

## TAXTALK



### Know the bright line test

The last National Government introduced a so-called “bright line test” for people who sold residential property after owning it for only a short time.

They said the property had to be owned for two years or the profit would be taxable. The last Labour Government increased this to five years, and increased it again – to 10 years – for properties bought on or after 27 March 2021.

The first thing to note is the period of ownership is not strictly two years, five years or 10 years because for a sale which is not off the plan, it is measured from the date of transfer of title to the buyer as a starting point, and the date a sale and purchase agreement is signed at the time of selling. If it's a purchase off the plan, it is from the date of signing the sale contract.

If you acquired a property before 27 March 2021 and settle after that date, you are subject to the five-year rule. Acquired means a written binding agreement for purchase.

Some people will have put in tenders before this magical date and have no right to withdraw them.

If the tender is successful the five-year rule applies.

#### What if you rent your home?

Two lots of rules apply. If the five-year bright line test applies, you look at the percentage of the time the house was used as a main home. If it's more than 50 percent, no problem. If the new 10-year bright line test applies, you get caught under the bright line test only if you have not lived in your house for more than 12 months, continuously. So if you decide to have an extended period overseas and rent your home, you might need to consider the tax implications.

The new rule is not an “all or nothing” like the old rule. Under the new rule if there is a 12 month period when the home isn't used by the owner an apportionment is required.

However, provided you own the house for more than the 10-year period, you don't have any problems because the bright line test will not apply.

#### in this issue >>>

- Pay the experts and avoid the DIY disaster.
- Contractor or employee?
- Residential rental vs. cash flow.
- Change afoot for losses carried forward.
- Factor sick leave into pricing.
- Protect your online privacy.

# Pay the experts and avoid the DIY disaster

In most, if not all industries, you get the best results from good systems, experience and expertise.

Do-it-yourselfers can be a menace, and if you're tempted to try something yourself in an effort to save money, think twice.

Restrict do-it-yourself work to tasks you're knowledgeable about and know you can do well.

A tiler recently had a customer who thought he could manage it himself with a little advice. With the hours required to fix the shoddy work, it's now going to cost more than if it had been left to the tradesman in the first place

A lawyer was handed a 30-page contract to just check over and approve. The client thought it would save money by doing it this way. The lawyer, however, had to read every word and then consider anything which might have been omitted. If she had initiated the work, she would have pulled a standard document off the shelf and modified it to suit her customer. This would be a lot quicker because it would have everything in it she wanted.

Sometimes our clients will bring us spreadsheets or other workings they have done themselves, without consulting us

first. Often these make our task more difficult and time-consuming.

If you want to make work as cost-effective as possible, get the expert to tell you what to supply.



## Contractor or employee?

Recently, Inland Revenue has produced an eNewsletter in which it reminds readers of the legal tests required to determine whether someone working for you is an independent contractor.

These tests include:

- Intention
- The degree of control or independence
- What Inland Revenue calls Integration test
- Fundamental/economic reality test.

As you can see these matters are technical. If you have a borderline case as to whether someone working for you should be treated as an employee or an independent contractor, seek our help.

If you get it wrong, the penalties can hurt. Employers can be made to pay the PAYE and the employee can be denied expense deductions, not to mention penalties.



## Residential Rental Profit vs. Cash Flow

Ever wondered why your rental property has made a profit but you seem to have no cash to pay your tax? And, in fact, you seem to be continually topping up your rental bank account to cover the outgoings...

The recent changes to residential rental property investment announced by the government in March will increase this effect. Watch the video and Stephen will explain.

Video link:

<https://youtu.be/g42ShZvfuz0>



Link to the spreadsheet mentioned in the video: [https://www.stephenlarsenandco.co.nz/modules/SP\\_News/news.php?view=239](https://www.stephenlarsenandco.co.nz/modules/SP_News/news.php?view=239)

**Car at home overnight for security purposes — is travel to and from work “private use”?**

**Q:** Our client owns a number of Toyota Corollas that they provide to employees to travel to clients' premises.

As it is unsafe to leave the vehicles at the company's premises overnight, the employees are required to take the vehicles home with them each day.

The staff have been advised in writing that private use of the vehicles is not permitted (besides travel to and from work).

Given that the vehicles do not meet the work-related vehicle definition, can you please confirm if the company is required to account for FBT or does the fact that they are taking the vehicles home for security purposes, and no private use is allowed, allow the company to be exempt from FBT?

**A:** A fringe benefit is a benefit that is provided by an employer to an employee in connection with their employment.

A fringe benefit arises when a motor vehicle is made available to an employee for their private use and the person who makes the vehicle available to the employee -

- owns the vehicle:
- leases or rents the vehicle:
- has a right to use the vehicle under an agreement or arrangement with the employee or a person associated with the employee.

See s CX 6 of the Income Tax Act 2007. There are exclusions for work-related vehicles, election by close company, emergency calls, and absences from home.

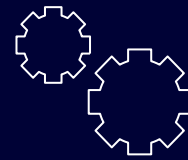
Whether a vehicle has been "made available" to an employee is determined according to the actions of the vehicle's proprietor. Case law supports the view that a motor vehicle is made available for use when the proprietor supplies an employee with access to the vehicle and permits the employee to use the vehicle.

Private use, for a motor vehicle, includes—

- the employee's use of the vehicle for travel between home and work; and
- any other travel that confers a private benefit on the employee.

The test in the Act is whether the vehicle has been made available for private use, not whether the vehicle has actually been used privately. Interpretation Statement IS3448 explains that the fact a vehicle is taken to an employee's home for security reasons would not in itself make the journey work-related as a private benefit is still conferred. However, travel between home and work will not be “private use” if the travel does not confer a private benefit on the employee.

On the face of the facts, no exclusions under s CX 6 apply. It is likely that the client will have to account for FBT.  
Source: CCH Q & A Service

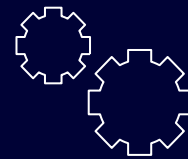


## TAX SOLUTIONS

### Interest deductions on rental property

The Government is phasing out Interest deductions for residential (but not commercial or industrial) rental property. It is being reduced progressively so that at 1 April 2025, there will no longer be a claim. Those who buy after 26 March 2021 get a deduction for interest paid only up to 1 October 2021.

We don't have all the details but the Government have indicated “new builds” will be exempt from these rules but at this stage we have no definition of what constitutes a “new build”



## TAX SOLUTIONS

### In-Work Tax Credit

Taxpayers will be able to keep receiving the In-Work Tax Credit for up to two weeks when taking an unpaid break from work. This could arise when transitioning to a new job. Taxpayers will need to let IRD know if their work situation changes to ensure they receive the correct entitlement. If a person starts receiving an income-tested benefit or student allowance, the In-Work Tax Credit will be stopped.



## Change afoot for losses carried forward

New Zealand has had one of the harshest tax schemes in the OECD when it comes to allowing company losses to be carried forward.

The rule used to be, there must be at least a 49 percent continuity of ownership of the shares. This presented a big problem for some start-up companies, which wanted to get capital from new shareholders by issuing new shares. The law placed an unreasonable limit on their ability to raise more share capital.

The law was changed at the end of March. The idea now is to allow losses to be carried forward provided the nature of the business has not changed.

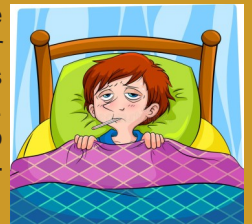
## Factor sick leave into pricing

Unfortunately, some staff will abuse sick leave.

If you have a large number of staff your costs are going to increase as a result of the doubling of the sick leave entitlement to 10 days.

You might wish to calculate how much this is going to cost you and try to factor it into price negotiations, otherwise it will come straight out of your profit. Those involved in labour-intensive industries such as cleaning, will need to consider the implications of the 10 days sick leave.

You will have to start granting the extra five days two months after the legislation is enacted, which is expected to be about mid year. Each time an employee gets to their anniversary of sick leave entitlement, it will go up to 10 days.



## Quick Quote

"Advertising is, actually, a simple phenomenon in terms of economics. It is merely a substitute for a personal sales force - an extension, if you will, of the merchant who cries aloud his wares." Rosser Reeves

## Protect your online privacy

Privacy has become a huge issue in recent years, as more and more is being revealed about how big companies analyse our behaviour.

Knowing what we do and what we spend creates vast sums of money for them. If they know from our browsing that we're interested in photography or travel, for example, the data is sold on to other companies who want to sell us cameras or holidays. We're then targeted with ads and promotions.

Can we do anything? Yes, we can, and it's more than just turning on the browser privacy mode or using Incognito on our smartphone. These just stop others who use your device from seeing our internet history. It doesn't block internet spies.

Some web browsers, such as Duckduckgo, do offer privacy because they don't store your data, or track your search habits and history. Third parties don't get data from your browsing

It's worth noting that these browsers offer privacy, but they don't protect you from other online threats. Individual websites and social media platforms can still track you and collect your data.

That's where a good VPN (virtual private network) adds another level of safety. Good VPN providers offer encryption on all your online traffic, and your IP is hidden so no one can find your location. Most VPN providers charge, so look online for one that suits you.

## Stephen Larsen and Co

**TAX AND BUSINESS ACCOUNTANTS**

PO Box 5161, 74 Bourke Street, Palmerston North 4441

Phone: 06 357 7011 Fax: 06 353 6430

Email: [info@stephenlarsenandco.co.nz](mailto:info@stephenlarsenandco.co.nz)

Website: [www.stephenlarsenandco.co.nz](http://www.stephenlarsenandco.co.nz)

Important: This is not advice. Clients should not act solely on the basis of the material contained in the Tax Talk Newsletter. Items herein are general comments only and do not constitute nor convey advice per se. Changes in legislation may occur quickly. We therefore recommend that our formal advice be sought before acting in any of the areas. The Tax Talk Newsletter is issued as a helpful guide to our clients and for their private information. Therefore it should be regarded as confidential and should not be made available to any person without our prior approval.

*We care about your Business Prosperity*

