

Land Transfer Amendment Bill

(Divided from the Taxation (Land Information and Offshore Persons Information)
Bill)

Government Bill

As reported from the committee of the whole House

This Bill was formerly part of the Taxation (Land Information and Offshore Persons Information) Bill as reported from the Finance and Expenditure Committee. The committee of the whole House has further amended the Bill and divided it into the following Bills:

- this Bill comprising clauses 1 and 2, Part 1, and the Schedule
- Tax Administration Amendment Bill comprising Part 2.

Land Transfer Amendment Bill

Key to symbols used in reprinted bill

As reported from the committee of the whole House

text inserted

~~text deleted~~

Hon Louise Upston

Land Transfer Amendment Bill

Government Bill

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The Parliament of New Zealand enacts as follows:

1	Title	
	This Act is the Land Transfer Amendment Act 2015 .	
2	Commencement	
	This Act comes into force on 1 October 2015.	5
3	Principal Act	
	This Act amends the Land Transfer Act 1952 (the principal Act).	
3A	New section 2AA inserted (Transitional, savings, and related provisions)	
	After section 2, insert:	
2AA	Transitional, savings, and related provisions	10
	The transitional, savings, and related provisions set out in Schedule 1AA have effect according to their terms.	
4	New sections 156A to 156I and cross-heading inserted	
	After section 156, insert:	
	<i>Tax statement required for registration of instrument to transfer some estates in land</i>	15
156A	Interpretation	
(1)	For the purpose of this section and sections 156B to 156I , unless the context otherwise requires,—	
	certifier means a person who provides the certification for a transferor or a transferee in accordance with section 164A for a transfer of a specified estate in land	20
	chief executive means the chief executive of the department	
	main home means, for a person, the 1 dwelling—	
(a)	that is mainly used as a residence by the person (a home); and	25
(b)	with which the person has the greatest connection, if they have more than 1 home	

- nominee** has the meaning given to it in **section YB 21(2)** of the Income Tax Act 2007
- offshore person** has the meaning given to it in section 3(1) of the Tax Administration Act 1994
- specified estate in land** means— 5
- (a) freehold estates, including fee simple and life estates; and
 - (b) leasehold estates; and
 - (c) stratum estates in freehold within the meaning of the Unit Titles Act 2010; and
 - (d) stratum estates in leasehold within the meaning of the Unit Titles Act 2010; and 10
 - (e) licences to occupy (as defined in section 121A(1)); and
 - (f) any other estate in land declared to be a specified estate in land by regulations made under this Act
- tax information** means the information specified in a tax statement in accordance with— 15
- (a) **section 156C(1)(b) to (d) and (if applicable) (2)**; and
 - (b) if applicable, **section 156D**
- tax statement** means a statement that is completed and given in accordance with— 20
- (a) **sections 156B and 156C**; and
 - (b) if applicable, **section 156D**.
- (2) For the purpose of this section and **sections 156B to 156I**, **non-notifiable transfer**—
- (a) means,— 25
 - (i) in relation to a transferee who is a natural person, the transfer of land that is intended to be used predominantly for a dwelling that will be the transferee’s main home:
 - (ii) in relation to a transferor who is a natural person, the transfer of land that has been used predominantly, for most of the time the transferor owned the land, for a dwelling that was the transferor’s main home: 30
 - (iii) any other transfer specified in regulations made under this Act as a non-notifiable transfer; but
 - (b) does not include— 35
 - (i) a transfer described in **paragraph (a)(i)** if the transferee will own the land as a trustee:

<ul style="list-style-type: none"> (ii) a transfer described in paragraph (a)(ii) if the transferor owned the land as a trustee: (iii) a transfer described in paragraph (a)(ii) if the transferor has relied on that paragraph at least 2 times within the 2 years immediately preceding the date of the transfer to claim that transfers were non-notifiable transfers: (iv) any transfer, in relation to a transferee or a transferor who is an offshore person. 	5
156B Transferors and transferees must provide tax statement stating that transfer non-notifiable or providing tax information	10
(1) An instrument to transfer a specified estate in land is not in order for registration unless—	
(a) each of the transferors and transferees completes a tax statement; and	
(b) the tax information in that statement is given to the chief executive in accordance with subsection (2) or (3) .	15
(2) If the instrument is an electronic instrument,—	
(a) the transferor or transferee must give the tax statement to the certifier; and	
(b) the certifier must give the tax information in that statement to the chief executive by lodging the information in an electronic workspace facility approved by the Registrar under section 22 of the Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002 when lodging the instrument for registration.	20
(3) If the instrument is a paper instrument, the tax statement must be attached to the instrument when the instrument is lodged for registration in accordance with section 47.	25
156C Content of tax statement	
(1) A tax statement completed by or on behalf of a transferor or transferee must—	
(a) be signed by the transferor or transferee; and	
(b) be dated on the date on which it was signed; and	30
(c) state the transferor or transferee’s full name; and	
(ca) state whether the transfer is of land that has a home on it; and	
(cb) state whether the transferor or, as the case may be, the transferee, or a member of that person’s immediate family, is a New Zealand citizen or a holder of a resident visa, work visa, or student visa; and	35
(cc) in the case of a transferee, if the transferee or a member of the transferee’s immediate family is a holder of a work visa or student visa, state	

- whether the transferee or a member of the transferee's immediate family intends living on the land; and
- (d) either—
- (i) state that the transfer instrument is for a non-notifiable transfer (or, as the case may be, is, in respect of the transferor or transferee making the statement, a non-notifiable transfer) and specify the category of that non-notifiable transfer; or
- (ii) provide all of the information set out in **subsection (2)**.
- (2) The information must include all of the following:
- (a) the transferor or transferee's IRD number; and
- (b) whether the transferor or transferee (without taking into account any double tax agreement that would otherwise apply) is, or is not, treated as tax resident in a jurisdiction other than New Zealand as at the date of the statement; and
- (c) if the transferor or transferee is (without taking into account any double tax agreement that would otherwise apply) treated as tax resident in a jurisdiction other than New Zealand as at the date of the statement,—
- (i) the name of that jurisdiction; and
- (ii) the country code for that jurisdiction as prescribed by the Commissioner of Inland Revenue; and
- (iii) the equivalent of the transferor or transferee's IRD number in that jurisdiction.
- (3) However, if a transferor or transferee is—
- (a) acting in the capacity of the trustee of a trust, the information must relate to the trustee in that capacity; or
- (b) acting as a nominee or under a power of attorney, the information must relate to the person who made the nomination or granted the power of attorney; or
- (c) acting in the capacity of a partner in a partnership, the information must relate to the partnership; or
- (d) a person acting on behalf of an unincorporated body, the information must relate to the unincorporated body.
- (4) To avoid doubt, a transferor or transferee who does not have an IRD number must request one for the purpose of providing the information required by **subsection (2)(a)**.
- (5) In this section, **IRD number** has the meaning given to tax file number by section 3(1) of the Tax Administration Act 1994.
- (6) For the purpose of **subsection (1)(ca)**, **home** means a dwelling mainly used as a residence.

156D Omissions and errors

- (1) An omission or error in any tax information provided in accordance with **section 156B(2) or (3)** must be corrected as follows:
- (a) if the tax information in a tax statement was incorrect, the transferor or transferee must complete a corrected tax statement in accordance with **section 156C** and, if applicable, give it to the relevant certifier in accordance with **section 156B(2)(a)**: 5
 - (b) if the incorrect tax information was given to the chief executive by lodging the information in an electronic workspace facility in accordance with **section 156B(2)(b)**, the certifier must lodge the corrected tax information in an electronic workspace facility: 10
 - (c) if the incorrect tax information was given to the chief executive by attaching a tax statement to an instrument in accordance with **section 156B(3)**, the corrected tax statement must be given to the chief executive. 15
- (2) An omission or error in any tax information provided in accordance with **section 156B(2) or (3)**, or any other failure to comply with **sections 156B and 156C**, does not—
- (a) affect the validity of any registration of an instrument to transfer a specified estate in land; or 20
 - (b) give rise to any liability of, or claim for compensation from, the chief executive, the Registrar-General, or the Crown.

156E Offence to provide false or misleading tax information

- (1) A person commits an offence if the person gives a tax statement to a certifier or the chief executive in accordance with **section 156B(2) or (3) or section 156D** that, to the person's knowledge or with intent to deceive, contains false or misleading tax information. 25
- (2) A person who commits an offence under **subsection (1)** is liable,—
- (a) the first time the person is convicted, to a fine not exceeding \$25,000; and 30
 - (b) on every other occasion the person is convicted, to a fine not exceeding \$50,000.

156F Chief executive must supply tax information to Commissioner of Inland Revenue

- (1) The chief executive must supply to the Commissioner of Inland Revenue tax information and details about the transfer or transfers to which the tax information relates that are held by Land Information New Zealand. 35

- (2) The chief executive and the Commissioner may, for the purpose of this section, determine by written agreement between them, in relation to the information that must be supplied under **subsection (1)**,—
- (a) the frequency with which the information must be supplied; and
 - (b) the form in which the information must be supplied; and
 - (c) the method by which the information must be supplied.
- (3) **Subsection (1)** applies despite anything in the Domestic Violence Act 1995.

156FA Other provisions concerning use of tax information

The chief executive may release the information specified in **section 156C(1)(ca), (cb), (cc), and (d), (2)(b), and (c)(i) and (ii)** that is held by Land Information New Zealand, or give that information to any person as soon as practicable after receiving a request in writing from the person, provided that information is given—

- (a) in aggregate form only; and
- (b) in a manner that prevents any particular person, estate in land, or transaction from being identified.

156G Certifier and chief executive must hold tax statement and provide copies

- (1) A certifier must—
- (a) retain each tax statement given to him or her in accordance with **section 156B(2) or 156D** for 10 years; and
 - (b) give a copy of that statement to the Commissioner of Inland Revenue as soon as practicable after receiving a request in writing from the Commissioner.
- (2) The chief executive must—
- (a) retain each tax statement given to him or her in accordance with **section 156B(3) or 156D** for 10 years; and
 - (b) give a copy of that statement to the Commissioner of Inland Revenue as soon as practicable after receiving a request in writing from the Commissioner.

156H Status of tax information

- (1) The chief executive and certifiers must not use tax information, or disclose tax information to any person, except as set out in **sections 156B, 156D, 156F, 156FA, 156G, and 156I**, or as authorised or required by order of a court.
- (2) Tax information does not form part of the register and must not be made accessible to the public.

156I Disclosure of information between authorised persons

- (1) No obligation as to secrecy or other restrictions imposed by an enactment or otherwise on the disclosure of information prevents—
- (a) an authorised person from disclosing tax information to another authorised person for the purpose of **sections 156B, 156D, 156F, 156FA, and 156G**; or 5
 - (b) an authorised person from disclosing to another authorised person any information for the purpose of verifying tax information; or
 - (c) an authorised person from disclosing to another authorised person any information for the purpose of administering the Inland Revenue Acts, to the extent that the administration of those Acts concerns tax information; or 10
 - (d) an authorised person from disclosing to another authorised person any information for the purpose of detecting, investigating, or prosecuting a potential offence under **section 156E**. 15
- (2) In this section,—
- authorised person** means—
- (a) the Commissioner of Inland Revenue or an Inland Revenue officer who is authorised by the Commissioner to disclose and receive information under this section; or 20
 - (b) the chief executive, or an employee of the department who is authorised by the chief executive to disclose and receive information under this section 25
- Inland Revenue Acts** has the meaning given in section 3(1) of the Tax Administration Act 1994. 25

5 Section 164B amended (Who may give certification)

- (1) In section 164B(2)(c), replace “section 164C” with “**section 156B(2)(b), 156D(1)(b), 156G**, or 164C”.
- (2) In section 164B(4)(b), replace “section 164C” with “**sections 156B(2)(b), 156D(1)(b), 156G**, and 164C”. 30

6 Section 236 amended (Regulations)

- (1) After section 236(1)(h), insert:
- (ha) for the purposes of **sections 156A and 156B** (and where the conditions in **subsection (4)** of this section are satisfied),— 35
 - (i) specifying transfers of specified estates in land that are exempt from the requirements of **section 156B**, including by reference to the nature of the transferor, transferee, transaction, type of estate in land, class of estate in land, or otherwise:

- (ii) specifying transfers of specified estates in land that are non-notifiable transfers (which may be non-notifiable in relation to the transferee, the transferor, or both), including by reference to the nature of the transferor, transferee, transaction, type of estate in land, class of estate in land, or otherwise: 5
- (hb) declaring estates in land that are specified estates in land for the purposes of **section 156A**:
- (2) After section 236(3), insert:
- (4) Regulations may be made under **subsection (1)(ha)** only on the recommendation of the Minister for Land Information, if the Minister is satisfied that— 10
 - (a) requiring persons to comply with the requirements of **section 156B** in the case of the transfers proposed to be specified as exempt or non-notifiable would be impractical or involve high compliance costs; or
 - (b) there is a low risk of tax avoidance in relation to the transfers proposed to be specified as exempt or non-notifiable. 15
- 6A New Schedule 1AA inserted**
 Insert the **Schedule 1AA** set out in the Schedule of this Act as the first schedule to appear after the last section of the principal Act.
- 7 Consequential amendment to Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002** 20
 - (1) This section amends the Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002.
 - (2) After section 23(1)(b), insert:
 - (ba) the instrument is associated with the information required under **section 156B(2)** of the principal Act; and 25

Schedule
New Schedule 1AA inserted

s 6A

Schedule 1AA
Transitional, savings, and related provisions

5

s 2AA

Part 1
Provisions relating to Land Transfer Amendment Act 2015

1 ~~Application of sections 156A to 156I~~

Nothing in ~~sections 156A to 156I~~ applies in respect of a transfer of land that was settled before 1 October 2015.

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1 Application of sections 156A to 156I

Sections 156A to 156I do not apply to any transfer of land if—

(a) the contract for the transfer of the land was entered into before 1 October 2015; and

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(b) the transfer is registered on or before 1 April 2016.

Legislative history

9 September 2015

Divided from Taxation (Land Information and Offshore Persons Information) Bill (Bill 34–2) as Bill 34–3A