

Deducting residential land withholding tax (RLWT)

Read this factsheet to work out whether you're a withholder, if you need to deduct RLWT from a residential land sale or disposal and your obligations.

RLWT may need to be deducted from residential land sales or disposals. The person that withholds the deduction is called a withholder.

RLWT generally needs to be deducted when:

- the property being sold or disposed of is located in New Zealand, and meets the definition of residential land, and
- the vendor is an offshore RLWT person (this differs from the definition of offshore persons for IRD number applications), selling or disposing of the property within the bright-line property rule periods, regardless of whether another land taxing provision applies.

The bright-line property rule applies to residential property acquired on or after:

- 1 October 2015 through to 28 March 2018 and sold within 2 years
- 29 March 2018 through to 26 March 2021 and sold within 5 years. This includes property acquired on or after 27 March 2021, if it was acquired as a result of an offer the purchaser made on or before 23 March 2021 and that offer could not be revoked or withdrawn before 27 March 2021, or
- 27 March 2021 and sold within 10 years or 5 years to the extent the property has a new build on it.

The date you acquire a property is generally the date a binding sale and purchase agreement was entered into for the purchase of the property (even if some standard conditions like getting finance or a building report still need to be met). This determines which bright-line period applies see our **Question we've been asked (QB)**

17/02: Date of acquisition of land, and start date for 2-year bright-line test at taxtechnical.ird.govt.nz

Note: There are exclusions for main homes, inherited property, and land transferred under settlements of relationship property.

To qualify for the 5-year bright-line period for new builds, the following must be satisfied:

- For an existing new build, the person must have acquired it no later than 12 months after the code compliance certificate (CCC) was issued for that new build under the Building Act 2004.
- Where the person made an off-the-plans purchase for the new build, the CCC confirming the dwelling was added to the land must be issued by the time they sell the land.
- Where the person constructed the new build on their land, the CCC confirming the dwelling was added to the land must be issued by the time the land is sold.

In all cases the new build must be a self-contained dwelling and must still be on the land when it is sold, otherwise the 10-year bright-line period applies.

Note: The following remediated or converted buildings can also qualify as a new build provided the work was completed on or after 27 March 2020 and certain conditions are met:

- a dwelling previously on the earthquake prone buildings register that has been remediated
- a dwelling that has been at least 75% reclad because of weathertightness issues
- a dwelling converted from a commercial premises or a hotel/motel, and
- is part of a building containing two or more dwellings converted from a single dwelling.

Work out when a property falls within one of the bright-line periods at ird.govt.nz/property

Work out if you're a withholder

You're a withholder if:

- you're the conveyancer for the vendor (unless the vendor is associated to the purchaser)
- the vendor does not have a conveyancer and you're the conveyancer for the purchaser
- you're the purchaser of the property and neither you or the vendor have a conveyancer, or
- you're the purchaser of the property and you and the vendor are associated persons.

To decide if you're associated persons, use **A guide to associated persons definitions for income tax purposes - IR620** at ird.govt.nz/forms-guides

Deducting RLWT

To confirm if RLWT needs to be deducted, get a completed **Residential land withholding tax declaration - IR1101** from all offshore RLWT persons selling residential land within:

- 2 years when the acquisition date was on or after 1 October 2015 through to 28 March 2018
- 5 years when the acquisition date was on or after 29 March 2018 through to 26 March 2021
- 5 years when the acquisition date was on or after 27 March 2021 and the entire property qualifies as a new build, or
- 10 years for all other properties when the acquisition date was on or after 27 March 2021.

Note: For properties acquired on or after 27 March 2021, where the residential land has a new build and a non-new build on the same legal title, RLWT applies to the full sale price if it is sold within 10 years.

If the vendor does not give you an IR1101, or the IR1101 is incomplete, you may assume that they're an offshore RLWT person if they meet the other withholding requirements and deduct RLWT from the purchase amount. This may avoid the risk of penalties being imposed on you.

Do not deduct RLWT if the vendor:

- shows you a valid Certificate of exemption from RLWT for the property being sold or disposed of, or
- provides the required documents to show it's an excluded property sale or disposal. You need to make a copy of these documents for your records.

Find out more about your obligations when deducting RLWT at ird.govt.nz/rlwt

How much to deduct

Using our RLWT calculator is the easiest and fastest way to work out how much RLWT to deduct. Find the calculator at ird.govt.nz/tools-calculators

If you're manually working out how much RLWT to deduct, these are the calculations you need to make. The amounts in these calculations are excluding GST, even if you're not registered for GST.

Calculation 1

Sale price × 10%

Calculation 2

The greater of:

- (sale price less purchase price the vendor originally paid for the property) × **RLWT rate**, or
- zero.

Calculation 3

There are 2 options for this calculation depending on who you are.

1. You are the **vendor's** withholder.

The greater of:

- sale price less any amounts required to cover any mortgage or other security with a New Zealand registered bank or licensed non-bank deposit taker against the property, and any outstanding local authority rates, or
- zero.

2. You are the **purchaser**, or the **purchaser's conveyancer**.

The greater of:

- sale price less any outstanding local authority rates, or
- zero.

Only work out the RLWT on the offshore RLWT person's share of the property when a property is jointly owned.

The lesser amount of all 3 calculations is the amount of RLWT to deduct. Show this amount in the "Amount required to be deducted (in NZ\$)" field on the

Residential land withholding tax return - IR1100.

RLWT rate

For companies, and incorporated clubs and societies, the RLWT rate is 28%.

For individuals, all other non-individuals, and companies acting as trustees of a trust, the RLWT rate is 39%.

After you've deducted RLWT

You need to complete a **Residential land withholding tax return - IR1100** and pay the RLWT to us by the 20th of the month after the deductions were made, for example, deductions made in July are due 20 August.

The IR1100 has more information on how to file your return and make a payment.

Make sure you let the vendor know the amount of RLWT deducted, such as showing it on their settlement statement. They need this amount to complete their end-of-year income tax return.

More information

When the purchase price is paid in instalments or only a deposit is paid

When the purchase price is being paid in instalments or only a deposit is paid, only start deducting RLWT from the payments you receive once 50% of the purchase price has been paid.

File an IR1100 and pay the RLWT every month you receive a payment.

Residential land withholding tax must be calculated and paid before other disbursements made as part of the settlement process

The only exceptions to this are payments:

- to cover any mortgage or other security with a New Zealand registered bank or licensed non-bank deposit taken against the property
- for outstanding local authority rates.

When there is not enough money to pay the RLWT

You still need to complete an IR1100 if there is not enough money to pay the RLWT that should've been deducted. Note the actual amount required to be deducted on the IR1100, even if this is zero. You need to attach a letter advising why the amount being paid is less than the amount calculated to be deducted.

Penalties and interest

Penalties may apply if you do not complete your IR1100 or pay the correct amount of RLWT. Interest may also apply to late payments.

For more information about interest and penalties go to ird.govt.nz/rlwt

Note: Withholder's are not liable for the vendor's RLWT obligations when they have reasonably relied on the IR1101 and accompanying documents.