BAUCHER
CONSULTING

Tax on Property Sales

In certain circumstances there are provisions that can trigger tax on property transactions. Some of these are straightforward and apply to everyone and others are subject to the nature of the transaction.

When property sales tax is charged

There are four main situations where real estate transactions can attract a tax charge.

- **Bright-line test:** From 1 July 2024, if you purchase residential or commercial property and then sell that property within two years of the purchase date, the profit on the sale of the property is subject to tax.
  This is Personal Income tax. (Note that longer periods applied to sales prior to 1 July)
- **Intention test:** If you purchase property with the intention of selling for profit, or making a living from that activity, then the profit on each transaction is a taxable activity. This would apply specifically to property developers or if you subdivide land. This is a Business Income tax.
- **Associated persons test:** If you are associated with a property developer, dealer or builder, your property transactions may be deemed to be taxable. Care is needed to distinguish between private and taxable transactions. This is Personal Income tax.
- **GST on property:** If you buy and sell property for commercial purposes, GST may apply to each transaction. It is important that the effect of GST on the transaction is clearly stated on the sale and purchase agreement. This is Goods and Services Tax.

Does property sales tax apply to me?

These taxes may apply to any individual who buys and sells real estate for personal or business reasons. Check the four situations above to see which might apply to you.

Examples of the property sales tax in use

1. If I buy a home or apartment for $850,000 and then sell it within two years and the sale price is $920,000 then the profit ($920,000 minus the purchase price $850,000 = $70,000) may be subject to income tax. The percentage tax rate I pay depends on the other sources of income I have in that tax year.
2. If my brother runs a house building business where he builds five units at a time on a site and then sells them, my real estate transactions can be deemed taxable, particularly if I work for his business or buy properties which he builds.
3. When the sale of property creates a tax activity, the income generated from the activity is attributed to the parties involved in the sale. This income is included in the tax year in which the property is sold. For example, a couple sells a house on 20 December 2024, which is within two years of the purchase date and realise a $200,000 profit. Each partner would then include $100,000 of income in their 2025 tax return.

Ways people get property sales tax wrong

- Buying residential property for your own occupation and later deciding to rent it out as an investment, before selling within two years of acquisition will trigger a bright-line tax investigation.
- As a business buying and selling property, not stating on the sale and purchase agreement that GST is payable on the transaction.

Recent changes to the Bright-line Test

The bright-line property rule was introduced on 1 October 2015 with a two-year rule. On 29 March 2018 it was extended to being a five-year rule. It was then further extended on 27 March 2021 to being a ten-year rule.
But from 1 July 2024 the period is again two years.

https://www.ird.govt.nz/property/buying-and-selling-residential-property/the-brightline-property-rule