Chapmans
CHARTERED ACCOUNTANTS

Recent developments for residential property investors

Earlier in the year the government announced a proposal to remove the ability to deduct interest against residential rental property and to extend the bright line test to 10 years.

Draft legislation has now been released clarifying how these rules are intended to work and how they will apply to "New Builds".

In summary, the following applies from 1 October 2021:

- Interest will not be deductible for residential rental properties acquired on or after 27th March 2021.
- For property acquired before 27th March 2021, interest deductions will be phased out over time between 1 October 2021 and 31 March 2025 (as outlined in our previous publication).
- New Builds are not subject to the new interest limitation rules.
- New Builds are only subject to a 5 year bright line test.
- Some family transfers (where there is no real change in economic ownership) will now be exempt from the bright line rules.

Who will the new interest limitation rules apply to?

- Residential land in New Zealand (land owned overseas is excluded).
- Will apply to both short and long-term accommodation (for example Air BNBs).
- New Builds will be exempt from these rules and will be able to deduct interest over a maximum period of 20 years (from when code of compliance is issued).
- The following types of property will be excluded from these rules:
    - Main home (where a portion is used to derive income);
    - Business premises;
    - Bed and breakfasts (where the owners also live on the property);
    - Hotels, Motels and Hostels;
    - Farmland;
    - Student accommodation;
    - Employee accommodation;
    - Rest homes and Retirement Villages;
    - Certain land owned by a Māori authority and Māori excepted land (land with a Māori land status or subject to a Treaty of Waitangi settlement); and
    - Residential land that is leased to the Crown (e.g. Kāinga Ora) or to registered community housing providers that is used for emergency, transitional or social housing.

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Exemptions available

- Interest limitation will generally not apply to property developers where they would normally be entitled to an interest deduction.

- Where a residential property is taxable on sale an interest deduction should be available provided it would have been available if not for the new interest limitation rules.

Bright line changes

- Property acquired on or after 27th March 2021 is now subject to the new 10 year bright line test.

- The government have confirmed that New Builds will only be subject to the 5 year bright line test.

- The New Build would need to have been acquired no later than 12 months after receiving code of compliance to qualify for the 5 year test.

- It is also proposed that certain transfers to family trusts, look-through companies and partnerships will not trigger the bright line rules where the economic ownership has not changed (for example the beneficiaries and principal settlor remain the same).

What do these changes mean for you?

The legislation is complex and is currently still in draft form and subject to feedback. However, as 1 October has now passed these new rules will potentially already apply.

We therefore encourage our property investment clients to get in touch with us as it may be timely to review your current investment structure.

For many investors there will be an increased tax exposure resulting from these changes. We can assist with planning for this outcome.