

#### Turner Hopkins Celebrating 100 years





• Kate Chivers - Barrister and Solicitor of the High Court of New Zealand

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# Kate Chivers – TURNER HOPKINS

#### **TH Commercial and Residential Property specialists**

- Full speaking mandarin team headed up by my partner in crime Joy Yuan
- Full service law firm including immigration and employment service (the only thing we don't do is Criminal Law).
- We frequently advise clients on leasing, property matters and related financial transactions. We act for companies, limited liability, partnerships, trusts and everything in between.
- Subdivision work, collapsing cross leases, construction contracts and personal asset protection.
- All Aspects of Residential property transactions



Kate Chivers Principal



**Joy Yuan** Principal

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## Today's Topic – Changes to the Brightline Rules



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- 1. History of Brightline Testing.
- 2. Changes to the Brightline rules- what you need to know.
- 3. Main home exemptions/rollover relief and patterns of behavior
- 4. Other sneaky changes that may affect buyers/investors and companies

# **History of Brightline Testing**



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# History of Brightline Testing

- In October 2015 in its attempt to slow down the runaway property market, the then National Government's made it's first official foray into a capital gains tax on land.
- The bright-line test is basically an objective capital gains tax for residential land bought and sold within a defined timeframe.
- The bright-line rules have evolved from seeking to prevent property speculators from working within grey and subjective tax rules to a more complicated subset of rules with various dates and times applicable.
- In order to apply the current tests, you need to understand:



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#### AND APPLY IT CORRECTLY TO EACH SITUATION

# HISTORY

1.	2.	3.	4.	5.
Introduced on 1 October 2015 Subject to some exclusions land bought and sold within two years of acquisition was subject to the Tax	Tweaks 29 March 2018 Test acquisition time frame extended from 2 to 5 years	Major change 27 March 2021 the test is extended from five to 10 years for acquisitions of residential land on or after 27 March 2021 (unless you had entered into an irrevocable offers, for example, as part of a tender process, to acquire before 23 March 2021).	<ul> <li>New Builds treated differently</li> <li>Acquisition Dates</li> <li>Off plan purchases treated differently</li> <li>Main home exceptions</li> <li>Main home rented out (tax implications) for some or part of the 10 year period</li> </ul>	Changes BACK TO THE FUTURE??? Back to basics

Where does that leave us in terms of Capital Gain Tax/
Stamp Duty?
Watch this space the country needs \$\$\$\$ and property is a keen prospective area from which to raise tax

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# Changes to the Brightline ruleswhat you need to know

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# CHANGES

#### 2 Key points

- 1) The Date of the Change = 1 July 2024
- 2) 2 Years Bright Line clock (essentially back to 2015 rules)

#### BUT

#### THE OLD (RELEVANT RULE) REMAINS APPLICABLE FOR ANY SALE AND PURCHASE PRIOR TO 1 JULY 2024

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# Main home exemptions/rollover relief and patterns of behaviour

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# Main home exemptions/rollover relief and patterns of behaviour

#### Main Home

The property where you live for most of the time. If there is more than 1 property it is the one there is the greatest connection to. A person cannot have more than 1 main home.

Date property acquired	Main home exclusion criteria		
	You must have used:		
Before 27 March 2021	<ul> <li>more than 50% of the property's area as your main home (including the yard, gardens, and garage)</li> <li>the property as your main home for more than 50% of the time you owned it.</li> </ul>		
On or after 27 March 2021	You must have used:		
	<ul> <li>more than 50% of the property's area as your main home (including the yard, gardens, and garage)</li> </ul>		
	<ul> <li>the property as your main home for 100% of the time you've owned it. This includes any period of up to 12 months where it was not used as your main home (for example, a period between moving out and when the property is finally sold).</li> </ul>		

- Limits on Main Home exclusions
- Main Homes held in Trust
- Roll over Relief

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https://www.ird.govt.nz/property/buying-and-selling/when-you-need-to-pay/the-brightline-property-rule/exclusions-to-the-brightline-rule#:~:text=The%20main%20home%20exclusion%20will.has%20been%20your%20main%20home.

# Thank You



Kate Chivers| kate.chivers@turnerhopkins.co.nz

09 486 2169

