agreement to sell the property for $1,200,000 and the title was transferred to the new owner on 8 January 2024.

Felix lived in the small house and rented out the main house from 1 March 2022 until early January 2024. This covers the entire bright-line period from 1 March 2022 (when the title was transferred to Felix) until 19 December 2023 (when the contract for sale was made).

The property is taxable under the bright-line test because it was sold within the relevant bright-line period of 5 years. Felix does not qualify for the full main home exclusion since he did not use more than 50% of the property as his main home. However, he does qualify for a reduction in the amount of taxable income based on the land area taken up by his tiny home.

The 'reduced income' calculation:

$$\text{Sale price} \times \frac{(\text{non-predominant main home days x main home \%}) + \text{predominant main home days}}{\text{total days}}$$

Applying the terms in the formula to Felix's situation:

- **Sale price** is $1,200,000 (being how much Felix sold the property for).
- **Cost** is $1,000,000.
- **Non-predominant main home days** is 659 (the number of days within the bright-line period that Felix lived in the small house – this is 1 March 2022 to 19 December 2023).
- **Main home %** is 30% (being the percentage of the land area of the tiny house used by Felix as his main home).
- **Predominant main home days** is 0 (because Felix did not live in the main house so he did not use more than 50% of the land as his main home for any days).
- **Total days** is 659 days (Felix's bright-line period starts on 1 March 2022 and ends on 19 December 2023).

Applying the formula to Felix's situation:

$$\$1{,}200{,}000 \times \frac{(659 \text{ days x } 30\%) + 0}{659} = \$360{,}000$$

$360,000 is the portion of the sales price that relates to Felix's main home use and is not subject to tax under the bright-line test.

Felix then subtracts this $360,000 from his total sale price to give him the amount that he needs to return as gross income in his income tax return: $840,000 (being $1,200,000 – $360,000). In Felix's IR833 form this figure will go into box 6 (sales price).

Felix is allowed a deduction for the cost of the property. While Felix paid $1,000,000 for the property, he cannot deduct this full amount because some relates to his main home use. The 'reduced cost' calculation:

$$\text{cost} \times \frac{(\text{non-predominant main home days x main home \%}) + \text{predominant main home days}}{\text{total days}}$$

Applying the terms in the formula to Felix's situation:

- **Cost** is $1,000,000 (being how much Felix paid for the property).
- **Non-predominant main home days** is as above, 659 (the number of days within the bright-line period that Felix lived in the small house – this is 1 March 2022 to 19 December 2023).
- **Main home %** is as above, 30% (being the percentage of the land area of the tiny house used by Felix as his main home).
- **Predominant main home days** is as above, 0 (because Felix did not live in the main house so he did not use more than 50% of the land as his main home for any days).
- **Total days** is as above, 659 days (Felix's bright-line period starts on 1 March 2022 and ends on 19 December 2023).

$$\$1{,}000{,}000 \times \frac{(659 \text{ x } 30\%) + 0}{659} = \$300{,}000$$

$300,000 is the portion of Felix's purchase price that relates to his main home use and is not able to be deducted as an expense against his bright-line income.

Felix subtracts this $300,000 from his purchase price to give him the amount he can claim as a deduction in his income tax return: $700,000 (being $1,000,000 - $300,000). In Felix's IR833 form this figure will go into box 7 (purchase price).

These 2 calculations mean that of Felix's $1,200,000 sale, Felix is taxed on a profit of $140,000 ($840,000 - $700,000). Income tax is calculated on the $140,000 profit at Felix's marginal tax rate.

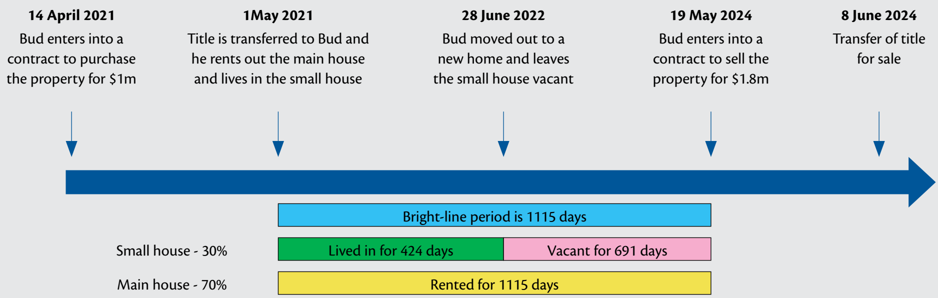
Felix is required to complete the **Bright-line residential property sale information – IR833** form. Felix will need to add the following to his IR833 form:

- Sales price - box 6 enter $840,000
- Purchase price – box 7 enter $700,000

To work out other deductible expenses go to Part 5 of this guide.

Example

Partial main home exclusion – Less than 50% of the land area used for the main home, for less than 100% of the bright-line period



On 14 April 2021, Bud enters into an agreement to purchase a property for $1,000,000 and the title is transferred to Bud on 1 May 2021. The property has 2 houses, with the main house comprising 70% of the total land area and the smaller house comprising 30%. On 19 May 2024, Bud enters into an agreement to sell the property for $1,200,000 and the title is transferred to the new owner on 8 June 2024.

Bud lives in the small house from 1 May 2021 until 28 June 2022 when he moves into his new home and the small house remains vacant. The main house is rented out from 1 May 2021 to 19 May 2024 until it is sold.

The property is taxable under the bright-line test because it is sold within the relevant bright-line period. As the property was purchased after 27 March 2021, Bud does not qualify for the full main home exclusion because he did not use more than 50% of the land as his main home for the entire bright-line period.

However, Bud is entitled to a reduction in the amount of tax he pays because he did use some of the property as his main home.

The 'reduced income' calculation:

$$\text{sale price} \times \frac{(\text{non-predominant main home days x main home \%}) + \text{predominant main home days}}{\text{total days}}$$

Applying the terms in the formula to Bud's situation:

- **Sale price** is $1,200,000 (being how much Bud sold the property for)
- **Non-predominant main home days** is 424 (the number of days within the bright-line period that Bud lives in the small house – this is from 1 May 2021 to 28 June 2022).
- **Main home %** is 30% (being the percentage of the land area of the smaller house used by Bud as his main home).
- **Predominant main home days** is 0 (because Bud did not live in the main house so he did not use more than 50% of the land as his main home for any days).
- **Total days** is 1,115 days (Bud's bright-line period starts on 1 May 2021 and ends on 19 May 2024).
- Applying the formula to Bud's situation:

$$\$1,200,000 \times \frac{(424 \text{ days x } 30\%) + 0}{1,115} = \$136,897$$

The $136,897 is the portion of the sales price that relates to Bud's main home use and is not taxed under the bright-line test. Bud subtracts this $136,897 from his total sale price to give him the amount that he needs to return as gross income in his tax return: $1,063,103 (being $1,200,000 – $136,897). In Bud's IR833 form this figure will go into box 6 (sales price).

Bud is allowed a deduction for the cost of the property. While Bud paid $1,000,000 for the property, he cannot deduct this full amount because some relates to his main home use. The 'reduced cost' calculation:

$$\text{cost} \times \frac{(\text{non-predominant main home days x main home \%}) + \text{predominant main home days}}{\text{total days}}$$

Most of the terms in this formula are the same as above:

- **Cost** is $1,000,000 (being how much Bud paid for the property)
- **Non-predominant main home days** is as above, 424 (the number of days within the bright-line period that Bud lives in the small house – this is from 1 May 2021 to 28 June 2022).
- **Main home %** is as above, 30% (being the percentage of the land area of the smaller house used by Bud as his main home).
- **Predominant main home days** is as above, 0 (because Bud did not live in the main house so he did not use more than 50% of the land as his main home for any days).
- **Total days** is as above, 1,115 days (Bud's bright-line period starts on 1 May 2021 and ends on 19 December 2024).

Bud's reduced cost calculation is:

$$\$1{,}000{,}000 \times \frac{(424 \text{ x } 30\%) + 0}{1{,}115} = \$114{,}081$$

$114,081 is the portion of Bud's purchase price that relates to his main home use and is not able to be deducted as an expense against his bright-line income.

Bud subtracts this $114,081 from his purchase price to give him a total deduction of $885,919 (being $1,000,000 - $114,081). In Bud's IR833 form this figure will go into box 7 (purchase price).

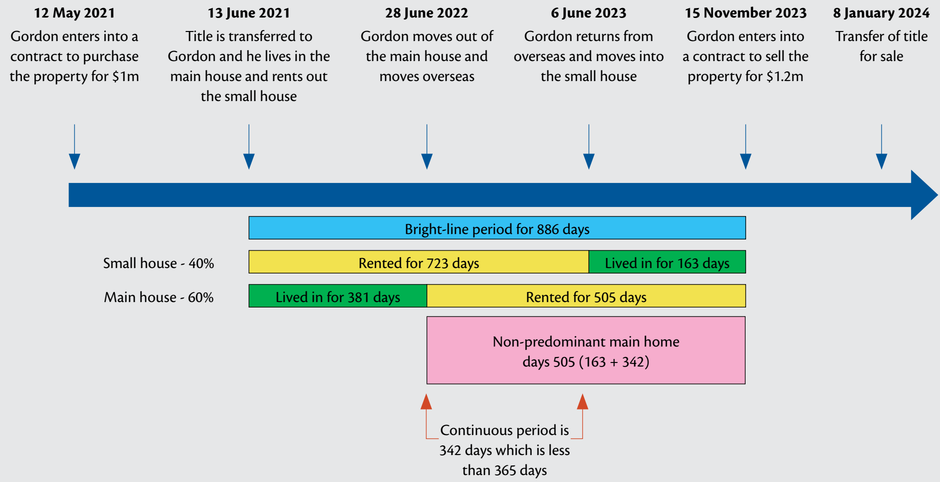
These 2 calculations mean that of Bud's $1,200,000 sale, Bud is taxed on a profit of $177,184 (being $1,063,103 - $885,919). Income tax is calculated on the $177,184 profit at Bud's marginal tax rate.

Bud is required to complete the **Bright-line residential property sale information – IR833** form. Bud will need to add the following to his IR833 form:

- Sales price - box 6 enter $1,063,103
- Purchase price – box 7 enter $885,919

Example

Partial main home exclusion – Land with 2 houses and both lived in by the owner at different times



On 12 May 2021, Gordon enters into an agreement to purchase a property for $1,000,000 and the title is transferred to Gordon on 13 June 2021. The property has 2 houses, with the main house comprising 60% of the total land area and the smaller house comprising 40%. On 15 November 2023, Gordon enters into an agreement to sell the property for $1,200,000 and the title is transferred to the new owner on 8 January 2024.

Gordon lives in the main house from 13 June 2021 until 28 June 2022 (381 days) when he moves overseas for work. The main house is then rented from 29 June 2022 until it is sold on 15 November 2023 (505 days).

The small house is rented out from 13 June 2021 to 5 June 2023 (723 days). When Gordon returns from overseas, he moves into the small house on 6 June 2023 until it is sold on 15 November 2023 (163 days).

Gordon was only overseas for 342 days, which is less than 12 months. These days are 'treated as' non-predominant main home days.

Gordon is taxed on the sale of the property under the bright-line test as it is sold within the relevant bright-line period. As the property was purchased after 27 March 2021, Gordon does not qualify for the full main home exclusion because he did not use more than 50% of the land as his main home for the entire time of the bright-line period. However, Gordon is entitled to a reduction in the amount of tax he pays because he did use some of the property as his main home.

For the purposes of the 'reduced income' and 'reduced cost' formulae, Gordon's relevant numbers are:

- **Sale price** is $1,200,000.
- **Cost** is $1,000,000.
- **Non-predominant main home days** is 505 (being the 342 days Gordon is overseas from 29 June 2022 to 5 June 2023 and the 163 days Gordon lives in the small house from 6 June 2023 to 15 November 2023). The 342 days Gordon was overseas qualify as 'treated as' non-predominant main home days because they are a continuous period of 365 days or less and adjoin 2 periods of main home use.[1]
- **Main home %** is 40% (being the percentage of the land area used by the small house).
- **Predominant main home days** is 381 days (being the days Gordon lives in the main house from 13 June 2021 to 28 June 2022).
- **Total days** is 886 days (Gordon's bright-line period starts on 13 June 2021 and ends on 15 November 2023).

Using the apportionment formula, Gordon's reduced income calculation is:

$$\text{sale price} \times \frac{(\text{non-predominant main home days x main home \%}) + \text{predominant main home days}}{\text{total days}}$$

1 Note that the period Gordon is overseas cannot qualify as predominant main home days as that definition requires the start and end of the period to adjoin either the start/end of the bright-line period or a period where the land has been used predominantly for a dwelling that was a main home. This is not satisfied in Gordon's case as when he returns from overseas he lives in the smaller house (that is the land is not being used predominantly for a dwelling that was a main home).

Applying the reduced income formula to Gordon's situation:

$$\$1{,}200{,}000 \times \frac{(505 \text{ days x } 40\%) + 381}{886} = \$789{,}616$$

The $789,616 is the portion of the sale price that relates to Gordon's main home use and is not taxed under the bright-line test. Gordon subtracts this $789,616 from his total sale price to give him the amount that he needs to return as gross income in his tax return: $410,384 (being $1,200,000 – $789,616). In Gordon's IR833 return this figure will go into box 6 (sales price).

Gordon is allowed a deduction for the cost of the property. While Gordon paid $1,000,000 for the property, he cannot deduct this full amount because some relates to his main home use.
The 'reduced cost' calculation:

$$\text{cost} \times \frac{(\text{non-predominant main home days x main home \%}) + \text{predominant main home days}}{\text{total days}}$$

Applying this to Gordon's situation, Gordon's 'reduced cost' is:

$$\$1{,}000{,}000 \times \frac{(505 \text{ x } 40\%) + 381}{886} = \$658{,}014$$

$658,014 is the portion of Gordon's purchase price that relates to his main home use and is not able to be deducted as an expense against his bright-line income.

Gordon subtracts this $658,014 from his purchase price to give him a total deduction of $341,986 (being $1,000,000 - $658,014). In Gordon's IR833 form this figure will go into box 7 (purchase price).

These 2 calculations mean that of Gordon's $1,200,000 sale, Gordon is taxed on a profit of $68,397 (being $410,384 - $341,986). Income tax is calculated on the $68,397 profit at Gordon's marginal tax rate.

Gordon is required to complete the **Bright-line property sale information – IR833** form. Gordon will need to add the following to his IR833 form:

- Sales price - box 6 enter $410,385
- Purchase price – box 7 enter $341,986

To work out other deductible expenses go to Part 5 of this guide.

Subdivided property and the main home exclusion

The main home exclusion can apply to subdivided land even if there is no house on the subdivided section, as long as the land has been used as your main home for more than 50% of the bright-line period. This means your use of the land before subdivision and your use after subdivision is considered.

Example

Ling buys a property and uses it as his main home. Due to a change of circumstances, Ling decides to subdivide it after 2 months and sell off the back part of the original section. Two new titles are issued on the subdivision – 1 for the subdivided section with the house and 1 for the subdivided section at the rear of the property that was previously used as the backyard. Ling continues to enjoy the land in the section as his backyard until he eventually manages to sell that section 12 months later.

The sale of the backyard section is within the bright-line period that would have applied for the undivided property. Ling can use the main home exclusion for the sale because the land in the backyard section is used as his main home for more than 50% of the bright-line period.

Fact variation:

Instead of using the rear section as his backyard, Ling constructs a new home (with a small garden and a garage) 2 months after buying the property.

The main home exclusion does not apply to the sale of the section with the new home (the former backyard) because the land in that section is not used as his main home for more than 50% of the bright-line period. Ling's bright-line period is 14 months, but he only uses the land in the subdivided section for his main home for 2 months.

For more information go to **taxtechnical.ird.govt.nz** and refer to **Question we've been asked (QB) 18/16: Income tax – bright-line test – main home exclusion – sale of subdivided section**.

Business premises exclusion

The bright-line test does not apply to residential property that has been used predominantly as business premises.

The property does not need to be used as a business premises by the owner; it may be rented out by the owner to other persons to use as their business premises.

Example

Natalie purchases a 'live-work' warehouse/apartment on a single legal title. The property is a $100m^2$ warehouse on the ground floor and a $60m^2$ 1-bedroom apartment on the first floor.

Natalie leases the entire property to a tenant who operates a business from the ground floor. The tenant lives above the business in the 1-bedroom apartment. Natalie sells the property within the bright-line period to raise funds to start her own business. The 'work' component of the 'live-work' warehouse/apartment is bigger than the 'live' component of the property. The property is predominantly used as a business premises and is therefore not subject to the bright-line test.

If the first floor was more than $100m^2$ the bright-line test would apply as the property is 'residential land'. This is on the basis the property is 'predominantly used as a place of residence or abode'.

This exclusion does not apply when a residential property is:

- rented out for residential purposes such as a residential rental property
- used to provide short-stay accommodation - the business of supplying accommodation and the house is not the owner's main home.

For more information about the treatment of short-stay accommodation, go to **Tax Information Bulletin (TIB), Vol 33, No 6 (July 2021)** page 21.

For more information about the business premises exclusion, go to **taxtechnical.ird.govt.nz** and refer to **Question we've been asked (QB) 19/13: Income tax – When does the business premises exclusions to the bright-line test apply?**

Farmland exclusion

The bright-line test does not apply to farmland. For the farmland exclusion to apply, the property must be:

- worked in a farming or agricultural business by the owner of the property, or
- capable of being worked as a farming or agricultural business because of its area and nature.

Property worked in the farming or agricultural business must be worked by you, the owner; it cannot be rented to someone else who farms it.

For a property to be capable of being worked as a farming or agricultural business, it must be suitable to support farming activities without major investment or modifications.

Example

Lee owns a 2 hectare lifestyle block including a house, vegetable garden and shed. Lee rents out the property to a family who graze 10 sheep and makes $2,000 a year selling the stock at the public livestock auction.

The farmland exclusion does not apply because Lee is not carrying on a farming or agricultural business. The property is not suitable to be worked as a grazing business without significant investment or modification. Also, while income is derived from grazing, the amount of income is not sufficient to cover what it costs to hold and operate the land as a farming business.

If Lee sells the property within the bright-line period, any profit made on the disposal will be taxable under the bright-line test.

Subdividing farmland

If you subdivide farmland and sell a portion of it, the subdivided portion of the land (along with other land owned or leased by you in your business) needs to be worked, or be capable of being worked, as a farming or agricultural business at the time of sale for the farmland exclusion to apply.

Consider the area and the nature of the subdivided land in isolation from the rest of the land and whether the subdivided portion can support farming activities without major investment or modifications. The land must be suitable for a farming or agricultural business, without needing significant changes for the farmland exclusion to apply.

When land is subdivided, the start date for the bright-line period is the original date of registration for the undivided property.

Example

Jean and Robin own 150 hectares of land and use it in a dairy farming business. After 2 years, Jean and Robin decide to subdivide 2 hectares of the land to build a family home on the new section.

The subdivided portion is fenced off and is no longer being worked or capable of being worked by Jean and Robin along with other pieces of land in their dairy farming business. The 2 hectares is now considered residential land and if sold, Jean and Robin will have to consider if the bright-line test applies.

For more information go to **taxtechnical.ird.govt.nz** and refer to **Question we've been asked (QB) 18/17: Income tax – bright-line test – farmland and main home exclusions – sale of lifestyle blocks**.

Part 3 - Rollover relief

Rollover relief applies to certain types of ownership transfers and means:

- the person transferring property to you will not be taxed at the time of the transfer
- we treat you as having purchased the property at the same time and for the same price as the person you received it from.

You take the previous owner's bright-line start date and cost base and the previous owner is treated as having sold the property at cost.

Relief is available even if the original acquisition pre-dates the introduction of the bright-line test in 2015.

Rollover relief is available for property transferred:

- as deceased estate and inherited property
- under a relationship property agreement
- under a resident's restricted amalgamation.

From 1 April 2022 until 30 June 2024, the following changes in legal ownership also qualify for full or partial rollover relief:

- certain transfers to or from family trusts
- certain transfers to or from look-through companies and partnerships
- transfers within tax consolidated groups of wholly-owned companies
- certain transfers of land subject to Te Ture Whenua Māori Act 1993
- transfers as part of settling Te Tiriti o Waitangi - Treaty of Waitangi claims.

Note

The rules work differently for transfers from 1 April 2024 between associated persons and transfers of Māori residential land to or from trusts. For more information, see our guide **Bright-line property tax – IR1229**.

Rollover relief is provided if the amount paid for the transfer is equal to or less than the original owner's acquisition cost, although this requirement does not apply for transfers within tax consolidated groups.

Whether there is full rollover relief (no tax to pay) or partial rollover relief (some tax to pay) depends on whether there is payment for the transfer and if so, how much.

Full rollover relief

Full rollover relief applies if the amount you receive for the transfer is equal to or less than the previous owner's (transferor's) acquisition cost. This means you are treated as having acquired it at the same price and at the same time as the previous owner, and the previous owner is treated as having disposed of the land at cost. This means there is no tax to pay at the time of the transfer.

Partial rollover relief

Partial relief is provided if the amount you receive for the transfer is more than the previous owner's acquisition cost but is less than the market value of the land. In this case, both of the following apply:

- you are treated as having acquired the land at the time that the previous owner acquired it but for the actual sale price you paid rather than the market value
- the previous owner is also treated as having disposed of the land for the actual sale price rather than its market value.

This means the previous owner may be taxed on the difference between the actual sale price and their acquisition cost if the transfer is made within the bright-line period. The actual sale price will also be your acquisition cost, which you will be able to deduct if you go on to sell the property and the bright-line test applies. The bright-line period will not restart even if the previous owner had to pay tax on the transfer under the bright-line test.

For more information on rollover relief go to **Tax Information Bulletin (TIB), Vol 35, No 6 (July 2023)** pages 97 to 121.

Transfers of deceased estate and inherited property

The bright-line test provides an exemption for transfers of an estate following the owner's death.

The transfers from the deceased person to the executor or administrator of the estate, and from the executor or administrator to the beneficiary, are treated as taking place at the total cost of the land to the deceased person (rather than at the land's market value) at the date of transfer. The effect is no tax liabilities arise under the bright-line test for these transfers.

The subsequent sale or disposal of the inherited property by the beneficiary is also not taxable under the bright-line test.

Example

Ali bought a house as a private residence for himself in May 2021. According to Ali's will, his son Omar will inherit the property.

At the time of Ali's death, the property is transferred to the executor under Ali's will in April 2022. As part of distributing the assets, the executor transfers the property to Omar, the beneficiary in August 2022.

The transfer of the property from Ali's estate to the executor, and on to Omar (the beneficiary), is excluded from the bright-line test. This means there is no tax to pay.

Any subsequent disposal by Omar is also exempt, so if he later sells the property, there will be no tax to pay under the bright-line test.

Transfer of inherited property to a qualifying trust

From 1 April 2022, the transfer of inherited residential property from the beneficiary to a qualifying family trust may qualify for rollover relief.

Example

Omar transfers the property he inherited from his father, Ali, to the Omar family trust in May 2023. Omar is the principal settlor and a beneficiary of the trust (which qualifies as a rollover trust) at the time of transfer.

Because the transfer was made after 1 April 2022, rollover relief applies to the transfer from Omar to the family trust, meaning the exclusion from the bright-line test for inherited property is rolled over to the trustees of the family trust.

If the trustees dispose of the property, they will have the same tax treatment that Omar had on disposal, that is the disposal is exempt from the bright-line test and there is no tax to pay.

Non-inherited portion

If a beneficiary acquires part of a property other than by inheritance, that portion may be subject to the bright-line test when subsequently sold. This can happen if multiple people inherit a property and 1 of the beneficiaries decides to sell their share to the others.

Example

Paul and Mel are each left a half-share in a residential property in Erica's will.

Mel sells her half-share to Paul at market value on 12 April 2019. Paul becomes the sole owner of the property. He subsequently sells the property on 15 March 2020.

Because Paul has sold the property within 5 years of buying Mel's half- share, he will pay tax on 50% of any profit he makes on the sale.

Relationship property agreements

Full rollover relief applies to transfers of property under a relationship property agreement (between de facto partners, civil union partners, or spouses) under the Property (Relationships) Act 1976. This means there is no tax to pay under the bright-line test.

However, any subsequent sale of the transferred property may be subject to the bright-line test.

If you are the recipient of the property and later sell it within the applicable bright-line period which starts from the date the property was first owned in the former relationship, you will pay income tax on any profit you make unless you qualify for the full main home exclusion. For more information about the main home exclusion, refer to Part 2 of this guide.

Example

After saving for 5 years, Emily and Carl purchased their first investment property and the property's title is registered to them in November 2021. They separated 12 months later. In May 2023 the property was transferred into Carl's name as part of their relationship property agreement. In July 2023 Carl sold the property for more than the original purchase price.

The transfer of Emily's share to Carl in May 2023 has no tax liability. However, there is a tax liability when Carl sold the property because the sale is within the bright-line period (using the bright-line start date of November 2021 when the property was first owned in the former relationship).

Example

Alex purchased a rental property and is registered on the title as the owner on 1 September 2021. On 2 May 2023 the property was transferred to Karen under a relationship property agreement. This transfer is not subject to the bright-line test because it was made under a relationship property agreement.

Karen entered into an agreement to sell the property on 1 April 2024. Since the transfer to Karen was part of a relationship property agreement, the bright-line start date is 1 September 2021 and not 2 May 2023 when it was transferred to Karen. The sale is taxable because the property was sold within the bright-line period.

Income is calculated using the price Karen sold the property for on 1 April 2024 with a deduction for how much Alex paid for the property on 1 September 2021.

Example

Coral and her husband Ron purchased a rental property and are registered on the title on 9 September 2021.

Coral and Ron decided to separate. As neither of them wanted to keep the property, they sold it to a third party on 17 March 2024.

Since the property was not transferred to either of them under a relationship property agreement, but sold to a third party, rollover relief does not apply. Instead, the bright-line test applies and the transaction is taxable as the property was sold within the bright-line period.

Example

David and his wife Susan purchased a rental property on 20 July 2022.

David and Susan decided to separate. David and Susan agreed that as part of the settlement, David would pay $100,000 to Susan. David has trouble raising the funds to pay Susan. They agree to sell the rental property so David can pay Susan the $100,000 from his share of the proceeds of the sale. David and Susan sell the property to a third party under an agreement dated 24 October 2023.

Relationship property rollover relief only applies to the transfer of property between spouses or civil union or de facto partners under a relationship property agreement. The rental property was not transferred to one of them under a relationship property agreement but sold to another party and so does not qualify for rollover relief.

The bright-line period starts on 20 July 2022 and ends on 24 October 2023. Therefore, the sale is taxable as the rental property was sold within the bright-line period.

Transfers to or from family trusts

From 1 April 2022 until 30 June 2024, rollover relief applies to transfers of residential property made to or from family trusts if the trust meets the following:

- each transferor (in the case of transfers to a trust) or each transferee of the property (in the case of transfers from a trust back to the settlor) is both a settlor and beneficiary of the trust
- at least 1 of those transferors or transferees of the property is also a principal settlor of the trust
- all principal settlors are beneficiaries of the trust
- all principal settlors are close family associates
- all beneficiaries are close family beneficiaries

Two people are close family associates if they're:

- a relative within 4 degrees of blood relationship of the person and the relative's civil union partner, de facto partner or spouse
- the person's civil union partner, de facto partner, or spouse, and a relative within 4 degrees of blood relationship of the person's partner/spouse.

This includes relatives by adoption, as well as stepchildren and in-laws.

Some common examples of close family associates include the principal settlor's:

- parents and children, stepparents and stepchildren, parents-in-law and children-in-law
- siblings, step-siblings and siblings-in-law
- grandchildren and grandparents
- aunts and uncles, nieces and nephews
- cousins
- great-grandchildren and great-grandparents
- great-aunts and great-uncles, great-nieces and great-nephews
- great-great grandchildren and great-great grandparents.

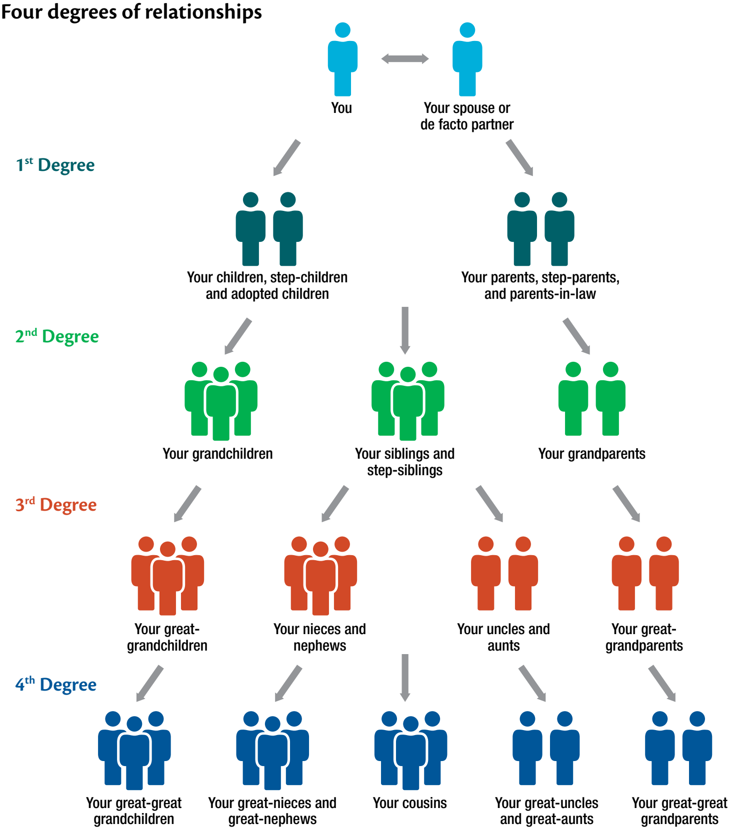
Further information on how degrees of association are determined in family situations can be found in **A guide to associated persons definitions for income tax purposes – IR620** available at **ird.govt.nz/forms-guides**

A close family beneficiary is broadly:

- a principal settlor
- a close family associate of another beneficiary who is also a principal settlor
- a company in which a 50% or more voting interest, or a 50% or more market value interest if a market value circumstance exists, is owned by a beneficiary of the trust that is:
    - (i) a principal settlor of the trust
    - (ii) a close family associate of another beneficiary that is a principal settlor of the trust
- a trustee of another trust with at least 1 beneficiary that is a close family associate of a beneficiary of the first trust
- a charity registered under the Charities Act 2005 or any association, club, institution, society, organisation or trust not carried on for the private profit of any person whose funds are applied wholly or principally to any civic, community, charitable, philanthropic, religious, benevolent, or cultural purpose.

The following example shows 4 degrees of relationships:

Four degrees of relationships



Example

Joan has no children and wants to set up a family trust for the benefit of her nephew, George, and his family. The trust's assets include Joan's house in Auckland, a holiday home in Waihi and some other financial assets.

The beneficiaries of the trust are Joan, George, his partner Charlotte, their 2 children Jack and May, and George's son Eli, from a previous relationship. Joan loves animals and has been a long-time volunteer for the SPCA, so she also lists the SPCA as a beneficiary of the trust.

The relationships of the beneficiaries are as follows:

- George: 3 degrees of blood relationship from Joan
- George's partner Charlotte
- George's children Jack, May and Eli: 4 degrees of blood relationship from Joan
- SPCA: registered charity under the Charities Act 2005

All the beneficiaries are close family beneficiaries and Joan's trust meets the requirements of a family trust eligible for rollover relief.

For rollover relief to apply when the trustees of a family trust of the type described in the next example transfer the property back to its original settlors, each recipient's share of the interests in the property (relative to the share held by the other recipients) has to be the same as in the original transfer of the property to the trust.

If a transfer does not satisfy all of the requirements, it may be subject to tax under the bright-line test based on the market value of the property at the time of transfer.

Full rollover relief is provided if the amount paid for the transfer is equal to or less than the original owner's acquisition cost. The recipient is deemed to have acquired the property at the same time and for the same cost as the original owner and the transferor (the original owner) does not have a tax liability under the bright-line test.

Partial relief is provided if the amount paid for the transfer exceeds the original owner's acquisition cost but is less than the market value of the land. In this case, the transfer is deemed to have occurred for the amount of consideration provided for the transfer (rather than the market value). The transferor may be taxed based on this amount if the transfer is made within the bright-line period. This amount is also the recipient's acquisition cost, but the recipient's bright-line period starts at the same time as the original owner's did (not when the transfer was made).

If the trust subsequently sells or transfers the property to a beneficiary who was not the original owner of the property, this disposal may be taxed under the bright-line test based on the property's market value.

Example

Full rollover relief

Sunita and Rangi purchase residential property in their own names for $1.1 million on 17 October 2021. On 10 July 2023 Sunita and Rangi decide to settle the property on a family trust with Sunita's sister and her sister's spouse as the trustees. Sunita, Rangi and their children are beneficiaries of the trust. The only property settled on the trust is the residential property and the trustees provide consideration of $1.1 million (even though the market value of the property has increased to $1.3 million).

The trustees then sell the residential property for $1.7 million on 31 January 2024. Sunita and Rangi are both beneficiaries of the trust. Sunita and Rangi are also both principal settlors (given that the trust has no other property). Sunita and Rangi are associated through marriage, and both non-settlor beneficiaries (their 2 children) are associated with a principal settlor.

Rollover relief means Sunita and Rangi are not subject to tax under the bright-line test on the disposal of their residential property to the trustees of their family trust on 10 July 2023. This is because the consideration paid by the trustees to Sunita and Rangi is equal to the price they originally paid for the property.

The trustees are treated as having the same bright-line start date that Sunita and Rangi had (17 October 2021, rather than 10 July 2023 when the property was settled on the trust). However, the trustees' sale of the land on 31 January 2024 is within the 10-year bright-line period, so the sale is subject to income tax under the bright-line test unless any of the exclusions apply.

Example

Partial rollover relief

Neo acquired residential property on 3 March 2017 for $500,000. On 29 October 2022, Neo settles the residential property on a trust with him and his son, Archie, as beneficiaries of the trust. Neo's outstanding mortgage is $400,000. The trustee provides consideration of $600,000, of which Neo uses $400,000 to discharge his outstanding mortgage.

Since Neo purchased the property on 3 March 2017 the 2-year bright-line period is applicable, however, there is no tax liability under the If a transfer does not satisfy all of the requirements, it may be subject to tax under the bright-line test because Neo held the land for more than 2 years.

Partial relief applies to ensure the bright-line clock is not restarted, meaning the trustee takes on Neo's bright-line acquisition date of 3 March 2017 but not Neo's acquisition cost of $500,000. The trustee's cost base is instead the amount of consideration it provided, being $600,000.

Transfers for family trust back to settlors

As well as meeting the rollover trust criteria, another rule applies for a transfer from a trust to a settlor or group of settlors (transferees) where the transferees had transferred the property to the trust.
For rollover relief to apply:

- all transferees must be principal settlors at the time the trustee acquired the property and at the time the trustee transfers the property
- the transferees must acquire proportionally the same amount of land they had originally transferred to the trustee.

Rollover relief will not apply to transfers to settlors who are not principal settlors of the trust either at the time the property was acquired by the trust or at the time the trust transfers the property. This means a beneficiary of the trust cannot become a principal settlor immediately before the land is transferred to them.

Example

In 2005, Maya settles a new family trust, with herself, her partner Blake and their children, Jack and Sean, as the beneficiaries of the trust.

- In 2007 Jack makes substantial settlements on the trust to become the principal settlor.
- In 2009, Jack acquires an investment property for $250,000. He later sells it to the trust in May 2019 for $600,000.
- In November 2022, the trust sells the property back to Jack for $600,000, even though the market value of the property is now over $1 million. At the time of the sale, Jack is still the principal settlor of the trust.

As the amount paid by Jack for the property is equal to the amount the trustee originally paid for the property, full rollover relief applies to the transfer. This means the trust is not subject to tax under the bright-line test on the transfer of the property to Jack in November 2022. This is because the trustee is treated as disposing of the land at cost, meaning their net income under the bright-line test is zero.

Jack is treated as having an acquisition date of May 2019 for the land (being the date the trustee acquired the property) and a cost base of $600,000.

Resettlement of family trust

Rollover relief is also available for a resettlement transaction where the trustees of the trust transfer the property to a new trust, provided that the following apply:

- each family member beneficiary of the resettled trust is either a beneficiary of the first trust or a close family associate of a principal settlor of the first trust
- both trusts meet the criteria relating to the principal settlors and beneficiaries meaning that all principal settlors are beneficiaries of the trust, all principal settlors are close family associates, and all beneficiaries are close family beneficiaries.

Example

Jay is the principal settlor and a beneficiary of her family trust (trust A), which is a qualifying family trust for rollover relief. In May 2022 the trust property, which includes residential land, is resettled on a new family trust (trust B).

The beneficiaries of the new family trust B include relatives of Jay who are within 4 degrees of blood relationship, their spouses, and 2 registered charities. Trust B has 1 other principal settlor, Ralph, who is also a beneficiary.

The principal settlors, Jay and Ralph, are married and are therefore close family associates. All beneficiaries are close family beneficiaries.

The transfer to trust B is for zero consideration, which is less than the cost of the land to the trustee of trust A. This means the transfer of the residential land from trust A to trust B qualifies for full rollover relief.

This means Jay, as trustee of trust A, is treated as disposing of the land at cost. Jay's income arising under the bright-line test is zero, and the trustees of trust B have the same bright-line start date and cost of the land as Jay had.

Family and close relationship transactions

Family and close relationship transactions are when the ownership of residential land (that is not a main home) changes from:

- parents to their child to assist the child with buying their first home
- one partner to themselves and their new partner
- all the beneficiaries who inherit the land under a will or rules of intestacy to some of the beneficiaries.

Before 1 July 2024, rollover relief is not available in these situations.

If parents are co-owners and later sell their share to their children, the bright-line test may apply. See Part 4 - Co-ownership.

Additionally, when residential land subject to the bright-line test is disposed of for no consideration or for inadequate consideration, the amount deemed to be received is the market value at the time the property is transferred or sold.

For more information go to **taxtechnical.ird.govt.nz** and refer to **Interpretation Statement (IS) 23/02: Income tax – Application of the s CZ 39 5 year bright-line test to certain family and close relationship transactions**.

Transfer of property from one trustee to another

Where a property is transferred from one trustee to another trustee of the same trust, the transferee is treated as having acquired the property on the earliest day that the land was transferred to a trustee of the trust. The change in trustees will not restart the bright-line clock.

Transfers to or from look-through companies (LTCs) and partnerships

From 1 April 2022 until 30 June 2024, rollover relief applies if a person transfers residential property to themselves in another capacity. This essentially provides rollover relief for transfers between LTCs and the LTC shareholders or between partnerships and the partners.

Full rollover relief is provided if the amount for the transfer is equal to or less than the original owner's acquisition cost. The recipient is deemed to have acquired the property at the same time and for the same cost as the original owner and the transferor (the original owner) does not have a tax liability under the bright-line test.

Partial relief is provided if the amount for the transfer exceeds the original owner's acquisition cost but is less than the market value of the land. In this case, the transfer is deemed to have occurred at the amount paid for the transfer (rather than market value). The transferor may be taxed based on this amount if the transfer occurs within the bright-line period. This amount is also the recipient's acquisition cost, but the recipient's bright-line period starts at the same time as the original owner's did (not when the transfer was made).

Example

Eddie owns all the shares in Baxter Limited, a look-through company. Baxter Limited owns several properties that it rents out as short-stay holiday accommodation on the internet.

Eddie purchases a new property in Invercargill to live in for $500,000, but he is unable to relocate because of work commitments in Auckland. Eddie's bright-line period for the new property begins on 4 April 2022, being the date title was registered.

Eddie decides to transfer the Invercargill property to Baxter Ltd to rent out as part of its holiday accommodation business on 14 September 2022 at the same price he paid for it ($500,000). Because Eddie was the sole owner of the Invercargill property and holds all of the shares in Baxter Ltd, and the transfer of the property to Baxter Ltd was made at cost, full rollover relief applies and the property transfer to Baxter Ltd will not be subject to tax under the bright-line test.

Baxter Limited's bright-line period for the Invercargill property begins on 4 April 2022 (the date the property was transferred to Eddie). Baxter Limited sells the Invercargill property to a third party on 4 May 2024. The property is taxable under the bright-line test because it is sold before 1 July 2024 and the bright-line end date, 4 May 2024, is within 5 years of the bright-line start date, 4 April 2022.

Fact variation:
Eddie purchases an apartment in Auckland city for $650,000 and the title registration occurs on 1 October 2021. In 2024, when Baxter Limited sells the Invercargill property, Eddie decides to sell the Auckland apartment to Baxter Limited to maintain the size of its property portfolio. This occurs on 24 October 2024 and the amount of the transfer is $700,000 which is less than the property's market value.

Partial relief is available for the transfer of the Auckland apartment. Because the amount for the transfer ($700,000) is more than Eddie's original acquisition cost ($650,000) and the transfer is within the relevant bright-line period, Eddie is taxed on this $50,000 profit. Without this partial relief, Eddie would have been taxed on the difference between the market value and his original acquisition cost. Baxter Limited's bright-line period starts on 1 October 2022 (the date the title was originally transferred to Eddie, rather than the date of the transfer from Eddie to Baxter Limited).

Transfers to or from family trusts involving different capacities (LTCs and partnerships)

Rollover relief extends to transfers to family trusts, where the transferors or transferees may similarly have different capacities in relation to the rollover trust criteria set out above. For example, a transferee may be a settlor of the trust in their personal capacity and be a beneficiary as an LTC owner, or they may have transferred the land to the trust in their personal capacity and acquire it back from the trust as a partner in a partnership.

Example

Mr and Mrs Yong are 50:50 partners in the Yong Family Partnership. The Yong Family Partnership is the principal settlor of the Yong Family Trust. Mr and Mrs Yong are beneficiaries of the Yong Family Trust.

In April 2018, the Yong Family Partnership transferred a residential property to the Yong Family Trust. In January 2023, the trustees of the Yong Family Trust transfer the property to Mr and Mrs Yong in their personal capacity in equal 50:50 shares for nil consideration (that is, the sale price is zero), rather than transferring it back to the Yong Family Partnership.

Rollover relief applies to the transfer from the Yong Family Trust to Mr and Mrs Yong, and allows Mr and Mrs Yong to transfer property to the trust in 1 capacity (settlors) and receive it back from the trust in a different capacity (beneficiaries of the trust), as long as the proportion of their interest remains the same.

Fact variation:
If the Yong Family Partnership settled residential property to the Yong Family Trust in 2006, any subsequent transfers by Mr and Mrs Yong will not be taxed under the bright-line test because the trustees' bright-line start date was before bright-line was introduced.

Certain transfers of residential land subject to Te Ture Whenua Māori Act 1993 to or from trusts

Rollover relief also applies to transfers of residential land subject to Te Ture Whenua Māori Act 1993 to a trust provided that:

- the trust is either a Māori authority, or is eligible to elect to be a Māori authority, because it receives and manages on behalf of Māori claimants, assets that are transferred by the Crown as part of a settlement of a claim under Te Tiriti o Waitangi
- all relevant transfers to the trust are made by people who are beneficiaries of the trust, and
- all beneficiaries of the trust are either members of the same iwi or hapū, or descendants of the same tipuna (living or dead).

If these requirements are satisfied, the receiving trustee’s bright-line acquisition date for the land is the same as that of the person who transferred the property (and not the date of the transfer).

From 1 April 2022 until 30 June 2024, full or partial rollover relief may apply depending on whether payment is made for the transfer and if so, how much.

Full rollover relief is provided if the amount for the transfer is equal to or less than the original owner's acquisition cost. In this case, the transferor (the original owner) does not have a tax liability under the bright-line test and the trust (the recipient) is deemed to have acquired it at the same price as the original owner.

Partial relief is provided if the amount for the transfer exceeds the original owner's acquisition cost but is less than the market value of the land. In this case, the transfer is deemed to have occurred at the amount of consideration provided for the transfer (rather than the market value). The transferor may be taxed on this amount if the transfer is made within the bright-line period. This amount is also the trust's acquisition cost, which will be able to be deducted if the trust goes on to sell the property and is subject to tax under the bright-line test.

Example

Transfer from trustee of a Māori family trust to a trust eligible to be a Māori authority

Rewi and several family members own interests in a large parcel of land in Pukemoremore, subject to Te Ture Whenua Māori Act 1993. All the family members are descendants of Rewi's late great-great grandfather. Several townhouses are built on the land, and all of these are rented out to tenants.

Rewi and his relatives decide to sell their interests in the land to a family trust that is settled by Rewi for the benefit of all surviving descendants of the great-great grandfather. The new family trust is eligible to be a Māori authority and elects to do so. The transfer of property to the new family trust is equal to the amount paid by Rewi even though the market value is higher.

Full rollover relief applies to the transfer of property to the new family trust. In this case, Rewi is the settlor of both trusts, and the beneficiaries of the new family trust are all descendants of the same tipuna. This means the property transfer is not subject to the bright-line test. The trustee is treated as disposing of the land at cost.

There are 4 categories of property transfer that may qualify for rollover relief:

- Transfers by settlors of a Māori family trust to the trustees.
- Transfers back to the settlors who first transferred the property to the Māori family trust.
- Resettlement transactions, where the trustees of a Māori family trust resettle the property on a new, related trust.
- Transfers to certain trusts if the land is part of the settlement of a claim under Te Tiriti o Waitangi.

Transfers to Māori family trust

You can get rollover relief for transfers of residential land if the land is covered by Te Ture Whenua Māori Act 1993, and all the following apply:

- the trustee of the trust is either a Māori authority, or is eligible to be a Māori authority
- all relevant transfers to the trust are made by people who are both settlors and beneficiaries of the trust
- all beneficiaries of the trust are members of the same iwi or hapū, or descendants of the same tipuna (living or dead).

Transfers from Māori family trust back to settlors

You can get rollover relief for a transfer of residential land back to the settlor (or settlors) who originally transferred the property to the trust if all the following apply:

- the trustee of the trust is either a Māori authority, or is eligible to elect to be a Māori authority
- in addition to being settlors, the recipients are also beneficiaries of the trust
- all beneficiaries of the trust are either members of the same iwi or hapū or descendants of the same tipuna
- the land is subject to Te Ture Whenua Māori Act 1993
- the recipients get proportionally the same amount of land they had originally transferred to the trustees

Example

Before 2010 Aroha and several members of her extended whānau, who are all members of the same iwi, held interests in a parcel of land in Kaitaia subject to Te Ture Whenua Māori Act 1993. On 15 August 2010, Aroha and members of her family sold their interests in the land to a trust that was settled by Aroha and her brother, Tane, for $5 million. Aroha, Tane and the rest of the whānau holding interests in the land were at the time beneficiaries of the trust and still are.

On 28 May 2022, the trustees of the trust sold the interests in the land back to the members of the whānau for $5 million, being the same amount the trustees had originally paid for the land. The market value of the land at that time was $10 million.

Full rollover relief applies because the transfer was made at cost. This means the whānau who purchased their interests back have a bright-line start date of 15 August 2010, being the date the land was originally transferred to the trustees of the trust at the cost of $5 million. The bright-line clock is not reset for Aroha, Tane and their whānau who repurchased their interests in May 2022. As their bright-line start date is 15 August 2010, a future disposal by the interest holders will not be subject to the bright-line test.

Resettlements of Māori family trust

Rollover relief is available for a transfer of residential land held by trustees of a trust (trust B) that is either a Māori authority, or is eligible to elect to be a Māori authority, resettled to another eligible trust (trust A).

This applies if at the time of the land transfer from trust B to trust A, all the following apply:

- the beneficiaries of trust B are the same as for trust A
- all beneficiaries of each trust are either members of the same iwi or hapū or descendants of the same tipuna
- the land is subject to Te Ture Whenua Māori Act 1993.

If the above requirements are met, a person holding residential land as trustee of trust A, where land was transferred to them from trust B, has the same bright-line acquisition date for the land that trust B had.

Land transferred as part of a settlement under Te Tiriti o Waitangi

If you are transferred residential land on or after 1 April 2022 as part of a settlement of a claim under Te Tiriti o Waitangi, you may qualify for rollover relief.

Settlements of claims under Te Tiriti o Waitangi can be a multi-stage process. The Crown will generally transfer Tiriti settlement property to a single governance entity known as post-settlement governance entity (PSGE). This entity may act on behalf of several groups, for example, different hapū, or as a collective for a number of iwi groups. The PSGE will then transfer settlement assets to different members of the claimant group under the deed of settlement or settlement legislation.

Rollover relief is provided when residential land is transferred if the land is:

- subject to Te Ture Whenua Māori Act 1993,
- part of the settlement of a claim under Te Tiriti o Waitangi, and
- transferred to a trustee of a trust that is a Māori authority, or is eligible to be a Māori authority, under section HF 2(3)(e)(i) (that is, on behalf of Māori claimants, the trustee receives and manages assets that are transferred by the Crown as part of the settlement of a claim under Te Tiriti o Waitangi).

This provides rollover relief for the transfer of Treaty settlement residential land from the PSGE to a member of the claimant group, for example, hapū.

If the above requirements are met, the recipient trustee has, for the purposes of the bright-line test, acquired the land for its market value at the time the Crown transferred the land.

At the exact time of the Treaty settlement, it may not be possible to work out the market value of the land. In this case, a reasonable estimate shortly after settlement (for example, determined for insurance purposes) is acceptable.

Full rollover relief is provided if, for the transfer of the residential property from the PSGE to the receiving trust, the consideration is less than or equal to this value. In this case, the PSGE does not have tax to pay under the bright-line test. The receiving trust is deemed to have the same bright-line start date as the PSGE and is deemed to have acquired the property at its market value when it was transferred by the Crown. If the receiving trust then sells the property and is subject to tax under the bright-line test, it is permitted to deduct that market value figure to calculate its taxable income.

Partial relief is provided if the consideration for the transfer exceeds this value (the market value of the property at the time it was transferred by the Crown to the PSGE). The PSGE may be subject to tax under the bright-line test on the amount received. The member of the claimant group who receives the residential land from the PSGE is deemed to have acquired the property for that amount, but their bright-line period starts at the same time the PSGE's did (and not when the transfer is made).

Part 4 - Co-ownership

Sometimes people pool resources to purchase land, becoming co-owners.

When there is a change to the shares that co-owners have in residential property, or when a co-owner is added or removed, the disposal of the share that changes hands may come under the bright-line test.

The start of the bright-line period should reset only for the ownership share that has changed hands.

Joint tenancy to tenancy in common (and vice versa)

Where you change from joint tenancy to tenancy in common with no change to the proportion of the shares held, the acquisition date used for the bright-line test does not change and the bright-line period start date does not reset when the title is transferred.

This also applies if the change is from tenancy in common to joint tenancy.

Example

Tony and Michael bought a rental in August 2019 and registered on the title as joint tenants. 2 years later, they decide if 1 of them dies, they want the share of the partner who dies to go to that partner's children. In June 2021, the title is transferred to change their ownership of the property from a joint tenancy to a tenancy in common (50:50).

For the bright-line test to apply, there must be a disposal of residential land by either Tony, Michael, or both. They are not treated as having disposed of land for the purposes of the bright-line test. Tony and Michael own the same land (the estate in fee simple) before and after the transfer.

Before the transfer, they each have an interest in the entire property and an equal 50% separate share. After the transfer, they each still have an interest in the entire property, and they each now have a 50% share.

The acquisition date is not reset in June 2021 when the title is transferred to change the form of co-ownership of the property.

If Tony and Michael dispose of the property in the future, the bright-line period starts in August 2019 when the property's title was first registered to them.

Acquiring and removing shares

If you own part of a residential property and then acquire an additional share in the same property, you will have different bright-line start dates for those respective shares in the property.

Where a share in residential land is acquired before 27 March 2021 and a further share in the same land is acquired on or after 27 March 2021, when the land is sold it will all fall into the bright-line period that applied at the time the first interest in the land was acquired. The original bright-line period starts from the date each increase in share takes place.

Example

Hina and Andy entered into a binding agreement to buy a rental property as tenants in common on 30 June 2018. Hina owns 50% and Andy owns 50%. Settlement was on 31 July 2018. Hina sells her shares to Andy on 31 August 2021 at market value. The title is transferred to Andy who now owns 100% of the property.

For the purposes of the bright-line test, Hina has disposed of her 50% interest in the land. This disposal is income under the bright-line test because the disposal was within the applicable bright-line period of 5 years. Hina can deduct the amount she paid for her share of the property.

If Andy then sells the rental property shortly afterwards, he will also be subject to the 5-year bright-line period, because he entered into a binding sale and purchase agreement on 30 June 2018 to acquire the original share in the property. This determines which bright-line period applies (2, 5 or 10 years) for both shares Andy purchased. The 5-year bright-line period will apply as follows:

- 50% share purchased on 31 July 2018, taxable if sold before 31 July 2023
- 50% share purchased on 31 August 2021, taxable if sold before 1 July 2024.

Example

Alisha and Hans buy a rental property as tenants in common and are registered on the property's title in July 2020. Alisha and Hans own a 50% share each. Alisha's financial position changes in 2020. She asks Hans if he is interested in buying out part of her share of the property. He is keen to do this, so he buys half of Alisha's 50% interest at market value.

LINZ registers the transfer in December 2020 to show the land is now held 25% by Alisha, and 75% by Hans. This means for the purposes of the bright-line test, Alisha has disposed of a 25% interest in the land. Alisha's 25% interest sold to Hans is income to Alisha under the bright-line test since the disposal was within the 5-year bright-line period.

Alisha can deduct half the amount she paid for her original 50% share of the property, because she has sold 25% of her original share.

The bright-line clock is not restarted for Hans in December 2020 in relation to his original 50% share and nor does it restart for Alisha in relation to her 25% share she has retained. However, the bright-line clock does restart for the 25% share transferred by Alisha to Hans, with Hans having a December 2020 acquisition date in relation to that 25% share.

Subdividing co-owned land

Co-owners may subdivide and allocate the land based on their original ownership interests. This is known as partitioning. In some circumstances the subdivision may be treated as a disposal of land at market value under the bright-line test or other land taxing rules.

The bright-line test or other land taxing rules do not apply if the value of the partitioned land matches the interests you and your co-owners had in the undivided land. The value includes your contributions as co-owners to development and building costs.

If the land of a co-owner's partitioned interest after subdivision is more than their original co-ownership interest in the undivided land, the difference may be taxable.

If the difference is 5% or more of the smallest co-owner's original interest, the full difference is taxed under the bright-line test or other land taxing rules.

If the difference in allocations is less than 5% of the smallest co-owner's original interest, the difference is not taxable. A difference could happen because of the land topography (landscape).

Example

Maggie and Jordan are co-owners in a residential property purchased for $1 million. Maggie contributed $750,000 (holding 75% interest) and Jordan contributed $250,000 (holding 25% interest). They subdivide the land in 2 and allocate the parcels to themselves.

Due to the landscape, Maggie's land allocation changes to 74% and Jordan's to 26%.

Because the difference between Jordan's original holding and the new allocation is less than 5% the transaction is not taxed under the bright-line test or other land taxing rules (5% of 25% is 1.25%).

For more information go to **taxtechnical.ird.govt.nz** and see our **Interpretation Statement (IS) 22/03: Application of the land sales rule to co-ownership changes and changes of trustees** and **Tax Information Bulletin (TIB), Vol 35, No 6 (July 2023)** pages 124 to 126.

Part 5 - Deductions

The cost of the property

If you sell a property subject to the bright-line test, you can claim a deduction at the time of sale for the cost of the property. However, you cannot include anything you have already claimed a deduction for, for example if you were able to claim a deduction related to buying the property in the year you purchased it.

The cost of the property includes:

- the amount you paid to buy the property (the initial purchase price)
- expenditure related to the purchase, for example lawyers, valuers, surveyors and real estate agents fees
- any capital improvements made to the property after buying it, for example renovations
- expenditure related to the disposal, for example lawyers and real estate agent fees.

You must keep records to support your claim for a deduction for the cost of the property. Examples include:

- signed copy of the agreements for sale and purchase when the property was first purchased, and the on sale of the property
- settlement statements issued for both the purchase and the sale of the property
- evidence of other costs incurred on the purchase and on sale, for example invoices for lawyers, valuers, surveyors or real estate agents fees
- documents supporting any capital improvements to the property made after acquisition such as renovations, for example evidence of resource consent fees, architectural fees, engineers fees, invoices for labour and building materials.

Note

For properties acquired after 27 March 2021, a land apportionment formula for the cost of the property and any improvements may be required if there has been some main home use of the property to reduce the amount of 'cost' you can deduct. For more information see Part 2 - Exclusions.

Holding costs

During the period you own the property, you may incur periodic non-capital costs related to holding the property. These are holding costs and include things such as expenses for interest, insurance, rates and repairs and maintenance.

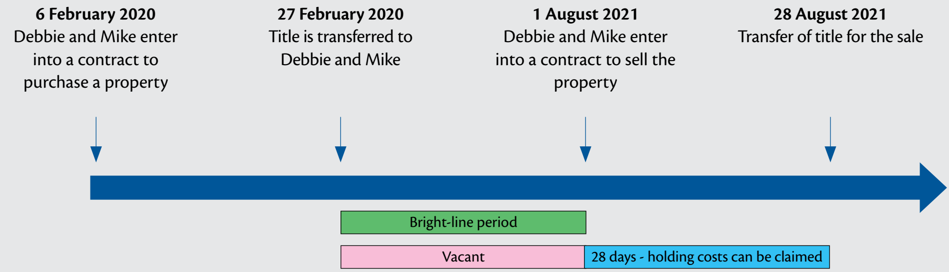
Where holding costs are deductible, this must generally be done in the income year they are incurred. In the year of sale for rental properties, holding costs may have already been claimed in your income tax return against rental income. You must make sure you do not double claim these expenses.

To deduct holding costs, the expenses must satisfy the deduction rules. Personal expenses are not deductible. For example, if the property is used for rental, and not for private purposes, the expenses are likely to be deductible. This is because there is a direct connection between holding costs and the rental income.

When a property sale is taxable under the bright-line test and if that property has not been used to earn income during the year, then holding costs are not deductible because there is no connection between the costs and the taxable sale.

For there to be a connection to the holding costs, expenditure must be in relation to the sale of the property when it is certain to be taxable under the bright-line test. Generally, this will be when you sell the property and enter into a binding sale and purchase agreement. Any interest expenditure prior to the date of the agreement to sell the property is not deductible.

Example



On 6 February 2020, Debbie and Mike entered into an agreement to purchase a property for $800,000 and the title was transferred on 27 February 2020. Debbie and Mike's expenses per week are:

- Interest payments on the mortgage is $400. This is the interest only, not the capital repayments.
- Rates $50.
- Insurance $50.

In September 2020, Debbie and Mike spend $20,000 adding a new deck to the property and in November 2020 repairs are made to the fence for $1,000.

The property is vacant during the bright-line period. On 1 August 2021, they enter into an agreement to sell the property for $1,000,000. Title is transferred to the new owner on 28 August 2021.

The property is taxable under the bright-line test because it is sold before 1 July 2024 and the bright-line end date (1 August 2021) is within 5 years of the bright-line start date (27 February 2020).

The property is not used to earn income and there is no connection to the holding costs until 1 August 2021, which is the date they sign the agreement to sell the property. This means from the date they committed to sell until the date of settlement, the holding costs are deductible as there is a connection to the sale of the property.

The following is used to calculate the income and expenses:

- **Sale price** is $1,000,000 (the amount Debbie and Mike sold the property for).
- **Cost** is $800,000.
- **Repairs and maintenance** is $0. The $1,000 fence repair in November 2020 is before 1 August 2021 when the agreement is entered into to sell the property.

- **Interest** is $1,600. From 1 August 2021 to 28 August 2021 is 4 weeks in which the holding costs can be claimed ($400 x 4 = $1,600).
- **Rates and property insurance** is $400. From 1 August 2021 to 28 August 2021 is 4 weeks in which the holding costs can be claimed ($100 x 4 = $400).
- **Capital improvements** is $20,000 (the spend on the new deck).

For information on when repairs and maintenance can be deducted, go to **taxtechnical.ird.govt.nz** and refer to **Interpretation Statement (IS) 12/03: Income Tax – Deductibility of repairs and maintenance expenditure – General principles**.

For more information on holding costs for land, refer to **Interpretation Statement (IS) 23/10: Deductibility of holding costs for land**.

Depreciation

If you have claimed depreciation on any asset and sell the asset for more than its adjusted tax value, you'll have to include the difference between the sale price and the adjusted tax value in your taxable income.

Part 6 - Filing your income tax return

Before you can file your income tax return, you need to complete a **Bright-line residential property sale information – IR833** form for each residential property you have sold or disposed of that is taxable under the bright-line test.

This can be completed during the income year or can be completed at the end of the income year and attached to your income tax return. The IR833 form can be found at **ird.govt.nz/forms-guides**

Inland Revenue
Te Tari Taake

Bright-line residential property sale information

IR833
July 2024

Follow the flowchart to check if you need to fill out this form. Refer to the notes on the following pages to help you complete the form.

Tax year ending

Your name **IRD number**

Bright-line test

Is this property sale subject to the bright-line test? **1** Yes / No (You do not need to complete this form)

Property title number **2**

You'll find this information on the land title as the Identifier. For example, XA87A/809

Property address **3**

Bright-line start date **4** Day Month Year

The date to use depends on the type of purchase or acquisition. Refer to the notes for more information.

Bright-line end date **5** Day Month Year

The date to use depends on the type of sale or disposal. Refer to the notes for more information.

Property sale income

Sale price **6** $

Expenses

Purchase price **7** $

Deductible expenses **8** $

Total costs **9** $
Add Boxes 7 and 8.

Net profit (loss)

Subtract Box 9 from Box 6 and print in Box 10. Use a negative sign if a loss. For example, -1234.56 **10** $

Percentage of property ownership **11** %

If the property is owned by more than 1 person, enter the percentage of the property owned by you or the entity. For example, if the property was purchased by you and your partner as an investment property, and you own half of it, the percentage will be 50%. If you do not share ownership of the property, copy the amount in Box 10 to Box 12.

Your share of net profit (loss)

Your share of net profit (loss) from your property sale. If you share ownership of the property, calculate this by multiplying the total net profit (loss) (Box 10) by the percentage of property ownership (Box 11). **12** $

If the figure in Box 12 is a net profit, include it in the Net bright-line profit box in the Income and expenses from residential property question in your income tax return. If you have a bright-line loss, do not include it in your income tax return and instead keep your own record of all bright-line losses you have made.

Take a copy for your records and send this page with your income tax return. Alternatively you can complete this form in myIR as part of your income tax return.

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Note

If you are filing your income tax return using myIR, the net profit amount in the IR833 will not pre-populate into your income tax return. You must add this manually by ticking the 'Income and expenses from residential property' income type on the 'Build your return' page and include your share of the net profit in the 'Net bright-line profit' box (for the 2023 and 2024 years). For earlier years, include your net profit in the 'Total residential income' box.

Completing your income tax return

Include your share of the net profit from the sale of a residential property taxable under the bright-line test in your income tax return. Usually, the date of settlement will determine the income tax year the income should be included.

If you have a bright-line loss, do not include it in your income tax return and instead keep your own record of all your bright-line losses. The loss must be carried forward to a later income year where it can be used to offset income from other taxable land sales, including bright-line.

Claiming a bright-line loss

You can only claim the bright-line loss on the sale of a residential property you owned against profits made on other:

- bright-line property sales, or
- land sales taxable under the land sale taxing provisions.

You cannot offset a bright-line loss against your other income, such as salary and wages, rental, or business income.

This also applies to bright-line losses for properties owned by a trust. Losses cannot be distributed to beneficiaries of the trust.

Limiting bright-line losses claimed

The loss amount you can claim in an income year is limited to the amount of bright-line and other land sale income you have in the same income year.

Note

Land sale income is the profit made from taxable land sales in an income year.

If you cannot claim the full loss in the income year of sale, the balance is carried forward to future years where it may be claimed against other taxable land sales, including bright-line.

For information about how to complete your income tax return, including how to record a loss, see above.

Carrying forward bright-line losses for a company

A bright-line loss from the sale of a property owned by a company cannot be carried forward to a future year if the continuity test is not satisfied.

For more information about the ownership continuity test, see **taxtechnical.ird.govt.nz** and refer to **Interpretation Statement (IS) 22/07: Company losses – ownership continuity, sharing and measurement**, page 13.

Example

In June 2020 Zac sells residential land taxable under the bright-line test. Zac acquired the land for $600,000 and sold it for $540,000. For the 2021 income year, Zac also earned an $80,000 salary.

The $60,000 loss for the sale of residential land is ring-fenced and can only be used to offset income from other land sales. Zac cannot use the $60,000 loss to offset his salary income.

In August 2022 Zac sells land he purchased with an intention of resale (so the sale is taxable). Zac made a profit of $100,000 from this sale. Zac can offset the previous $60,000 bright-line loss against the $100,000 profit. As a result, Zac only pays tax on $40,000 of the profit in the 2023 income year.

Note

To address the risk of people using land-rich companies and trusts to circumvent the bright-line test, specific anti-avoidance rules apply. For more detail about these rules, see **Tax Information Bulletin (TIB), Vol 28, No 1 (February 2016)** page 89.

Residential land withholding tax (RLWT)

If you're an offshore RLWT person you may have RLWT deducted from the sale or disposal of your residential property.

You're an offshore RLWT person when you're an individual and any of the following apply.

- You're a New Zealand citizen and you've been overseas for the last three or more years continuously (and you are not currently in New Zealand).
- You have a permanent resident visa or a resident visa granted by Immigration New Zealand and have been overseas for the last 12 or more months continuously (and you are not currently in New Zealand).
- You're not a New Zealand citizen and you do not have a New Zealand residence class visa granted by Immigration New Zealand (you can be in or out of New Zealand).

A non-individual incorporated or registered outside New Zealand or constituted under foreign law is also an offshore RLWT person.

If you're including a taxable property sale in your income tax return, then you're entitled to claim the RLWT deducted as a tax credit reducing your tax to pay.

You may be able to claim the difference between the RLWT deducted, and the RLWT calculated based on your estimated net profit on property-related income.

If you acquired the property on or after 27 March 2021, you can apply for a repayment of RLWT if the property is not eligible for the main home exclusion in full but you used:

- less than 50% of the area of the land as your main home, or
- the property as your main home on some days during the bright-line period.

For more information about how to calculate the main home exclusion, see Part 2 - Exclusions.

For more information about residential land withholding tax, go to **ird.govt.nz/rlwt**

Record keeping

You need to keep all your records for at least 7 years. You do not need to send your records or working papers with your income tax return, but you must keep them in case we want to see them.

You must keep records to be able to calculate your income and expenses. These include:

- invoices and receipts
- bank statements
- working papers for all calculations
- a list of assets including cost price and purchase date
- a copy of any loan mortgage agreement.

For more information about the records you must keep to support a claim for a deduction for the cost of the property, see Part 5 - Deductions.

If you want to claim the main home exclusion, you must have records to support the claim for each year in the bright-line period.

Records must be in English or Māori, unless we've given you written authority to keep them in another language.

For more information refer to **Record keeping – Getting it right – IR955** and **Record keeping – checklist – IR1008**.

Part 7 - Services you may need

Publications

These publications contain useful information. You can get copies of our guides at **ird.govt.nz/forms-guides**

For **Tax Information Bulletins, Questions we've been asked and Interpretation Statements** go to **taxtechnical.ird.govt.nz**

Guides

Associated persons definitions for income tax purposes – IR620
Use this guide to work out if someone is associated to you.

Penalties and interest – IR240
A guide to help you understand the different types of penalties and interest we may charge if you do not file or pay on time. It also tells you how you can reduce or avoid penalties.

Rental income – IR264
Explains the tax rules for people who rent out residential property and holiday homes.

Provisional tax guide – IR289
Tells you what provisional tax is and how and when it must be paid.

Record Keeping – IR955 and **IR1008** Explains recording keeping requirements.

Deducting residential land withholding tax (RLWT) – IR1095
Helps you work out whether you're a withholder, if you need to deduct RLWT from a residential land sale or disposal and your obligations.

Bright-line property tax – IR1229
Explains how the bright-line test applies to residential property sold on or after 1 July 2024.

Tax information bulletins

Tax Information Bulletin (TIB), Vol 28, No 1 (February 2016) Pages 78 to 91

Tax Information Bulletin (TIB), Vol 30, No 5 (June 2018) Page 76

Tax Information Bulletin (TIB), Vol 33, No 6 (July 2021) Pages 13 to 27

Tax Information Bulletin (TIB), Vol 34, No 5 (June 2022) Pages 119 to 148

Tax Information Bulletin (TIB), Vol 35, No 6 (July 2023) Pages 97 to 121

Tax Information Bulletin (TIB), Vol 36, No 4 (May 2024) Pages 7 to 11

Questions we've been asked

Question we've been asked (QB) 16/07
Income tax – Land sales rules, main home and residential exclusions, regular pattern of acquiring and disposing, or building and disposing

Question we've been asked (QB) 17/02
Date of acquisition of land and start date for 2-year bright-line test

Question we've been asked (QB) 18/16
Income tax – bright-line test – main home exclusion-sale of subdivided section

Question we've been asked (QB) 18/17
Income tax – bright-line test – farmland and main home exclusions-sale of lifestyle blocks

Question we've been asked (QB) 19/13
Income tax – When does the business premises exclusions to the bright-line test apply?

Question we've been asked (QB) 24/01
If a person has two or more homes, which home is their main home for the purpose of the main home exclusion to the bright-line test?

Question we've been asked (QB) 24/02
Income tax – bright-line test – main home exclusion – renting to flatmates

Interpretation Statements

Interpretation Statement (IS) 12/03
Income Tax – deductibility of repairs and maintenance expenditure – general principles

Interpretation Statement (IS) 22/03
Application of the land sales rule to co-ownership changes and changes of trustees

Interpretation Statement (IS) 22/07
Company losses – ownership continuity, sharing and measurement

Interpretation Statement (IS) 23/02
Application of the s CZ 39 5 year bright-line test to certain family and close relationship transactions

Interpretation Statement (IS) 23/10
Deductibility of holding costs for land

0800 self-service number

Our 0800 self-service number, 0800 257 777, is open 7 days a week. Make sure you have your IRD number ready when you call.

For access to your account-specific information, you'll need to be enrolled with voice ID or have a PIN.

When you call, confirm what you want from the options given. If you need to talk with us, we'll re-direct your call to someone who can help you.

Need to speak with us?

Have your IRD number ready and call us on one of these numbers.

General tax, tax credits and refunds	0800 775 247
Employer enquiries	0800 377 772
General business tax	0800 377 774
Overdue returns and payments	0800 227 771

Find out more at **ird.govt.nz/contact-us**

Privacy

Meeting your tax obligations means giving us accurate information so we can assess your tax and entitlements under the Acts we administer. We may charge penalties if you do not.

We may also exchange information about you with:

- some government agencies
- another country, if we have an information supply agreement with them, and
- Statistics New Zealand (for statistical purposes only).

You can ask for the personal information we hold about you. We'll give the information to you and correct any errors, unless we have a lawful reason not to. Find our full privacy policy at **ird.govt.nz/privacy**

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