

# Residential land withholding tax (RLWT) declaration

## This declaration is required when the following apply:

- you're selling/disposing of New Zealand residential property, and
- the sale amount is paid/payable on or after 1 July 2016, and
- you purchased/acquired the property on or after 1 October 2015 through to 28 March 2018 inclusive, and you are selling/disposing of the property within two years, or
- you purchased/acquired the property on or after 29 March 2018 and you are selling/disposing of the property within five years.

**Note:** See page 7 to work out the dates of purchase/acquisition and sale/disposal. The sale/disposal date and sale amount date will likely be different. It's important to determine these dates to work out whether RLWT should be deducted. See page 7 for the definition of sale amount.

## Notes

- If more than one person owns the property then each person selling or disposing of the property must complete their own IR1101. If the seller is a **trust, estate, or company**, then a single trustee, executor of the estate, or director of the company who is **not** an offshore RLWT person may complete this declaration on its behalf. Use the flowcharts on pages 5 and 6 to work out if this person is an offshore RLWT person or not.
- This declaration must be completed in English. There are notes on pages 7 and 8 to help you complete this declaration.
- You'll need to show your withholder the original or provide certified copies of all supporting documents you need to provide. In most cases your withholder will be your conveyancer. For more information see below.

## Terms used in this declaration

- **Offshore RLWT person** - is any person (both individual and non-individual) liable to have residential land withholding tax deducted from their sale/disposal. Use the flowcharts on pages 5 and 6 to help work out if you are liable.
- **Withholder** - the person required to deduct and pay an amount of residential land withholding tax in relation to the property sale proceeds on behalf of the seller.
- **Conveyancer** - for a seller or purchaser, the lawyer, incorporated law firm, conveyancing practitioner, or incorporated firm that provides conveyancing services (as that term is used in the Lawyers and Conveyancers Act 2006) to the seller or purchaser using a New Zealand-based trust account.
- **Purchase/acquisition** - means any form of acquisition of property including transfers or gifts.
- **Sale/disposal** - means any form of disposal of property including transfers or gifts.
- **Director equivalent** - Person(s) who have the legal right to govern the entity.

## After you've completed this declaration:

Give your completed IR1101 and show originals or provide certified copies of the supporting documents to your withholder. If:

- you have a conveyancer, they're your withholder (unless you're associated to the buyer)
- you don't have a conveyancer, the buyer's conveyancer is your withholder
- you're associated to the buyer, the buyer is your withholder. You'll also need to complete a statutory declaration.
- neither you or the buyer have a conveyancer, then the buyer is your withholder. You'll also need to complete a statutory declaration.

## Information for withholders

When you've received the completed IR1101 and have taken copies of any original supporting information or certified copies, what you need to do depends on who you are. **If you're a:**

**lawyer or conveyancer** - keep the completed IR1101, and copies of all supporting information, with your records of the property transaction for at least seven years - don't send them to us.

**buyer acting as withholder** (who doesn't have a conveyancer) - send the completed IR1101 and copies of all supporting information within one month of receiving it, to:

Inland Revenue  
PO Box 39010  
Wellington Mail Centre  
Lower Hutt 5045  
New Zealand

## Section A - Seller's details

**Note:** If the seller is a partnership (except for a limited partnership, see note on page 7) or unincorporated club or society, then **each member** must complete their own individual IR1101 and give their own IRD number, not that of the partnership, club, or society.

**Full name**  Mr  Mrs  Miss  Ms  Non-individual (Tick one)

**IRD number**

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**Contact address**

(not that of the property being sold)

Street address

Town or city

Postcode/zip code

Country

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Description of the property being sold/disposed of, eg, Certificate of Title number. See note on page 7.

## Section B - Associated persons

There are different rules if the seller is associated to the buyer. Generally you're associated if you're related privately or professionally to the buyer. For more information about associated persons, refer to the notes on page 8.

I'm associated to the buyer - you'll need to make a statutory declaration on page 3.

I'm not associated to the buyer.

**Use the flowcharts on pages 5 and 6 to help you work out if you're an offshore RLWT person.**

## Section C - not an offshore RLWT person

I confirm that I'm **not**, and the organisation I'm authorised to represent isn't (if applicable), an offshore RLWT person

### Individuals

Show your withholder your original, or provide certified copies, of one of the following:

- A current or recently expired (last 12 months) New Zealand passport
- A current form of photo ID\*, eg your driver licence, **and**
  - your full New Zealand birth certificate issued on or after 1 January 1998
  - your New Zealand citizenship certificate, **or**
  - your most recent overseas passport together with your New Zealand residence class visa.

If you're outside of New Zealand when completing this form, you'll need to provide the above as well as attach a statement confirming you've been in New Zealand within the last:

- three years (if you're a New Zealand citizen) or
- 12 months (if you're a New Zealand resident).

You'll also need to make a statutory declaration.

### Non-individuals

If you're completing this form on behalf of a non-individual (eg, a company or trust) attach a statement confirming the entity doesn't meet any of the RLWT offshore person criteria listed in the shaded boxes on pages 5 and 6.

\* If you don't have photo ID, attach a photo of yourself and make a statutory declaration.

**Complete Section E - statutory declaration (if required) on page 3 and Section F - declaration on page 4.**

## Section D - an offshore RLWT person

Tick one of the following:

- I confirm I'm an offshore RLWT person subject to RLWT  
My share of the property being disposed of is  % See note on page 7.
- I confirm I'm an offshore RLWT person **not** subject to RLWT because (tick reason):
- I hold a valid certificate of exemption from residential land withholding tax - show the original or a certified copy to your withholder.
  - The property transfer is from a deceased person to the executor or administrator of the estate - show the original or certified copies of the Letters of Administration or Probate to your withholder.
  - The property transfer is due to the settlement of relationship property.
  - The property sale/disposal is by an estate on the death of a person - show the original or certified copies of the Letters of Administration or Probate to your withholder.
  - I'm a beneficiary of an estate selling/dispersing of an inherited property - show the original or certified copies of the Letters of Administration, Probate, or application of transmission to your withholder.

Complete Section E - statutory declaration (if required) and Section F - declaration on page 4.

## Section E - statutory declaration (if applicable)

- You only need to complete this and have your signature witnessed by a person authorised to take a statutory declaration when:
  - you're associated to the buyer
  - neither you nor the buyer are using a conveyancer
  - you're providing a photo of yourself instead of a photo ID
  - you're completing this form for yourself, are overseas, but have been in New Zealand within the past three years (if you're a New Zealand citizen) or 12 months (if you hold a New Zealand residence class visa)
  - you're completing this form on behalf of an organisation and are overseas
- People authorised to take statutory declarations in New Zealand include:
  - Justices of the Peace, Notary Public, and Members of Parliament
  - a person enrolled as a barrister and solicitor of the High Court, and registered legal executives (fellow of the NZILE)
  - the registrar or a deputy registrar of the Supreme Court, Court of Appeal, High Court, or a district court.
- If you're not in New Zealand, make your declaration before a person authorised by the:
  - New Zealand Oaths and Declarations Act 1957, or
  - declaration law in your territory or country. You'll need to ensure this is set out in the correct format, including the Act or Law, and include it with this form.

I,  (name)  
of  (address, occupation)

solemnly and sincerely declare that (tick the statements that apply):

- I'm associated to the buyer
- I'm completing this form for myself, am currently overseas, but have been in New Zealand within the past (tick which apply):
  - three years (if you're a New Zealand citizen), or
  - 12 months (if you hold a New Zealand residence class visa)
- I'm completing this form on behalf of an organisation that is not an offshore RLWT person and are currently overseas
- neither the buyer or I are using a conveyancer
- in the absence of a photo ID I have attached a photo of myself and state that I'm the person shown

**And I make this solemn declaration conscientiously believing the same to be true by virtue of the New Zealand Oaths and Declarations Act 1957.**

Your signature

Declared at

this

<input type="text"/>	<input type="text"/>	<input type="text"/>
Day	Month	Year

Declaration taken by

Signature of person taking this declaration

Title/position

eg Notary Public,  
Justice of the Peace

Full name and title of person taking this declaration

## Section F - declaration

Name	<input type="text"/>
Designation or title (if applicable)	<input type="text"/> <small>For example, director, partner, trustee, executive office holder, manager, duly authorised person</small>
<i>I declare that the information given on this form is true and correct.</i>	Signature <input type="text"/>
	Date <input type="text"/>
	<small>Day      Month      Year</small>
<input type="radio"/>	I accept my withholder may provide the details given in this form to Inland Revenue via unsecure email.

## Privacy

Meeting your tax obligations means giving us accurate information so we can assess your liabilities or your entitlements under the Acts we administer. For full details of our privacy policy go to [www.ird.govt.nz](http://www.ird.govt.nz) (search keyword: privacy).

## Criminal penalties

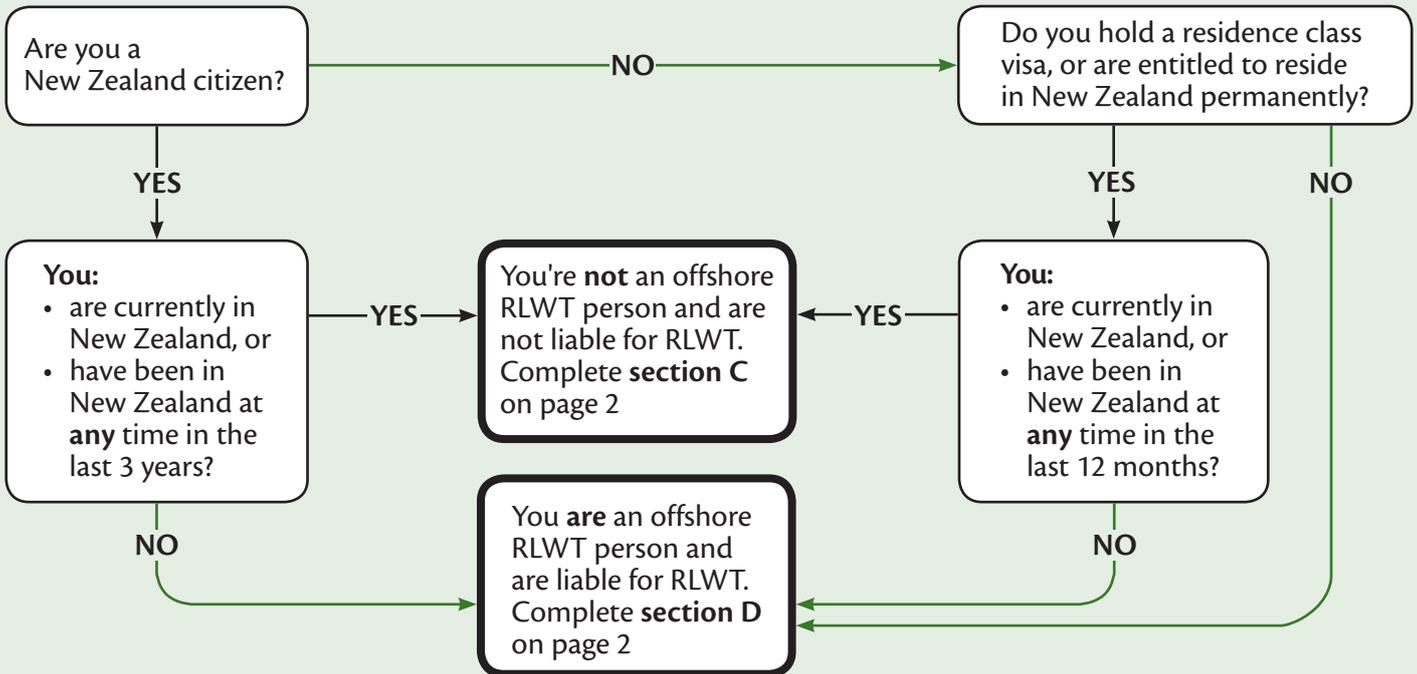
A person commits an offence under section 143A of the Tax Administration Act 1994 if they knowingly provide altered, false, incomplete, or misleading information to the Commissioner or any other person in respect of a tax law, or a matter or thing related to a tax law. A person convicted of an offence is liable to a fine.

## Use the following flowcharts to determine if you're an offshore RLWT person

### Individuals

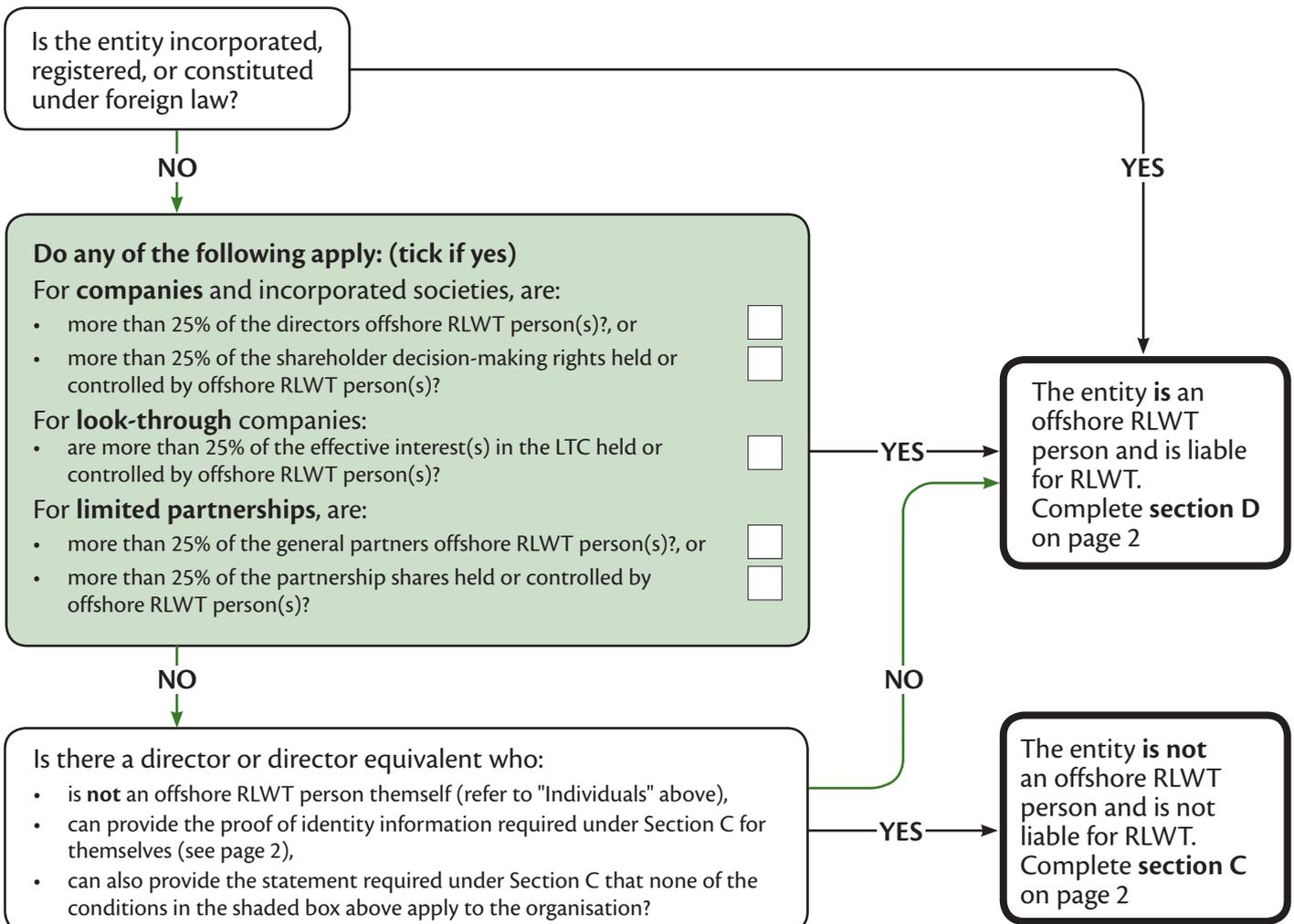
#### This also includes:

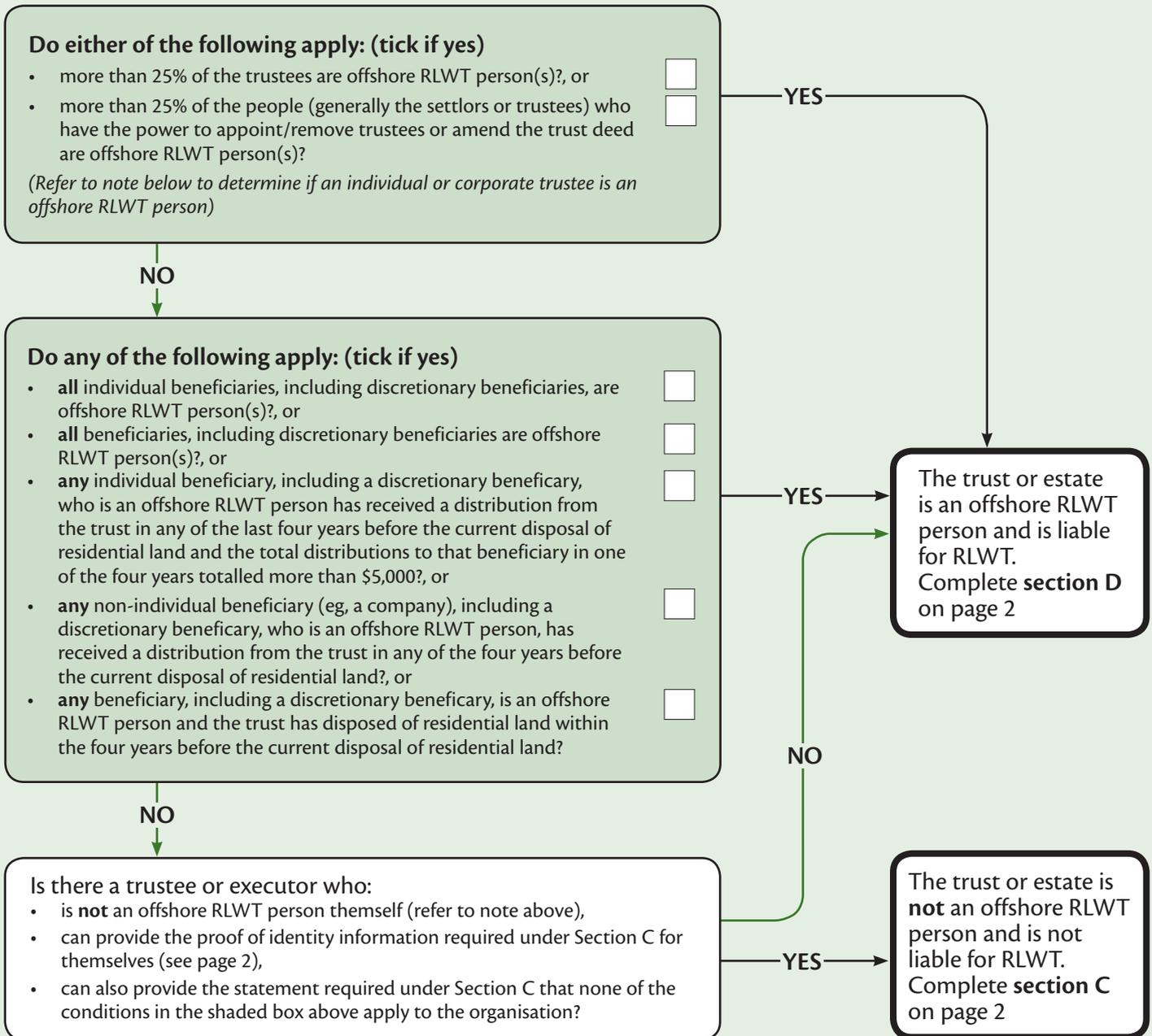
- Partners in a partnership, and
- Members of an unincorporated club or society.



### Non-individuals (except trusts and estates)

(Refer to "Individuals" above to determine if an individual is an offshore RLWT person)





**Note:** Refer to the flowchart on page 5 to determine if an individual person is an offshore RLWT person. For a non-individual entity (such as a corporate trustee) refer to the questions in the shaded boxes in the **flowchart** for the relevant entity type either above or on page 5. If you have answered 'yes' to any of those questions, then that person or entity is an offshore RLWT person.

## Notes to help you complete this form

### Dates of purchase/acquisition and sale/disposal

These dates determine the two year period.

Type of purchase/acquisition	Date to use
Purchase of property	Date of registration with Land Information New Zealand (LINZ)
Purchase where no registration occurs prior to the sale/disposal date	Latest date that you acquired an interest in the property
Acquiring property by way of subdivision of property where registration of the undivided property has occurred prior to the sale/disposal date	The original date of registration for the undivided property
Acquiring property by way of subdivision of property where <b>no</b> registration of the undivided property occurs prior to the sale/disposal date	The latest date you acquired an interest in the undivided land
Land acquired as the result of the completion of a land development or subdivision where acquisition was contingent upon completion	The date you acquired an interest in the property
Freehold estate converted from a lease with a perpetual right of renewal	The date the leasehold estate was granted

Type of sale/disposal	Date to use
Sale, transfer, or disposal of property under an agreement	Date you entered into an agreement for sale, transfer, or disposal
Gifting of property	Date the gift was made
Compulsory acquisition by the Crown, a local authority, or a public authority	Date of compulsory acquisition
Mortgagee sale	Date the property is disposed of, by, or for the mortgagee as a result of the mortgagor's default
Disposals not covered above	Date you disposed of the property

**Note:** If more than one type of sale/disposal applies - use the earliest date.

### Sale/disposal amount – to determine when the liability for RLWT occurs

Type of payment	RLWT liability occurs
Monetary	When 50% or more of the sale price has been paid to the seller or the seller's conveyancer
Gifting	When the gift becomes effective

**For other situations you'll need to talk to a tax professional.**

### Limited partnership

If the seller is a limited partnership, apply under its IRD number. A separate declaration isn't needed from each partner that is an offshore RLWT person. One of the general partners who is not an offshore RLWT person must sign the form.

### Description of property

If the land being disposed of has a Certificate of Title number show this. If there is no Certificate of Title number, show one of the descriptions in the following table.

Description of property	Include with your application a copy of:
leasehold title	the lease
allocated number/letter	the plan or similar, eg, subdivision plan (eg, master, sale or survey plan), showing the property and the part being disposed of with the allocated number/letter
other description, eg, a survey plan (not the address)	similar documentation to the above that shows the property and the part being disposed of with the description

## Share of the property

This is your share (as a percentage) of the property you are selling/disposing of.

- In most cases this will be an equal share (100% / number of owners) of the property, eg two persons jointly owning the property will have a 50% share each.
- If ownership is not equally divided then you will need to provide evidence to your withholder.
- If you're selling/disposing of part of your share, state the amount of the total, eg, disposing of half of a half-share is 25% of the total.

## Associated persons

### Associated persons

There are a number of tests used to work out if two persons are associated for RLWT transactions.

For example, you're associated where you're buying or selling:

- to an individual and they are:
  - your spouse, civil union or de facto partner
  - within two degrees of blood relationship to you, your spouse, or civil union or de facto partner.
- a company where:
  - you hold 25% or more of the voting rights or market value interest (*the company and individual or entity other than a company test*)
  - your spouse or children hold 25% of the voting rights or market value interest (*the aggregation test*)
  - where the combined holdings under all these rules total 25% or more market value interest.

For example if you hold 10% of the shares in a company, your children hold 10%, and your family trust also holds 10%, then you are associated to the company.

- a look-through company where:
  - you have a look-through interest in the company, and you are either a director or employee of the company
  - you haven't or aren't any of the above, but have a look-through interest of 25% or more.
- a partnership that you are a partner of.
- a limited partner in a limited partnership and have a 25% or more share in a right, obligation, property, status, or thing of the limited partnership.

If you're a trustee of a trust you're associated when you're selling to or buying from:

- any settlor of the trust
- a trustee of another trust where the trusts have a common settlor (spouses are treated as a separate person)

- a person with power to appoint or remove trustees of the trust
- a beneficiary of the trust
- a beneficiary of the trust who is also related to you.

Two companies are associated when conducting a property transaction between them where:

- a group of persons total voting rights or market interest in each company are 50% or more
- a group of persons control both companies by any other means.

### Aggregation rule

There are additional rules that combine your interests with the interests held by people you're associated to making you associated to another person.

### The Tripartite test

If you are associated to a person under one of the above rules, and that person is then associated to a third person you are selling to under a **different** rule, then you are associated to that third-person. The only exception is if the association is by the two companies test, and the association to the third-party comes from a test that does not involve an individual.

For example you have control over two companies, Company A and Company B. These companies are associated to each other under the two companies test. Company A is the settlor of a trust where Peter is the beneficiary, so Peter is associated to Company A under the settlor and beneficiary test.

As Peter is associated to Company A, and Company A is also associated to Company B, then Peter and Company B will also be associated.

For more information about the association rules refer to our *Tax and your property transactions (IR361)* and *A guide to associated persons definitions for income tax purposes (IR620)* guides, or talk to a tax professional.