



# NZTS *update*

November 2018

## *The extended bright line test*

Since 2015, there have been rules – known as the bright line test – which govern when the sale of a property is likely to give rise to a tax liability. From March 2018, those rules have been extended and the opportunity to be found liable for income tax on a sale is even greater than before.

The bright line test did not apply prior to October 2015. If you purchased a property before then, the rules will not apply to you, no matter when you sell. Following a recent legislative extension to the rules, if you purchase a property after 29 March 2018, and then sell it within five years, you will be taxed on the gain.

Thankfully, the rules don't apply to every transaction. They only apply to residential land – not business premises and farmland. They also don't apply to your main home. Having said that, you can only use the main home exclusion twice over any two-year period. And, the main home exclusion does not apply if you show a regular pattern of buying and selling residential property.

We are often asked whether these rules apply if your home is owned by a family trust. The answer is yes. Here are a few examples how: If you elect to transfer a property to a family trust and the trust chooses to sell that same property three years later, the trustees could equally be held liable for income tax on the gain. However, the trustees can generally use the same main home exemption as private individuals, providing the property owned by the trust is used as the beneficiary's main home for most of the time that the Trust owns the land. Also, if the family trust owns a property, and the title to the property needs to be transferred as a result of a change in trusteeship, the change in names of the trustees will not cause the bright-line rules to come into effect and will not trigger a tax bill as a result of that change.

But that still leaves plenty of scope to be caught. If the trust purchased a rental property on 1 April 2018, and sold it within 5 years, the bright line test will apply. If the trust makes a profit on the sale, that profit will be taxed. The idea behind the rules is to help dampen property speculation and make homes more affordable. They can, however, trip you up unexpectedly.

NZTS will work closely with your accountant to let you know if a transaction is likely to fall foul of the bright line test and result in an unforeseen tax bill.

## *Welcome*

This year has marked some significant changes for our company as Jonathan and Penny move away from NZTS to focus their attentions on their foreign trust company. We have welcomed a new General Manager, Bryan Ivamy and a number of new staff members in our Auckland office.

Jonathan & Penny will be greatly missed by staff and clients alike, we would like to acknowledge their hard work and efforts in the establishment of NZTS and wish them all the best for their future endeavours.

We are very excited about what the future holds for NZTS and we look forward to supporting you, in the year ahead.

We wish you a merry Christmas and an enjoyable summer break.

The NZTS Team



## *Meet the team*

### *Kevin Scott – Christchurch Branch Manager*

Many of you will already know Kevin - he joined us in 2001 and has been an invaluable member of the NZTS family ever since. With over 35 years' experience in the trust industry, Kevin is responsible for the overall running of our Christchurch office and attending to the ongoing management of our complex trust clients.

Kevin makes regular visits to Wellington to meet with our clients there. If you are in Wellington and would like to meet with Kevin, please contact us to find out more about his next trip to the capital.



### *Christina Spivak – Senior Trust Specialist, Auckland*

Christina joined NZTS in 2016, after being inspired by our vision to revolutionise the trust industry. Located in our Remuera office, Christina is one of our in-house solicitors and leads our team of TrustGuard specialists, which is responsible for reviewing existing trusts, making recommendations and ensuring compliance.

## *Home insurance and trusts*

When a trust is established and property is transferred into it, the title for the property is registered in the names of the trustees. It is very important that the insurance is updated accordingly.

As a result of moving the property into the trust, the owners have now changed. However, the insurance that was in place prior to the transfer would still have an individual listed as the owners of the insurance policy. Once a transfer has been registered, the previous owners no longer have an interest in the property – instead, the trustees now own the property as recorded on the title. As such, the insurance should reflect that they now own the property and record their interest.

From a practical point of view this means, if a claim needs to be made, the insurance reflects the correct ownership. This is critical, because if it doesn't, then the claim may be unsuccessful. There have been instances where insurance companies have denied claims because an individual was named as the policy owner and the property was owned by a trust. Conversely, there have also been occasions where trustees have made claims under the insurance policy, believing this to be in order, when in fact the insurance was still held by an individual.

At NZTS, when setting up a trust and as part of our Annual Review process, we always ensure that insurance on trust properties is correctly held.

If you have any questions or concerns about your trust or the way the insurances are held, our team is happy to help.

## *Annual reviews*

A lot can change in a year. The Annual Review process is essential to ensuring that your trust is both compliant and reflects your current needs. The review is a great opportunity to sit down with us to reassess your current structure, wills and wishes to ensure that the trust is still achieving your objectives.

Many of you will be familiar with our Annual Review form. We understand that not all questions will be relevant to you, however, it is our job as your professional trustee to ensure we ask the right questions to get you thinking about all aspects of your situation and that of your family.

