

Hon Stuart Nash, Minister of Revenue

Information Release

Collection of IRD numbers for the transfer of main homes Policy report, Cabinet paper, regulatory impact assessment, and minute

June 2019

Availability

This information release is available on Inland Revenue's Tax Policy website at <http://taxpolicy.ird.govt.nz/publications/2019-ir-cab-dev-19-sub-0127/overview>.

Documents in this information release

1. IR2019/235 – Policy report: Cabinet paper – Collection of IRD numbers for the transfer of main homes (2 May 2019)
2. DEV-19-SUB-0127 – Cabinet paper: Collection of IRD numbers for the transfer of main homes (22 May 2019)
3. DEV-19-SUB-0127 – Regulatory impact assessment: Collection of IRD numbers for the transfer of main homes (17 May 2019)
4. DEV-19-MIN-0127 – Minute: Collection of IRD numbers for the transfer of main homes (22 May 2019)

Additional information

The Cabinet paper was considered by the Cabinet Economic Development Committee on 22 May 2019 and confirmed by Cabinet on 27 May 2019.

Information withheld

Some parts of this information release would not be appropriate to release and, if requested, would be withheld under the Official Information Act 1982 (the Act). Where this is the case, the relevant sections of the Act that would apply are identified. Where information is withheld, no public interest was identified that would outweigh the reasons for withholding it.

Sections of the Act under which information was withheld:

- 9(2)(a) to protect the privacy of natural persons, including deceased people

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POLICY AND STRATEGY

Tax policy report: **Cabinet paper – Collection of IRD numbers for the transfer of main homes**

Date:	2 May 2019	Priority:	High
Security level:	In Confidence	Report number:	IR2019/235

Action sought

	Action sought	Deadline
Minister of Revenue	<p>Agree to recommendations</p> <p>Authorise the lodgement of the attached Cabinet paper</p> <p>Refer a copy of this paper to the Minister of Finance and the Minister for Land Information</p>	10 am Thursday 16 May

Contact for telephone discussion (if required)

Name	Position	Telephone
s 9(2)(a)	Senior Policy Advisor	s 9(2)(a)
s 9(2)(a)	Senior Policy Analyst	

2 May 2019

Minister of Revenue

Cabinet paper – Collection of IRD numbers for the transfer of main homes

Introduction

1. This report asks you to consider the attached draft Cabinet paper *Collection of IRD numbers for the transfer of main homes* and, following any changes you wish to make, refer it to Cabinet office by 10 am Thursday 16 May so that it may be considered by the Cabinet Economic Development Committee (DEV) at its meeting on Wednesday 22 May 2019.
2. This report seeks your agreement to the following:
 - Removal of the exemption for transfers by individuals of a main home from the requirements to provide IRD numbers (and if the person is tax resident in another country, the name of that country and their tax identification number (TIN) for that country) when transferring a property.
 - A remedial amendment to update the reference in the Tax Administration Act 1994 information collection, use and disclosure provisions; and to update the reference to the Land Transfer Act 1952 to the current section in the Land Transfer Act 2017.
 - Inclusion of the amendments in a Supplementary Order Paper (SOP) to the Taxation (Annual Rates for 2019-20, GST Offshore Supplier Registration, and Remedial Matters) Bill at the Committee of the whole House stage.
3. These amendments follow the recommendation made by the Tax Working Group to require disclosure of IRD numbers on the Land Transfer Tax Statement when transferring a main home. The Government's response to this recommendation was to consider as a high priority for inclusion on the tax policy work programme.
4. Amendments could be made to the Land Transfer Act 2017 to give effect to this recommendation in the Taxation (Annual Rates for 2019-20, GST Offshore Supplier Registration, and Remedial Matters) Bill. This could be achieved by introducing a SOP at the Committee of the whole House stage of this bill.
5. The inclusion of the proposed amendments in this current tax bill would allow for a swift response to the Tax Working Group's recommendation and send a signal to property speculators that the Government will continue to act to improve compliance with the property tax rules.
6. Introducing these amendments by SOP at the Committee of the whole House stage carries some risk as the legislative amendments will not be subject to consultation as part of the select committee process. To help mitigate this, we propose to consult with key stakeholders on the drafting of the SOP.
7. A regulatory impact analysis on the proposal to require tax information upon transfer of a main home was undertaken as part of the original amendments to the Land Transfer Act in 2015. Inland Revenue's preferred option in this analysis was not to have an exemption from providing IRD numbers and TINs when the transfer involves a main home. We are seeking an exemption from further RIA requirements.
8. We have consulted with the Treasury and Land Information New Zealand (LINZ). Due to time constraints we will consult with Statistics New Zealand and the Office of the Privacy Commissioner on the draft Cabinet paper attached to this report.

Requirement to provide IRD number when the transfer involves a main home

9. The Land Transfer Act 2017 contains provisions requiring the completion of a Land Transfer Tax Statement by both the transferor (seller) and transferee (purchaser) before the transfer of a residential property may be registered. These provisions were introduced in September 2015.
10. There is an exemption for providing an IRD number and, if applicable any TINs for another country, if the transfer involves an individual's main home. (Trusts need to provide their tax information when the transfer involves a main home). If the transfer meets the main home criteria the transfer will qualify as a "non-notifiable" transfer for the transferor and/or transferee.
11. The current exemption creates a gap in information provided to Inland Revenue and consequently reduces the enforcement benefits from collecting tax information at the point of property transfer. For example, this makes it more difficult to identify property speculators.
12. We consider that the transferor or transferee should still be asked if the property being transferred is their main home. This main home indicator allows Inland Revenue to identify taxpayers who should be sent follow-up information and correspondence advising of the property tax rules and those who are unlikely to have tax obligations arising from the property transfer. This is useful for both enforcement purposes, and also to ensure that the follow-up information is appropriately targeted to customers. Officials will consider whether the main home definition can be simplified for the purpose of this indicator.
13. However, we note that requiring transferors or transferees to provide this information will lead to a minor increase in compliance costs. We will work with LINZ to explore options for simplifying the main home definition and streamlining transfer forms to mitigate these costs.

Requirement to provide TIN and information on overseas jurisdictions

14. Transferors and transferees who are tax resident^[1] in another country must include on the Land Transfer Statement their TIN ^[2] and the name of the jurisdiction in which they are tax resident unless an exemption applies.
15. This information is reported to other countries to help prevent global tax evasion.
16. If a tax resident of another country claims the main home exemption, they do not need to provide their TIN and the name of the jurisdiction when transferring property except in limited circumstances (for example, if the person is not a New Zealand citizen nor a resident for immigration purposes then they cannot claim the main home exemption).
17. Requiring TINs will help ensure that data provided to treaty partners is easily able to be matched to the correct person. Requiring the reporting of TINs for property sales would go beyond current international requirements, but would be consistent with the AEOI/CRS financial reporting requirements that apply when individuals open new bank accounts, and would position New Zealand favourably as a leader in international efforts to combat tax evasion.

^[1] Generally, a person is tax resident in another country if that country imposes income tax obligations on the person's worldwide income.

^[2] A TIN is the unique identifier that is given to a taxpayer by a jurisdiction's tax authority. A person's IRD number is a TIN in the context of New Zealand.

Remedial amendment to references in the Tax Administration Act 1994

18. The Tax Administration Act 1994 includes an information disclosure provision which allows information to be disclosed between authorised persons for the purposes of the tax information provisions in the Land Transfer Act. The current legislation refers to the relevant provisions in the Land Transfer Act 1952, which has been superseded by the Land Transfer Act 2017. We consider this reference should be updated to reflect the current provisions in the Land Transfer Act 2017.

Opportunities for process simplification

19. Removing the main home exemption will provide an opportunity to re-design and simplify the Land Transfer Tax Statement and other forms before the proposed amendments come into force.
20. We also consider that there are other opportunities for simplification of the process, such as:
- Allowing direct provision of tax information from LINZ to Statistics NZ. (Statistics NZ publish quarterly property transfer statistics based mainly on Land Transfer Tax Statements)
 - Clarifying the provisions relating to citizenship and visa status in the Land Transfer Act 2017, as the present provisions create some uncertainty about what information is being sought.
 - Making all transfers by executors and administrators non-notifiable.
 - Considering whether transfers by foreign governments should be non-notifiable.
21. These potential improvements could be considered as a separate project over a longer period of time. Part of this work could also include consideration of whether the sale price could be collected as part of the Land Transfer Tax Statement.

Legislative vehicle

22. We have drafted the Cabinet paper on the basis that the amendments should be included in the Taxation (Annual Rates for 2019-20, GST Offshore Supplier Registration, and Remedial Matters) Bill by way of a Supplementary Order Paper introduced at the Committee of the whole House stage.
23. Introducing the amendments as soon as possible will enable the Government to send an immediate signal that they are committed to addressing property speculation and will closely follow the Government's announced response to the Tax Working Group's recommendations. The amendments could have a commencement date of 1 April 2020. This delayed commencement date would allow time to consult with stakeholders, such as the New Zealand Law Society, on the design of the form and process implications before the legislation comes into force. In addition, this commencement date provides the required lead-in time of six months in order to make necessary changes to Landonline.
24. An alternative legislative option would be to include the amendment in an omnibus tax bill scheduled for introduction in June/July of 2019. The advantage of this option is that it would provide the opportunity for the proposed legislation to go through the select committee process and would reduce the risk of unintended consequences. However, this would delay the Government's decision to legislate and act on the recommendation made by the Tax Working Group. If this legislative vehicle is chosen, the amendments could have a commencement date of 1 October 2020.

25. The key trade-off between these two options is the ability to bring the proposal into effect as soon as practicable (1 April 2020 compared with 1 October 2020 or later) and the opportunity for the proposed legislative amendments to go through consultation as part of the select committee process. Under both options, we would consult with key stakeholders on the design of the form before the amendment comes into force.
26. To mitigate the risk of unintended consequences that may arise due to including the changes by SOP, officials propose to consult with key stakeholders (such as New Zealand Law Society and Auckland District Law Society) on the drafting of the SOP at the earliest possible date.

Recommended action

We recommend that you:

27. **agree** to remove the exemption from providing a person's IRD number and, if applicable, any tax identification numbers when a transfer of property relates to the person's main home.

Agreed/Not agreed

28. **agree** to include an indicator on the Land Transfer Tax Statement to identify whether it is the person's main home.

Agreed/Not agreed

29. **agree** to a related remedial amendment to the Tax Administration Act 1994 to replace the reference to the Land Transfer Act 1952 with a reference to the current section in the Land Transfer Act 2017.

Agreed/Not agreed

30. **agree** to include the amendments above in a Supplementary Order Paper to the Taxation (Annual Rates for 2019-20, GST Offshore Supplier Registration, and Remedial Matters) Bill at the Committee of the whole House stage.

Agreed/Not agreed

31. **agree** that key stakeholders should be consulted on the drafting of the SOP.

Agreed/Not agreed

32. **authorise** the lodgement of the attached Cabinet paper (following any amendments you make) with the Cabinet Office by 10 am Thursday 16 May for the Cabinet Economic Development Committee to consider at its meeting on 22 May 2019;

Authorised/Not authorised

s 9(2)(a)

Senior Policy Advisor
Policy and Strategy

Hon Stuart Nash
Minister of Revenue
/ /2019

In Confidence

Office of the Minister of Revenue

Chair, Cabinet Economic Development Committee

COLLECTION OF IRD NUMBERS FOR THE TRANSFER OF MAIN HOMES

Proposal

1. This paper seeks the Cabinet Economic Development Committee's agreement to remove the main home exemption from the requirements to provide IRD and tax identification numbers (TINs) when transferring a property.

Executive Summary

2. Currently, transferors (sellers) and transferees (purchasers) must each complete a Land Transfer Tax Statement when a property is transferred. This statement collects tax information relating to property ownership for the purpose of improving compliance with the tax rules around property, including the rules targeting property speculation.
3. The tax information required for a Land Transfer Tax Statement includes the transferor or transferee's IRD number and, if applicable, any overseas TINs and the jurisdiction of tax residence. The IRD number and property details are then supplied to Inland Revenue for use in its property tax compliance work. The TIN is reported to other countries to help prevent global tax evasion.
4. Transferors and transferees are not currently required to include their IRD number or TIN if the property sale qualifies as a "non-notifiable" transfer. The most common reason a property sale is a non-notifiable transfer is when the property being transferred is used as the transferor or transferee's main home.
5. The exemption from providing an IRD number for the transfer of a main home means that Inland Revenue does not receive complete information regarding property ownership relevant to potential tax obligations. This impacts on Inland Revenue's ability to enforce compliance with property tax rules, including making it more difficult to identify property speculators. The exemption from providing the TIN means that the current rules are not as effective as they could be at deterring global tax evasion.
6. The Tax Working Group recently reported to the Government with recommendations for improving the tax system. One of the Tax Working Group's recommendations was to require the disclosure of IRD numbers on the Land Transfer Tax Statement when the transfer involves a main home. The Government agreed that this recommendation should be considered as a high priority item for inclusion on the Tax Policy Work Programme.
7. In line with the recommendation made by the Tax Working Group, I propose to amend the tax statement to require transferors and transferees to provide their IRD number and, if applicable, any TIN and jurisdiction of tax residence, when there is a

property transfer involving their main home. The transferor or transferee should continue to be asked if the property is their main home.

8. I consider the proposal will enhance Inland Revenue's ability to enforce the tax rules for property. By improving and aligning the information disclosure rules for property transactions with the rules for bank accounts, it helps to reduce tax evasion being facilitated through holding property. The proposal is likely to have minor compliance costs for transferors and transferees as more IRD numbers will be required to be collected as part of the land transfer process.
9. Further, I consider it is appropriate to respond swiftly to the recommendation made by the Tax Working Group and signal to property speculators that the Government wants to improve compliance with the property tax rules.
10. LINZ notes that the primary purposes of the land registration system are to record ownership of land and facilitate dealings with land. The efficiency of New Zealand's land registration system is well regarded internationally (for example, New Zealand was ranked first for registering property in the World Bank's "Doing Business 2019" report). Collecting information for other purposes does not fit within the core purposes of the Land Transfer Act 2017 and therefore the impact of any further information requirements must be carefully considered. I have asked my officials to work with Land Information New Zealand (LINZ) with a view to streamlining the land transfer forms if possible.
11. To bring this proposal into effect, amendments to the Land Transfer Act 2017 will be required. I propose to include this in the Taxation (Annual Rates for 2019-20, GST Offshore Suppliers and Remedial Matters) Bill by way of a Supplementary Order Paper at the Committee of the whole House stage. I propose a commencement date of 1 January 2020; this would allow time to make required changes to Landonline. A consolidated and simplified form will be developed in consultation with key stakeholders.

Background

12. On 1 October 2015, the Land Transfer Act 1952 was amended to require transferors and transferees to provide tax statements for all transfers of property. This was aimed at providing more useful information to Inland Revenue to assist in its enforcement of property tax rules and to support the bright-line test¹.
13. Under these changes, transferors and transferees of real property are required to provide their IRD numbers unless an exemption applies. If they are not eligible for an exemption and are also resident in another jurisdiction for tax purposes, they must also provide their foreign TINs at the time of transfer.
14. This information is filled out by transferors and transferees and must be provided to LINZ in order for the property title to be transferred. This information is then provided to Inland Revenue to improve compliance with the tax rules around property. Relevant information is also provided by Inland Revenue to Statistics New Zealand, to enable the production of property transfer statistics.

¹ In 2018, the bright-line test on residential property was extended from two years to five years to help ensure residential property speculators pay tax on gains from property sales. Accordingly, gains from the sale of residential property purchased on or after 29 March 2018 may be taxable if sold within five years of purchase.

15. Information required by the Land Transfer Tax Statement is prescribed in the Land Transfer Act 2017 and includes identity and property details and parties' IRD numbers (and TINs if applicable). Currently a transferor or transferee is only required to provide their IRD number if there is no "non-notifiable" reason. The most common reason for a non-notifiable transfer is where the property being transferred qualifies as a main home. Trusts cannot claim the main home exemption and therefore must always provide their IRD number for property transfers.
16. There was a total of 179,178 property transfers during the year ended 30 June 2018. Data from the commencement of the Land Transfer Tax Statement to 28 February 2019 shows the main home exemption was claimed by sellers 27% of the time and by purchasers 37% of the time.
17. Initial analysis of property transactions by Inland Revenue to determine compliance with the bright-line rule has indicated that there is currently a level of non-compliance. The fairness of the tax system is undermined where taxpayers don't comply with their tax obligations. Where Inland Revenue suspects instances of non-compliance with the property tax rules, it follows these up. However, having many transactions for which an IRD number is not supplied, based upon a non-notifiable reason which is self-determined makes it more difficult to detect and therefore remedy the true levels of non-compliance.
18. The Tax Working Group, which was established by the Government to examine further improvements in the structure, fairness and balance of the tax system, reported back to the Government on 21 February 2019 with recommendations to improve the tax system, including the recommendation to require the disclosure of IRD numbers on the Land Transfer Tax Statement when the transfer involves a main home. The Government released its response to the Tax Working Group's recommendations in April and agreed that this recommendation should be considered as a high priority item for inclusion on the Tax Policy Work Programme.

Removing the main home exemption for providing an IRD number

19. The main home exemption for IRD numbers creates a gap in information provided to Inland Revenue and consequently decreases the enforcement benefits from collecting tax information at the point of property transfer.
20. The sale of a property may be taxable even when a person acquired the property intending to use it as their main home. For example, the sale of these properties can be taxable if:
 - 20.1 The person changes their use of the property from being their main home to being an investment property or similar (and the sale is taxable under the brightline test or other land-sale rules).
 - 20.2 The person engages in a regular pattern of selling main homes (for example, habitual renovators).
21. Not requiring IRD numbers for people's main homes means Inland Revenue does not have visibility of these situations and means Inland Revenue is unable to obtain a full picture around overall compliance with the property rules. This limits Inland Revenue's ability to enforce the property tax rules. Further, we also consider that a

simple, clear rule to require an IRD number at the point of property transaction could have some deterrent effect on people who may be considering tax evasion through property.

Removing the main home exemption for providing a TIN and overseas jurisdiction of residence

22. Transferors and transferees who are tax resident² in another country must include on the Land Transfer Tax Statement their TIN³ and the name of the jurisdiction in which they are tax resident unless an exemption applies.
23. This information is reported to other countries to help prevent global tax evasion. It is well known internationally that the provision of TINs generally in third party reporting has a strong deterrent effect to tax evasion.
24. If a tax resident of another country claims the main home exemption, they are not required to provide their TIN and the name of the jurisdiction when transferring property except in limited circumstances (for example, if the person is not a New Zealand citizen nor a resident for immigration purposes then they cannot claim the main home exemption).
25. Requiring the provision of TINs when transferring main homes without exemptions will help ensure that data provided to treaty partners is easily able to be matched to the correct person. Requiring the reporting of TINs for property sales would go beyond current international requirements, but would be consistent with the Automatic Exchange of Information/Common Reporting Standard financial reporting requirements⁴ that apply when individuals open new bank accounts, and would position New Zealand favourably as a leader in international efforts to combat tax evasion.

Main home indicator

26. I consider that the transferor or transferee should still be asked if the property being transferred is their main home. This main home indicator allows Inland Revenue to identify taxpayers who should be sent follow up information and correspondence advising of property tax rules and those who are unlikely to have tax obligations arising from the property transfer.
27. If Inland Revenue does not receive indicators as to whether a property is the main home of a taxpayer, Inland Revenue will be unable to distinguish the taxpayers who should be included in property compliance campaigns from those who are unlikely to have tax consequences under the property tax rules.
28. However, I note that requiring transferors and transferees to indicate whether the property is their main home will involve some compliance cost. I have asked Inland Revenue and LINZ to explore options to simplify the definition of 'main home' for the purpose of this indicator to help reduce these costs.

2 Generally, a person is tax resident in another country if that country imposes income tax obligations on the person's worldwide income.

3 A TIN is the unique identifier that is given to a taxpayer by a jurisdiction's tax authority. A person's IRD number is a TIN in the context of New Zealand.

4 AEOI/CRS is a global framework for the detection and prevention of offshore tax evasion, which involves the collection, reporting, and exchange of financial account information relating to people and entities investing outside of the jurisdiction in which they are tax resident.

Expected impact on compliance costs

29. Requiring tax information as part of a property transfer involves compliance costs for parties to the transaction. These compliance costs were considered alongside analysis of the policy introducing the requirements for tax statements in 2015. However, recent changes to the Overseas Investment Act have subsequently increased compliance obligations for property transfers and conveyancers and I am mindful that each additional compliance step must be viewed in the context of the overall process of the property transaction rather than in isolation.
30. The additional requirement to provide an IRD number for main home transfers would result in a minor increase in compliance costs. Data shows that as at 28 February 2019, 37% of purchasers and 27% of sellers have used the main home exemption since the commencement of the Land Transfer Tax Statement requirements in 2015. This shows that the majority are currently providing their IRD number as part of tax information requirements. Approximately a third of those claiming the main home exemption currently provide their IRD number even though it is not required.
31. For persons buying or selling their main home, the proposal would increase compliance costs as they would be required to provide their IRD number and any TINs. However, the vast majority of transferors and transferees will already have an IRD number prior to entering into a property transaction. There are many circumstances where taxpayers are required to provide their IRD number, for example, when starting employment, applying for social policy entitlements, or opening up a bank account or other accounts with financial institutions. IRD numbers are often provided on employment payslips, tax statements on interest bearing accounts and are included in a taxpayer's information on their myIR account.
32. The cost for each person will vary depending on how readily available their IRD number is. However, I consider the overall increase in compliance costs is likely to be low for the reasons outlined above.
33. LINZ notes that the primary purposes of the land registration system are to record ownership of land and facilitate dealings with land. The efficiency of New Zealand's land registration system is well regarded internationally (for example, New Zealand was ranked first for registering property in the World Bank's "Doing Business 2019" report). Collecting information for other purposes does not fit within the core purposes of the Land Transfer Act 2017 and therefore the impact of any further information requirements must be carefully considered.
34. Several different information gathering requirements for transfers of property have been introduced in recent years, each with their own form to be completed. This increases the paperwork associated with every land transaction. There are three forms required for property transfers; the Land Transfer Tax Statement, the Residential Land Statement and the Residential Land Withholding Tax Declaration which create compliance costs for property transfers. For example, the Land Transfer Tax Statement has three pages to be filled out and is 10 pages long in total, including notes.
35. To mitigate any increase in compliance costs, there is merit in exploring how we can streamline and simplify the current process for providing information at the time of property transfers. I have requested Inland Revenue work with LINZ to explore

options for simplifying and combining these forms. This should also involve consultation with Statistics New Zealand given their role in providing property transfer statistics.

36. The proposed amendment would require changes to the Landonline workspace, including appropriate transitional arrangements. The changes might require a new Landonline release, which would necessitate up to a six month period for coding and testing, so sufficient time will need to be allowed to implement the changes.
37. Slight modifications would need to be made to the current LINZ/Inland Revenue data interface to reflect the changes in the data being collected, and Inland Revenue may also need to make some minor system changes to enable more efficient use of the data for compliance purposes; however, these are not expected to be significant.
38. Any new information requirements have the potential to affect processes. For this reason, it is important that key stakeholders, such as the New Zealand Law Society, are consulted to understand the practical implications of the changes.
39. Inland Revenue would need to ensure that the new requirements were adequately communicated to conveyancers ahead of the application date. Early passage of the legislation will enable this to occur.

Implementation

40. It is proposed that these amendments should come into force from 1 January 2020. This would allow sufficient time to develop the required changes to Landonline. A consolidated and simplified form will be developed, in consultation with key stakeholders.
41. Transitional provisions will be necessary to allow for contracts that have been entered into but not settled at commencement. People will have contracted on the basis of the rules at the time of signing and there is the potential for the legislative amendments to affect existing contracts and therefore impose compliance costs if transitional provisions are not enacted. The transitional provisions in Schedule 1AA of the Land Transfer Amendment Act 2015 (which introduced the Land Transfer Tax Statements) could serve as a model. For example, it could provide that transfers entered into on or before 1 January 2020 and registered before 1 July 2020 are still eligible for the main home exemption.

Consultation

42. The Treasury and LINZ have been consulted in the preparation of this Cabinet paper. The Office of the Privacy Commissioner and Statistics New Zealand have been consulted on this proposal.
43. I consider that further consultation on design of forms will be required with stakeholders including the New Zealand Law Society and Auckland District Law Society, before the legislation comes into force. Officials are undertaking consultation with these organisations on the details and drafting of the proposal. At the time of lodgement, officials had discussed the proposal with a major stakeholder who noted the proposal to remove the main home exemption would simplify the process because it would provide a standardised approach to transactions. This stakeholder also noted that the process would benefit from having the forms streamlined.

Financial Implications

44. There are no direct financial implications from this proposal. To the extent that the provision of IRD numbers improves compliance with the current rules there will be an increase in tax revenue collection; however this impact is unquantifiable at this stage.

Legislative Implications

45. Implementing these proposals requires changes to the Land Transfer Act 2017. The Land Transfer Act includes provisions relating to the collection of tax information in the form of a Land Transfer Tax Statement. These provisions would require amendment to remove the use of the property as a main home from qualifying for a non-notifiable transfer.
46. If approved, I propose including the legislative changes resulting from these recommendations in a Supplementary Order Paper to the Taxation (Annual Rates for 2019-20, GST Offshore Supplier Registration, and Remedial Matters) Bill at the Committee of the whole House stage.
47. I propose the amendments to remove the main home non-notifiable reason should have a commencement date of 1 January 2020.

Impact Analysis

48. A regulatory impact assessment has been prepared by Inland Revenue, and is attached to this paper. The Quality Assurance reviewer at Inland Revenue has reviewed the Collection of IRD numbers for the transfer of main homes prepared by Inland Revenue, and considers that the information and analysis summarised in the RIA partially meets the quality assurance criteria.
49. The Key Limitations or Constraints on Analysis statement notes that due to time constraints a full consultation with external parties has not been undertaken. The RIA does note that consultation is intended to be undertaken on the legislative drafting and the views of submitters on the 2015 changes have been taken into account. While the RIA identifies that analysis of compliance with the brightline rule has detected some non-compliance, it does not identify how significant the level of non-compliance is that the proposed option is attempting to address.

Publicity

50. I will make an announcement on the contents of the SOP, when the SOP is released. Inland Revenue will include details of the new legislation in a *Tax Information Bulletin* after the Bill is enacted.

Proactive Release

51. I propose to proactively release this Cabinet paper, associated minutes, and key advice papers in whole within 30 working days of Cabinet making final decisions.

Recommendations

The Minister of Revenue recommends that the Cabinet Economic Development Committee:

1. **note** that the Land Transfer Act 2017 contains tax statement requirements which must be completed by both transferors and transferees when land is transferred.

2. **note** that the Tax Working Group recommended the disclosure of IRD numbers as part of the tax statement when the transfer involves a main home.
3. **agree** to remove the exemption from providing a person's IRD number and if applicable any tax identification numbers (and jurisdiction of tax residence) when the transfer of property relates to the person's main home.
4. **agree** to retain an indicator on the Land Transfer Tax Statement to identify where it is a person's main home.
5. **agree** that the amendments giving effect to the recommendations 3 and 4 above should come into effect from 1 January 2020.
6. **agree** to a transitional provision to address situations where transfers have been entered into on the basis of the current requirements.
7. **note** that regulatory impact analysis on the proposal has been completed and is attached to this paper.
8. **note** that this Cabinet paper, the associated Cabinet minute, and key advice papers will be released on Inland Revenue's website.

Authorised for lodgement

Hon Stuart Nash
Minister of Revenue

Impact Summary: Collection of IRD numbers for the transfer of main homes

Section 1: General information

Purpose

Inland Revenue is solely responsible for the analysis and advice set out in this Regulatory Impact Assessment, except as otherwise explicitly indicated. This analysis and advice has been produced for the purpose of informing final decisions to proceed with a policy change to be taken by Cabinet.

Key Limitations or Constraints on Analysis

The Government decided to implement the Tax Working Group's recommendation for the disclosure of IRD numbers on transfers of main homes as soon as possible. Therefore, there has been a relatively short time available to prepare this analysis, and consultation with key external stakeholders has been limited.

There has however been previous analysis of the current proposal. The requirement for an IRD number and overseas tax information to be provided upon transfer of property (with an exemption for the main homes of individuals) was introduced in 2015. The proposal to require IRD numbers and tax information numbers from main home owners was the preferred approach of Inland Revenue, as stated in the Regulatory Impact Statement that was prepared for the 2015 change¹.

Further, this recommendation was made by the Tax Working Group in its final report. The Group's recommendations to the Government to improve the fairness, structure and balance of the tax system were made following their consideration of public submissions.

There has been limited consultation specifically on the current policy proposal. One of the important reasons for consultation is identifying likely impacts of a policy proposal. We consider that this is a less complex proposal than most tax policy proposals, and therefore unintended consequences are less likely to occur. We have also considered the comments raised by submitters who commented in 2015 on the Land Transfer Act Amendment Bill which introduced the requirement to provide IRD numbers and overseas tax information upon transfer of property. Some of those submissions noted disadvantages with the main home exemption, which included the fact that the exemption was relatively complex. We intend to consult with key stakeholders on the legislative drafting and the design of the forms.

¹ The RIS prepared for the 2015 change can be found at: <http://taxpolicy.ird.govt.nz/publications/2015-ris-liopi-bill/overview>

Responsible Manager (signature and date):

Peter Frawley
Policy Manager
Policy and Strategy
Inland Revenue

17 May 2019

Section 2: Problem definition and objectives

2.1 What is the policy problem or opportunity?

Currently, transferors (sellers) and transferees (purchasers) must each complete a Land Transfer Tax Statement when a property is transferred. The Land Transfer Tax Statement collects information relating to property ownership, for statistical purposes and the purpose of improving compliance with the tax rules around property, including the rules targeting property speculation.

The tax information required for a Land Transfer Tax Statement includes the transferor or transferee’s IRD number and, if applicable, information about the person’s overseas tax residence (the person’s overseas tax information number (TIN) and the jurisdiction in which they are tax resident). The IRD number and property details are then supplied to Inland Revenue for use in its property tax compliance work. The overseas tax information is supplied to Inland Revenue to share with other countries in accordance with New Zealand’s tax treaties to help prevent global tax evasion.

Transferors and transferees are not currently required to include their IRD number and overseas tax information if the property transfer qualifies as a “non-notifiable transfer”. The most common reason a property transfer is a non-notifiable transfer is because the property being transferred is used as the transferor or transferee’s main home.²

However, trusts must still provide IRD numbers and overseas tax information, even if it is the settlor’s main home.

Problem

Initial analysis of property transactions by Inland Revenue to determine compliance with the bright-line rule³ has detected some non-compliance. (The level of non-compliance cannot be accurately determined owing, in part, to the incomplete tax information collected for transfers of main homes.)

The fairness of the tax system is undermined where taxpayers don’t comply with their tax obligations. Where Inland Revenue suspects instances of non-compliance with the property tax rules, it follows these up. However, having many transactions for which an IRD number is not supplied, based upon a non-notifiable transfer which is self-determined, makes it more difficult to detect and therefore remedy the true levels of non-compliance.

The main home exemption for IRD numbers creates a gap in information provided to Inland Revenue and consequently decreases the enforcement benefits from collecting tax information at the point of property transfer.

² A transfer cannot be a non-notifiable transfer if the transferor or transferee is an “offshore person” (for example, if they are a non-New Zealand resident and they do not have a residence class visa, or they are a citizen or hold a residence class visa but have not physically been in New Zealand for a certain period of time).

³ The bright-line rule was introduced in 2015 and originally deemed the disposal of residential land to be taxable if disposal occurred with 2 years of acquisition. It was amended in 2018 to now apply to residential property disposed of within 5 years of acquisition.

The transfer of a property may be taxable even when a person acquired the property intending to use it as their main home. For example, the sale of these properties can be taxable if:

- The person changes their use of the property from being their main home to being an investment property or similar (and the sale is taxable under the bright-line test or other land-sale rules).
- The person engages in a regular pattern of selling main homes (for example, habitual renovators).

Not requiring IRD numbers for people's main homes means Inland Revenue does not have visibility of these situations and means Inland Revenue is unable to obtain a full picture around overall compliance with, and ability to enforce, the property tax rules.

The exemption from providing information about the person's overseas tax residence means that the current rules are not as effective as they could be at deterring global tax evasion. It is well known internationally that the provision of TINs generally in third party reporting has a strong deterrent effect on tax evasion.

2.2 Who is affected and how?

The affected parties are property conveyancers and transferors and transferees of main homes. Property conveyancers would be required to include their clients' IRD numbers and any TINs on Land Transfer Tax Statements even if the property was or will be a client's main home. Transferees and transferors of main homes will need to ensure their IRD number and any TINs are provided to their property conveyancer.

2.3 Are there any constraints on the scope for decision making?

Due to the timelines we have been only been able to undertake limited consultation with external stakeholders. Therefore, we are unable to consider additional options stakeholders may have raised before seeking a Cabinet decision on the proposal.

Section 3: Options identification

3.1 What options have been considered?

The following criteria have been used to assess the options:

- Enforcement – the option should increase the effective enforcement of current tax rules relating to property transactions and help prevent non-residents from evading foreign tax on their transfer of New Zealand property.
- Compliance costs – the option should not unnecessarily increase compliance costs for property conveyancers and transferees and transferors of properties.
- Administration costs – the option should not unnecessarily increase administration costs for LINZ and Inland Revenue.

Option 1: Status Quo

Under the status quo, IRD numbers and overseas tax information (TINs and country of residence) are not required on the Land Transfer Tax Statement if the property was the transferor’s main home or will be the transferee’s main home.

Option 2: Require IRD numbers and TINs to be provided on the Land Transfer Tax Statement with an indicator of whether the property was or will be a main home (proposed option).

Under this option, IRD numbers and TINs would be required to be provided on the Land Transfer Tax Statement even if the property was or will be a main home. Under this option, transferees and transferors of property would still need to indicate on the Land Transfer Tax Statement whether the property was or will be a main home. However, it is intended to re-draft this test to make it simpler to apply than the existing “main home test”.

This option would be the best from an enforcement perspective. The provision of IRD numbers on all property transactions means Inland Revenue will have visibility of situations in which a transaction may be taxable despite involving a main home. Furthermore, the requirement to provide an IRD number on the Land Transfer Tax Statement for main homes may have a deterrent effect on people who may be considering tax evasion through property.

Requiring the provision of TINs when transferring main homes without exemptions will help to ensure that data provided to treaty partners is easily available to be matched to the correct person.

The retention of an indicator on the Land Transfer Tax Statement for whether a property is a main home would allow Inland Revenue to identify taxpayers who should be sent follow up information and correspondence advising of property tax rules and those who are unlikely to have tax obligations arising from the property transfer.

This option would result in a slight increase in compliance costs relative to the status quo as property conveyancers would need to obtain their client’s IRD number and any TINs and include these on the Land Transfer Tax Statement even if the property is a main home.

The RIS that was prepared for the 2015 change commented in relation to this option that: *“The actual compliance costs likely to be imposed by the proposal have not been accurately determined, but are not expected to be high given that identity verification information is already supplied to LINZ. A conveyancer is likely to spend an additional 1-5 minutes entering information into Landonline, resulting in an additional cost of between \$4 and \$20 for purchaser and seller.”* We do not have further information to suggest whether or not this assessment was correct.

In the year ended 30 June 2018 there were 179,178 property transfers. Since the Land Transfer Tax Statement was introduced until 28 February 2019 the main home exemption has been claimed by transferors 27% of the time and by transferees 37% of the time.

While this option would increase compliance costs for the 27% of transferors and 37% of transferees who claim the main home exemption (and their respective conveyancers), the provision of IRD numbers or overseas tax information is not an onerous compliance cost. We expect that the vast majority of individuals who own, or will own homes, will already have an IRD number, and be able to find it out relatively simply. Furthermore, the provision of IRD numbers is already required in many other situations such as when a person starts a new job, opens a bank account or switches KiwiSaver provider. Likewise, for homeowners who have a tax residence in another country, and who are not offshore persons, the provision of their TIN and country of tax residence is not expected to be an onerous compliance cost given that this information is now required in other circumstances when dealing with financial institutions (e.g. in order to open a New Zealand bank account).

However, there is a risk that as IRD numbers and overseas tax information would be required in more circumstances there may be an increase in instances of property transfers being held up owing to this information not being provided.

This option would result in a one-off increase in administration costs for Inland Revenue and LINZ compared to the status quo. These include updating relevant forms, changes to Landonline⁴ and slight modifications to the data interface between LINZ and Inland Revenue. Inland Revenue may also need to make some minor system changes to enable more efficient use of the data for compliance purposes.

The increased volume of IRD numbers provided will have a corresponding increase on the manual work required by Inland Revenue to correct any IRD numbers provided in error (which may involve checking with the conveyancer).

The option may also result in some small one-off administration costs for Statistics New Zealand related to updating systems to handle the changes to the Land Transfer Tax Statement. Inland Revenue and Statistics New Zealand may also need to alter the interface used to transfer some additional or altered Land Transfer Tax Statement information.

The total increase in administration costs from this option is not expected to be significant.

Option 3: Require IRD numbers and TINs to be provided on the Land Transfer Tax Statement with no indicator of whether the property was or will be a main home.

⁴ Landonline is an online transaction centre where property professionals can securely search, lodge and update title dealings and survey data.

Under this option, IRD numbers and TINs would be required to be provided on the Land Transfer Tax Statement even if the property was or will be a main home. However, unlike option 2, there would be no indicator on the form as to whether a property is or will be a main home.

While this option would likely be better from an enforcement perspective than the status quo, the lack of an indicator of whether a property was or will be a main home would make it difficult for Inland Revenue to distinguish between taxpayers who should be included in property compliance campaigns from those who are unlikely to have tax consequences under the property tax rules.

Like option 2, this option would result in a slight increase in compliance costs relative to the status quo as property conveyancers would need to obtain their client's IRD number and/or TIN and include this on the Land Transfer Tax Statement even if the property is a main home.

Where it is not clear whether a person's property is a main home, this option would likely reduce compliance costs slightly relative to the status quo as property conveyancers would not need to determine whether a property is a main home. While in many cases it will be obvious whether a property was or will be a main home, it can be difficult to determine in cases when a person owns multiple homes.

The administration costs of this option are comparable to option 2.

3.2 Which of these options is the proposed approach?

The proposed approach is option 2 as it would best enhance the effective enforcement of current tax rules relating to property. While this option would increase compliance and administration costs relative to the status quo, these increases in costs are likely to be low and are justified by the improvements to Inland Revenue's enforcement of tax rules relating to property.

The proposed approach is generally aligned with the Government's expectations for the design of regulatory systems. However, there has been limited opportunity for affected parties to comment on the proposal before it is formally proposed.

Section 4: Impact Analysis (Proposed approach)

4.1 Summary table of costs and benefits

Affected parties <i>(identify)</i>	Comment: nature of cost or benefit (eg ongoing, one-off), evidence and assumption (eg compliance rates), risks	Impact <i>\$m present value, for monetised impacts; high, medium or low for non-monetised impacts</i>
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Additional costs of proposed approach, compared to taking no action

Regulated parties	Small increase in on-going compliance costs for conveyancers and transferees and transferors of main homes due to the requirement to include tax information on the Land Transfer Tax Statement even if the property is a main home.	Low
Regulators	Small one-off administration costs for Inland Revenue and LINZ related to updating forms, Landonline and the data interface between LINZ and Inland Revenue. Small one-off administration costs for Statistics New Zealand related to updating systems to handle changes to the Land Transfer Tax Statement.	Low
Wider government	N/A	N/A
Other parties	N/A	N/A
Total Monetised Cost		N/A
Non-monetised costs		Low

Expected benefits of proposed approach, compared to taking no action

Regulated parties	N/A	N/A
Regulators	Increase in the quality of data provided to Inland Revenue leading to an increase in Inland Revenue's ability to enforce tax rules relating to property transactions.	Medium
Wider government	N/A	N/A
Other parties	Increased ability of overseas tax authorities to detect evasion, deterrence of tax evasion.	Low
Total Monetised Benefit		N/A
Non-monetised benefits		Medium

4.2 What other impacts is this approach likely to have?

There might be a small increase in the data quality available to Statistics New Zealand due to Inland Revenue's improved ability to verify data that has been provided. Acquiring IRD numbers for more transferors and transferees may also improve the ability for additional data to be linked to information gathered from Land Transfer Tax Statements to provide further statistical insights.

We do not anticipate that the proposed approach would have any other impacts.

Section 5: Stakeholder views

5.1 What do stakeholders think about the problem and the proposed solution?

The Government decided to implement the Tax Working Group's recommendation as soon as possible. Limited consultation on this proposal has been undertaken on the proposed approach owing to these timelines.

Feedback from stakeholders has been mixed but all acknowledged the rationale for removing the main home exemption.

One stakeholder commented that the proposal would be an improvement on the current process by moving towards a standardised approach for transfers. Another stakeholder commented that the proposal would provide Inland Revenue with richer data on which to enforce the brightline property rules.

One stakeholder noted that the current rules had bedded down and that there would be some compliance cost for conveyancing lawyers having to explain the change to clients who would now have to provide their IRD number. They commented that the increase in the number of IRD numbers received would also increase the compliance costs and time involved by Inland Revenue and lawyers to validate and correct any errors in the IRD numbers provided.

One stakeholder commented that given the proposal requires more people to provide IRD numbers, this process should be simplified as much as practicable. Two stakeholders also commented that it would be desirable to have the current forms streamlined.

A number of submissions were received when the requirement to provide IRD numbers to LINZ as part of the land registration process, but with an exemption for the main home, was being considered in 2015 by the Finance and Expenditure Select Committee (FEC). Several submitters to FEC commented that the exemption from providing IRD numbers and overseas tax information for transfers of main homes was problematic. Reasons for this lack of support were that it would increase complexity of the rules and reduce the usefulness of the information for Government. No submitters to the 2015 Bill expressed support for the exemption from providing tax information for transfers of main homes.

The proposed option would address those submitters' concerns that the exemption for transfers of main homes reduces the usefulness of the information for Government. It would address submitters' concerns around the complexity of the rules to some degree, as the

main home indicator is intended to be less complex than the current question relating to whether a property is a main home.

Section 6: Implementation and operation

6.1 How will the new arrangements be given effect?
<p>Following Cabinet approval of the proposed approach, the required amendments to the Land Transfer Act 2017 will be drafted for inclusion as a Supplementary Order Paper to the Taxation (Annual Rates for 2019-20, GST Offshore Supplier Registration, and Remedial Matters) Bill at the Committee of the whole House stage. The amendments to the Land Transfer Act 2017 would have a commencement date of 1 January 2020.</p> <p>The proposed option would require new forms to be developed in consultation with key stakeholders and for the required changes to be made in Landonline.</p> <p>Transitional provisions would be necessary to allow for contracts that have been entered into but not settled at commencement. People will have contracted on the basis of the rules at the time of signing and there is the potential for the legislative amendments to affect existing contracts and therefore impose unexpected compliance costs if transitional provisions are not enacted. The transitional provisions in Schedule 1AA of the Land Transfer Amendment Act 2015 (which introduced the Land Transfer Tax Statements) could serve as a model. For example, it could provide that transfers entered into on or before 1 January 2020 and registered before 1 July 2020 are still eligible for the exemption from providing IRD numbers and overseas tax information for transfers of main homes.</p> <p>Slight modifications would need to be made to the current LINZ/Inland Revenue data interface to reflect the proposed changes in the data being collected. Inland Revenue may also need to make some minor system changes to enable more efficient use of the data for compliance purposes. However, these changes are not expected to be significant.</p>

Section 7: Monitoring, evaluation and review

7.1 How will the impact of the new arrangements be monitored?
<p>Inland Revenue will monitor the outcomes to confirm that they match the policy objectives.</p> <p>Monitoring the impact of the new arrangements will be done through assessing how the additional data collected assists with the effective enforcement of the tax rules relating to property.</p>
7.2 When and how will the new arrangements be reviewed?
<p>Officials from Inland Revenue expect that, once the proposals are enacted, affected stakeholders will raise with them and/or LINZ any concerns they have with how the rules are working in practice. Any necessary changes identified as a result could be considered for addition to the Government’s tax policy work programme.</p>



Cabinet Economic Development Committee

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Collection of IRD Numbers for the Transfer of Main Homes

Portfolio **Revenue**

On 22 May 2019, the Cabinet Economic Development Committee:

- 1 **noted** that the Land Transfer Act 2017 contains tax statement requirements, which must be completed by both transferors and transferees when land is transferred;
- 2 **noted** that the Tax Working Group recommended the disclosure of IRD numbers as part of the tax statement when the transfer involves a main home;
- 3 **agreed** to remove the exemption from providing a person's IRD number and, if applicable, any tax identification numbers (and jurisdiction of tax residence) when the transfer of property relates to the person's main home;
- 4 **agreed** to retain an indicator on the Land Transfer Tax Statement to identify where it is a person's main home;
- 5 **agreed** that the amendments giving effect to the proposals in paragraphs 3 and 4 above come into effect from 1 January 2020;
- 6 **agreed** to a transitional provision to address situations where transfers have been entered into on the basis of the current requirements;
- 7 **agreed** that the above proposals be included in a Supplementary Order Paper to the Taxation (Annual Rates for 2019-20, GST Offshore Supplier Registration, and Remedial Matters) Bill at the Committee of the whole House stage.

Janine Harvey
Committee Secretary

Hard-copy distribution: (see over)

Present:

Hon Grant Robertson (Chair)
Hon Phil Twyford
Hon Dr Megan Woods
Hon Nanaia Mahuta
Hon Stuart Nash
Hon Iain Lees-Galloway
Hon Jenny Salesa
Hon Kris Faafoi
Hon James Shaw

Officials present from:

Office of the Prime Minister
Officials Committee for DEV

Hard-copy distribution:

Minister of Revenue