

ALERT FOR RESIDENTIAL LAND CONVEYANCERS

PROPOSED: Resident Land Withholding Tax

(RELEASED 31 AUGUST 2015)

The Government has today released a proposal for imposing withholding tax on the sale of residential land in New Zealand where the seller is a foreign investor (offshore person) who has owned the property for less than 2 years before the sale.

Application date

Settlements after 1 July 2016.

Withholding obligation will be on the **LAWYER OR CONVEYANCER**.

That is, the lawyer or conveyancer will have to withhold and pay the withholding tax to Inland Revenue.

Amount of withhold

The amount withheld will be the lower of:

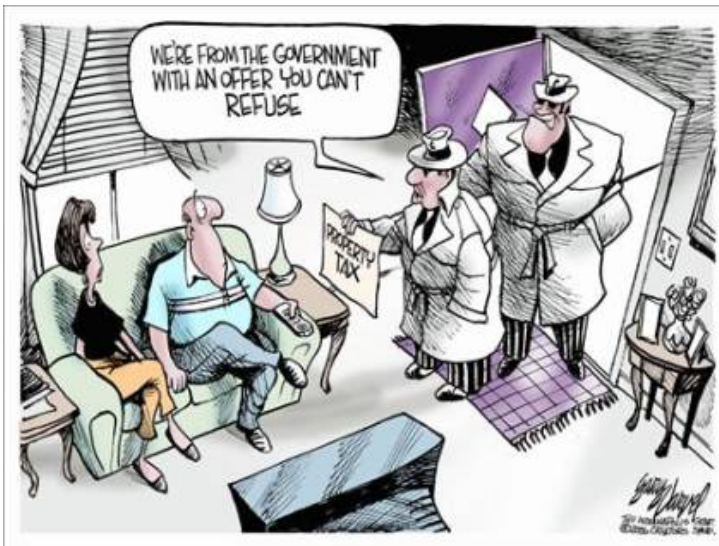
- 33% of gain on sale for the vendor; or
- 10% of the purchase price of the property.

10% rate is the default rate if the conveyancer does not have enough information re the transaction to calculate the "lower of" withholding position.

Calculation of gain on sale = Purchase price less acquisition cost.

Seller will have to file a New Zealand tax return to get any further deductions. Withholding tax is not a final tax. No withholding tax if no gain on sale.





Conveyancer or withholding agent has to:

- determine whether there should be an amount withheld, and how much?
- have the amount of withholding put into a trust account
- pay this amount to Inland Revenue.

Withholding obligation arises when the transaction is settled. Not when deposit is paid.

Reliance on information

Conveyancer can rely on information supplied by the vendor unless they know it to be false.

Seller must provide information to the conveyancer for the purposes of this, for instance, seller to provide passport as evidence of whether they are an offshore person or not.

Payment to Inland Revenue

Option for conveyancers with numerous transactions - pay withholding in monthly batches.

All others, payment may be aligned to resident withholding tax dates etc.

Comments sought on:

All of the above proposals including whose lawyer should have the compliance obligation - the buyer or the seller?

Submissions must be made by **2 October 2015**.

