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GENERAL REFLECTIONS

- IMPOSSIBLE TO KEEP UP WITH TAX CHANGES
- NEW TAX OBLIGATIONS/FINE-TUNING EXISTING OBLIGATIONS
- 39% TAX RATE ON INDIVIDUAL INCOME OVER \$180,000
- BRIGHT-LINE TEST EXTENDED TO 10 YEARS
- CHANGES TO INTEREST DEDUCTIBILITY RESIDENTIAL PROPERTY
- NEW DISCLOSURE REQUIREMENTS FOR TRUSTEES
- CONSTANT FLOOD OF IR COMMENTARIES
- CGT: ELEPHANT IN ROOM

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CHANGES TO BRIGHT-LINE TEST

- EXTENSION BRIGHT-LINE TEST TO 10-YEARS OF OWNERSHIP
- TAXED ON INCREASES VALUE RESIDENTIAL PROPERTY (CGT)
- AMENDMENT APPLIES TO ACQUISITIONS RESIDENTIAL PROPERTY ON OR AFTER 27 MARCH 2021
- 5-YEAR OWNERSHIP TEST “NEW BUILDS” (RETROSPECTIVE LAW CHANGE WILL CLARIFY WHAT THESE COMPRISE)
- MODIFICATIONS “MAIN HOME” EXEMPTION
- SHORT-STAY ACCOMMODATION (NOT OWNER’S MAIN HOME) CAUGHT

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CHANGES TO BRIGHT-LINE TEST

- RESIDENTIAL PROPERTY ACTUALLY USED AS MAIN HOME STILL EXEMPT IF MAIN HOME USED ENTIRE TIME OF 10-YEAR BRIGHT-LINE PERIOD
- PREDOMINANT (50%) USE OF MAIN HOME IN BRIGHT-LINE PERIOD CHANGES TO “FOR ALL THE DAYS IN BRIGHT-LINE PERIOD PREDOMINANTLY USED...”
- NEW CHANGE OF USE RULE FOR MAIN HOME FOR ANY YEAR NOT USED AS MAIN HOME WITHIN 10-YEAR PERIOD (12-MONTH CHANGE OF USE BUFFER)
- GAINS ATTRIBUTABLE TO PERIOD PROPERTY NOT USED AS MAIN HOME SUBJECT TO INCOME TAX

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CHANGES TO BRIGHT-LINE TEST

- OTHER LAND TAXING RULES STILL TRUMP S CB 6A
- NEW QUANTIFICATION FORMULA (S CB 6A(6)) CHANGE-IN-USE
- INTEREST DEDUCTIONS ON RESIDENTIAL PROPERTY ACQUIRED ON OR AFTER 27 MARCH 2021 NOT ALLOWED FROM 1 OCTOBER 2021
- DETAILS OF AN ALLOWANCE OF INTEREST DEDUCTIONS STILL BEING WORKED ON
- INTEREST ON EXISTING LOANS FOR RESIDENTIAL INVESTMENT PROPERTIES PHASED-OUT NEXT 4 INCOME YEARS (2025–26 AND LATER INCOME YEARS “NO DEDUCTION INTEREST”)

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CHANGES TO BRIGHT-LINE TEST

- LOANS FOR PRE-27 MARCH 2021 PROPERTIES TREATED AS NEW LOANS
- PROPERTY DEVELOPERS PAY TAX ON DISPOSAL GAINS NOT AFFECTED

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CHANGES TO TOP TAX RATE

- PERSONAL SERVICES INCOME OVER \$180,000, 39% 1 APRIL 2021
- DISTORTIVE WIDENING TAX GAPS ENCOURAGES TAX AVOIDANCE
- COMPANY TAX RATE (28%), TRUSTEE RATE (33%)
- LESSONS FROM PAST, TAXPAYERS WILL RESTRUCTURE AFFAIRS
- TAXING SO-CALLED "WEALTHY", POOR TAX POLICY

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OTHER CHANGES LINKED TO TAX RATE CHANGE

- REVENUE ALERT RA 21/01 WILL LOOK AT RELATED ENTITY ACTIVITIES
- *PENNY & HOOPER*, STILL APPLIES
- NEW GUIDANCE, *PUB00321* PERSONAL SERVICES ATTRIBUTION RULE (BEING FINALISED)
- NEW TRUST DISCLOSURE RULES

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NEW TRUST DISCLOSURE RULES

- IR NOT SURE HOW TRUST ELECTION MECHANISM WORKING: AMENDMENTS TAX ADMINISTRATION ACT
- IS THERE SIGNIFICANT TAX LEAKAGE NON-MINOR BENEFICIARIES NOT PAYING 33% (39%)
- RETURNS 2021-22 LATER YEARS
- FOCUS SETTLORS/BENEFICIARIES/OR OTHERS NOT DISCLOSED
- EXCLUSIONS NON-ACTIVE TRUSTS, FOREIGN TRUSTS DISCLOSURE OBLIGATIONS UNDER S 59D, CHARITIES REGISTERED AS BOARD

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RECENT CASES

MADSEN-RIES/LEVIN V COOPER [2020] NZSC 100

- WINDING-DOWN OF PROPERTY DEVELOPMENT COMPANY LEAVING GST SHORTFALL \$450,099.
- HAD DIRECTOR (D) BREACHED DIRECTOR'S COMPANY LAW DUTIES
- SUPREME COURT CONFIRMED YES, D KNEW GST NEVER GOING TO BE PAID
- TRUST- RELATED LOAN TO COMPANY WITH GSA NOT ENFORCEABLE (IN PART) TRUST CONTROLLED AND GUARANTOR LOANS
- CASE EMPHASIS IMPORTANCE NOT CONTINUING TO TRADE IF SOLVENCY RISK AND "ROBBING PETER TO PAY PAUL"

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