



# CooperAitken BalanceSheet

June 2021



Included this month;

Bright-line test traps article | Introducing our new Associate: Megan Potter  
Minimum sick leave entitlement to increase to 10 days | Cheque-free future | Where to find us in Matamata

Article

June 21

## BRIGHT-LINE TEST TRAPS RORY NOORLAND

In March of this year the Government extended the Bright-line test to 10 years, the effect of this extension creates what is essentially a capital gains tax on residential property that is unable to be exempted as a main home, a business premises or a farm. Although intended to target property investors it will have an impact beyond just investment properties. In particular, some lifestyle properties and holiday homes will likely become subject to tax if sold within a ten-year period and a gain is made.

There are now three situations in which the sale of a property can be caught under this test. Any gain made on sale will be taxable if;

- Purchased on or after 29 March 2018 and sold within 5 years
- Purchased on or after 27 March 2021 and sold within 10 years
- Purchased on or after 27 March 2021, it meets the new build investment criteria and sold within 5 years
- 

The family home will continue to be exempt from the bright-line test and property transferred under a relationship property agreement or inherited will continue to be provided relief.

Also included in the changes was the inclusion of a change-of-use rule for the bright-line test. This means that if the property is not used as a main home for a period longer than 12 months it would be subject to

tax for the proportion of time not used as a main home if sold within the bright line period and a gain is made. This will add significant complexity and require taxpayers to keep a track of the time that a property has not been used as a main home.

Some of the traps that we are seeing with such a long bright-line test period are as follows;

- The sale of bare sections within the bright line period cannot be excluded under the main home exemption. As a house has not been built on the property it cannot be considered a main home.
- Properties that are too large to be considered a lifestyle block but too small to be considered a farm can be captured if the property is not used predominantly for the enjoyment of the owners. For example where 5 Ha of a 6ha property is leased to the neighbour the main home exemption will not apply.
- Second homes or holiday homes are not able to be exempted under the main home exemption.
- Properties jointly owned by parents and their children are being caught as the parents are unable to apply the main home exemption if the children purchase the remainder of the property off them.
- Restructuring will often reset the bright-line test period and can result in properties being brought into the bright-line test that we previously outside of it.

There are a few other points to note;

- Any sale of a property between associated or related parties will be deemed to occur at market value.
- The end date for the test is the date of signing an agreement for sale which is in contrast to the start date which is the date of title transfer.
- Transferring more than 50% of the shares in a company that owns a property will trigger the bright-line test. Note a company cannot apply the main home exemption.
- Changing to or from a Look Through Company status will also trigger the bright-line test as it is considered a deemed sale and acquisition of all property owned by that company.
- A person can only have one main home, however spouses may have different main homes depending on living arrangements.
- A trust can apply the main home exemption based on the property that the main settlor resides in as their main home. A beneficiary solely living in the property cannot apply the main home exemption unless they are also the main settlor of the trust.
- It has been clarified that serviced apartments are captured by the bright-line test and not excluded as business premises. This also impacts residential houses being solely rented on air bnb etc.

Finally it is worth noting that the bright-line test, which can only be described as a capital gains tax, has now become far more onerous than any capital gains tax previously proposed. With the introduction of the 39% tax rate on personal income over \$180,000 per annum there is a risk where property is owned by taxpayers in their personal names that this rate could apply. This should be contrasted with the capital gains tax that was proposed during the 2017 election by Labour that had a rate of 15%.

As you can see the bright-line test, originally quite simple, has now become both complex and potentially onerous. We would recommend that you discuss any property transactions with us prior to signing any agreement so that you are aware of the implications of doing so.



Major Sponsor  
cooperaitken

## INTRODUCING Our New Associate



**Megan Potter**

### Meet Megan Potter, our new Associate.

Megan is our In-house Lawyer and leads our Trusts and Companies divisions, managing client's trusts, companies, professional trusteeships, compliance work and special project work. Megan completed her law degree in 2014, graduating with First Class Honours from the University of Waikato. Originally set out for a different path, Megan soon found her passion for working with trusts, estates and relationships property matters. She joined our CooperAitken team the following year, where she started managing our Trust division. Megan's role soon evolved into the management of the companies division, when the two divisions merged. Megan now leads a team of 4 and works closely with all directors to support clients through their trusts, companies, compliance and succession planning.

With only 6 years in the profession, Megan has already achieved many professional successes. She has been a finalist the NZ Law Awards for 'Young In-House Lawyer of the Year' in 2017, 2018 and 2020, made the NZ Lawyer Rising Stars list in 2020 and was named a NZ Lawyer In-house Leader in 2020.

Megan, who is extremely dedicated to her role, takes great pride in the firm's long standing history and the maintenance of multi-generational client relationships. Megan has been working towards being part of the firm in a higher capacity for some time. She really values her wide range of working relationships with many other professionals, and how these have evolved during her time with CooperAitken.

Megan, who is our first non-accounting Associate, has worked hard to demonstrate the value of a legal mind in a professional services firm, and the value it can attribute to our clients overall success.

### Who is Megan when she's not in lawyer mode?

She's a local girl who grew up on a farm in Springdale and has a strong passion for the agricultural industry. Megan and her husband Scott, live in Tahuna with their two fur babies, Annie and Beaudie. Scott is a volunteer fire fighter and they take pride in being involved in their community. Megan loves spending time with her hubby, pups, family and friends, and can often be found at a local beach or lake – if they're not undertaking a home DIY or garden project. She is also the biggest Christmas lover you will find, and their home decorations at Christmas time are a force to be reckoned with. Being appointed as an Associate is a really important step for Megan and she feels it gives her a real sense of being an integral part of the firm's future, growth and development. We see Megan as a fantastic addition to our management team, and her passion, enthusiasm, dedication and experience is extremely valued.

We are delighted to have Megan as an Associate and look forward to the future of the firm.



## Minimum sick leave entitlement to increase to

# 10 days

Parliament has passed the Holidays (Increasing Sick Leave) Amendment Bill to increase the minimum employee sick leave entitlement from 5 days to 10 days per year.

Most employees who have worked for an employer for six months or over are entitled to sick leave if they, or a dependent, are sick or injured. Currently, employees are entitled to 5 days of sick leave per year; however, from 24 July 2021 this will increase to 10 days per year. Employees will get the extra five days when they reach their next entitlement date – either after reaching 6 months' employment or on their sick leave entitlement anniversary (12 months after they were last entitled to sick leave).

So, for example, take an employee who has been employed since 20 January 2021. They become entitled to sick leave on 20 July 2021. They will be entitled to only 5 days, because the new law won't yet be in force. On their next sick leave anniversary, 20 July 2022, the employee will receive 10 days sick leave.

On the other hand, take an employee who has been employed since 20 June 2021. Because they will have been employed for less than six months when the Act comes into force (on 24 July 2021), their entitlement to 10 days sick leave will occur on 20 December 2021 (that employee's six-month anniversary).

Employees who already get 10 or more sick days a year will not be affected by this change. The maximum amount of unused sick leave that an employee can be entitled to will remain 20 days.

**NOTE:** Casual employees are also entitled to sick leave and bereavement leave after 6 months of starting work if during that time they have worked:

- an average of at least 10 hours a week
- least one hour a week or 40 hours a month.
- 

Please talk to our payroll team if you need further support or advice.



## Cheque-free future

With less and less payments being made by cheque, banks are preparing for a cheque-free future.

Please see below some important dates for banks phasing out cheques;

- **31 May 2021 - ANZ** stopped cheques
- **25 June 2021 - Westpac** stopped cheques
- **30 June 2021 - BNZ** stops cheques
- **27 August 2021 - ASB** stops cheques

Please talk to our team if you need support in making future payments without cheques

## We've Moved!



OUR MATAMATA OFFICE  
HAS RELOCATED.

YOU CAN NOW FIND US AT:

79 FIRTH STREET,  
MATAMATA

