

# House of Representatives

# Amendment Paper

## Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Bill

### *Proposed amendments*

Hon Simon Watts, in Committee, to move the following amendments:

#### *Clause 2*

In *clause 2(2)*, replace “**12**” (page 11, line 9) with “**12(1) and (2)**”.

In *clause 2(7)*, replace “**59(6)**” (page 11, line 21) with “**22F, 25D, 59(6) and (11BA)**”.

In *clause 2(9)*, replace “**8**” (page 11, line 24) with “**8(1) and (2)**”.

In *clause 2(16)*, replace “**91Q**” (page 12, line 12) with “**91QB**”.

Replace *clause 2(17)* (page 12, lines 13 to 15) with:

- (17) **Sections 10, 12(1B), 13, 15B, 17, 19B, 21BB, 21BC, 21DB, 21EB, 22C, 22D, 22E, 22G, 22H, 22I, 22J, 22K, 25B, 25C, 27B, 30BA, 30BAD, 30BAE, 30BAF, 30BAG, 31, 32, 33, 35, 36, 39, 46, 47, 55B(2), 55C, 57, 59(3B), (6B), (8B), (9), (10), (10BA), (11B), (11C), (12BA), (13E), (13G), (15), (15B) (15C), (15CB), (15EB), (15EC), (16), (17), and (19), 62, 64C, 66E, 67BB, 76D, and 86** come into force on 1 April 2024.

Replace *clause 2(18)* (page 12, line 16) with:

- (18) **Sections 8(3), 9(1E), 29B, 59(5B), (5C), (5D), (11D), and (11E), 64D, 77D, 85, 89E, 89F, and 89G** come into force on 1 July 2024.

In *clause 2(19B)*, replace “**Section 56** comes” (page 12, line 20) with “**Sections 16BA, 21BA, 21BAB, 21BD, 21BE, 21BF, 21BG, 21DC, 22B, 30BAB, 30BAC, 56, 59(1B) and (6C), and 62B** come”.

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*Clause 8*

In the heading to *clause 8*, replace “**amended**” (page 14, line 5) with “**amended and replaced**”.

After *clause 8(2)* (page 14, after line 8), insert:

- (3) Replace section CB 6A with:

**CB 6A Disposal within 2 years: bright-line test for residential land**

*Income if land disposed of within 2 years*

- (1) An amount that a person derives from disposing of residential land is income of the person if the person’s bright-line end date is within 2 years of their bright-line start date.

*Meaning of bright-line start date*

- (2) A person’s **bright-line start date** for their disposal of residential land is given in column 3 of the following table if the condition in column 2 of the relevant row is met for the person and the disposal:

Row	Condition to be satisfied	Bright-line start date for person’s disposal of residential land
1	If none of the other rows apply	The date on which the instrument to transfer the land to the person was registered under the Land Transfer Act 2017
2	Land outside New Zealand	The date on which the instrument to transfer the land to the person was registered under foreign laws of a similar nature to the Land Transfer Act 2017
3	An instrument to transfer the land to the person was not registered before the person’s bright-line end date	The date the person acquired an estate or interest in the land under section CB 15B
4	The land was acquired from another person on completion of a land development or subdivision	The date the sale and purchase agreement for the developed or subdivided land was entered into
5	The land results from the person subdividing their land (the <b>undivided land</b> )	The person’s bright-line start date for the undivided land
6	The land is a freehold estate converted from a lease with perpetual right of renewal	The date of the grant of the leasehold estate
7	A joint tenancy is converted to a tenancy in common or a tenancy in common is converted to a joint tenancy	To the extent the person’s share or notional share in the land is unchanged, the person’s bright-line start date for the land before the conversion

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8	A change of trustees	Where land is transferred from a trustee of a trust ( <b>trustee A</b> ) to another trustee of the trust ( <b>trustee B</b> ) as a result of a change in trustees, trustee B's bright-line start date is the bright-line start date trustee A had for the land
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**How to use this table:** Read column 2 from top to bottom to find the condition that applies. For the condition in column 2 that is met, the person's bright-line start date is the date in column 3 of that same row.

*Transfers of land to and from existing landowners*

- (3) For the purposes of **subsection (2)**, when a person who owns land (**pre-existing land**) has more land transferred to them (the **transferred land**) or transfers part of their pre-existing land (also the **transferred land**) to another person, the instrument of transfer for the transferred land is treated as being for the transferred land only and not being for the pre-existing land.

*Meaning of bright-line end date*

- (4) **Bright-line end date**, for a person's disposal of residential land, means—
- (a) the earliest of—
    - (i) the date the person enters into an agreement for the disposal:
    - (ii) the date on which the person makes a gift of the land:
    - (iii) the date on which the land is compulsorily acquired under any Act by the Crown, a local authority, or a public authority:
    - (iv) if there is a mortgage secured on the land, the date on which the land is disposed of by or for the mortgagee because the mortgagor defaulted; or
  - (b) if none of **paragraphs (a)(i) to (iv)** apply, the date on which the estate or interest in the land is disposed of.

*When this section does not apply*

- (5) This section does not apply to a person's disposal of residential land if—
- (a) any of sections CB 6 to CB 12 apply:
  - (b) **section CB 16A** applies:
  - (c) section FC 9 (Residential land transferred to executor, administrator, or beneficiary on death of person) applies.

*Relationship with subject matter*

- (6) This section is modified by sections FB 3A, FO 10 and FO 17 (which provide rollover relief for land transferred on settlement of

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relationship property or company amalgamation) and **subpart FD** (Rollover relief from the bright-line test).

Defined in this Act: amount, bright-line end date, bright-line start date, dispose, income, land, lease, leasehold estate, local authority, mortgage, New Zealand, own, public authority, residential land, trust, trustee, year

- (4) **Subsection (3)** applies to a person’s disposal of residential land if the bright-line end date for the land, as defined in the Income Tax Act 2007, is on or after 1 July 2024.

*Clause 9*

In the heading to *clause 9*, replace “**amended**” (page 16, line 14) with “**amended and replaced**”.

After *clause 9(1D)* (page 16, after line 37), insert:

- (1E) Replace section CB 16A with:

**CB 16A Main home exclusion for disposal within 2 years**

*Main home exclusion*

- (1) **Section CB 6A** does not apply to a person who disposes of residential land if the land has been used predominantly, for most of the time the person owned the land, for a dwelling that was the main home of—
- (a) the person; or
  - (b) a beneficiary of a trust, if the person is a trustee of the trust and—
    - (i) a principal settlor of the trust does not have a main home; or
    - (ii) if a principal settlor of the trust does have a main home, it is that main home that the person is disposing of.

*Modified rule for constructing main home*

- (2) For the purposes of determining under **subsection (1)** whether residential land has been used for most of the time the person owned the land predominantly for a dwelling that was the main home of the person or a beneficiary of a trust, as described in **subsection (1)**, the period in which the dwelling was constructed is ignored.

*When this section does not apply*

- (3) The exclusion in **subsection (1)** does not apply to a person who disposes of residential land if—

- (a) the exclusion has been used by the person twice within the 2 years immediately preceding the bright-line end date for the residential land:
- (b) the person has engaged in a regular pattern of acquiring and disposing of residential land described in **subsection (1)**.

*Person may include group of persons*

- (4) For the purposes of **subsection (3)(b)**, person includes a group of persons if the requirements of **subsection (5)** are met.

*Meaning of group of persons*

- (5) For the purposes of **subsection (4)**, a **group of persons**—
  - (a) means 2 or more persons when together all the persons occupy, or have occupied, residential land described in **subsection (1)**; and
  - (b) includes a person other than a natural person (the **non-natural person**) if another person referred to in **paragraph (a)** has significant involvement in, or control of, the activities of the non-natural person. For the avoidance of doubt, if the other person can direct, alone or as part of a group, the activities of the non-natural person, they have significant involvement in, or control of, the activities of the non-natural person.

Defined in this Act: bright-line end date, dispose, dwelling, group of persons, land, main home, own, principal settlor, residential land, trust, trustee, year

- (1F) **Subsection (1E)** applies to a person’s disposal of residential land if the bright-line end date for the land, as defined in the Income Tax Act 2007, is on or after 1 July 2024.

*Clause 12*

After *clause 12(1)* (page 17, after line 31), insert:

- (1B) In section CH 8(2)(a), replace “Disposals” with “Certain disposals”.

*New clause 16BA*

After *clause 16* (page 19, after line 32), insert:

**16BA Section CW 62C repealed (Income from foreign-currency loans  
used for disallowed residential property)**

Repeal section CW 62C.

*New clause 19B*

After *clause 19* (page 26, after line 16), insert:

**19B Section CZ 38 repealed (Disposals of trading stock to non-associates without business purpose)**

Repeal section CZ 38.

*New clauses 21BA and 21BAB*

After *clause 21* (page 29, after line 13), insert:

**21BA Section DB 7 amended (Interest: most companies need no nexus with income)**

Repeal section DB 7(6C).

**21BAB Section DB 8 amended (Interest: money borrowed to acquire shares in group companies)**

Repeal section DB 8(6C).

*New clauses 21BB to 21BG*

After *clause 21B* (page 32, after line 16), insert:

**21BB Section DB 59 amended (Market value substituted)**

In section DB 59(2)(a), replace “Disposals” with “Certain disposals”.

**21BC New section DB 65B inserted (Allowance for embedded fit-out of certain commercial buildings)**

- (1) Before section DB 66 and the cross-heading **Feasibility expenditure**, insert:

**DB 65B Allowance for embedded fit-out of certain commercial buildings**

*When this section applies*

- (1) This section applies when—
- (a) a person owns a commercial building and the building is depreciable property with an annual rate of 0% in an income year; and
  - (b) the building was acquired in the 2010–11 or an earlier income year; and
  - (c) the person has never had a deduction for commercial fit-out that was acquired at the same time as the building and relates to the building other than under—
    - (i) this section;
    - (ii) section DB 65, as in force before its repeal by section 4 of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020.

*Deduction for commercial fit-out*

- (2) Except as provided in **subsection (4)**, the person is treated as having a loss for the income year equal to the amount calculated using the formula—

$$\text{starting pool} \times 0.015 \times \text{whole months} \div 12.$$

*Calculation of starting pool*

- (3) Starting pool is the amount given by the formula—

$$(0.15 \times \text{building atv}) - \text{fit-out atv}.$$

*Deduction limited to value of starting pool*

- (4) Despite **subsection (2)**, if the amount given by the formula in **subsection (2)** is more than the amount given by the formula in **subsection (5)**, then the person is treated as having a loss for the income year equal to the amount given by the formula in **subsection (5)**.

*Calculation of deduction limit*

- (5) For the purposes of **subsection (4)**, the formula is—

$$\text{starting pool} - \text{historical fit-out deductions} - \text{fit-out deductions} - \text{imputed deductions}.$$

*Imputed deductions*

- (6) The amount of the imputed deductions is—

$$\text{starting pool} \times 0.015 \times 4.$$

*Definition of items in formulas*

- (7) In the formulas in **subsections (2), (3), (5), and (6)**, as applicable, —

(a) **starting pool** is the amount given by the formula in **subsection (3)**:

(b) **whole months** is the number of whole months in the income year in which the building is used, or is available for use, by the person in deriving assessable income or carrying on a business for the purpose of deriving assessable income:

(c) **building atv** is the adjusted tax value of the building that results for the 2010–11 income year after all relevant amounts for that income year have been subtracted under subpart EE (Depreciation):

(d) **fit-out atv** is the total adjusted tax value of all items of commercial fit-out that results for the 2010–11 income year after all relevant amounts for that income year have been subtracted under subpart EE if—

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- (i) the items of commercial fit-out relate to the building and were acquired after the building was acquired; and
  - (ii) the person has had a deduction for an amount of depreciation loss for the items of commercial fit-out:
- (e) **historical fit-out deductions** is the total amount of a person’s deductions allowed under section DB 65, as in force before its repeal by section 4 of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020, for income years before the 2020–21 income year:
- (f) **fit-out deductions** is the total amount of deductions the person has claimed under this section for all income years:
- (g) **imputed deductions** is the amount given by the formula in **subsection (6)**, being the total amount of deductions the person would have received for the 2020–21 to 2023–24 income years if this section applied from the beginning of the 2020–21 income year to the end of the 2023–24 income year.

*Treatment of amounts under specific and general rules for deductions*

- (8) The capital limitation does not apply to a loss under this section merely because the item of property is itself of a capital nature.

Defined in this Act: adjusted tax value, amount, assessable income, capital limitation, commercial building, commercial fit-out, deduction, depreciable property, depreciation loss, income year

- (2) **Subsection (1)** applies for the 2024–25 and later income years.

**21BD Section DG 2 amended (Application of this subpart)**

Repeal section DG 2(3B).

**21BE Section DG 5 amended (Meaning and treatment of interest expenditure for this subpart)**

- (1) Repeal section DG 5(2)(d).
- (2) In section DG 5, list of defined terms, delete “beneficiary”, “disallowed residential property”, and “interposed residential property holder”.

**21BF Section DG 10 amended (Interest expenditure rules)**

- (1) Repeal section DG 10(1B).
- (2) In section DG 10, list of defined terms, delete “beneficiary”, “disallowed residential property”, and “interposed residential property holder”.



**21BG Section DG 14 amended (Interest expenditure: non-corporate shareholders)**

Repeal section DG 14(4).

*New clauses 21DB and 21DC*

After *clause 21D* (page 33, after line 5), insert:

**21DB Section DH 8 amended (Deduction not allowed)**

- (1) Replace section DH 8(2) with:

*Denial limited*

- (2) The amount of the deduction denied for interest described in subsection (1) is limited to the following percentage for the following period:

Period that interest is incurred	Percentage denied
1 April 2024 – 31 March 2025	20%

- (2) In section DH 8(3), replace “quarterly interposed residential property percentage” with “quarterly interposed residential property percentage × denial percentage”.

- (3) After section DH 8(4)(b), insert:

(c) **denial percentage** is the percentage denied in the table in **subsection (2)** for the period.

**21DC Subpart DH repealed (Interest incurred in relation to certain land)**

Repeal subpart DH.

*New clause 21EB*

After *clause 21E* (page 34, after line 5), insert:

**21EB Section DP 10 amended (Cost of acquiring timber or right to take timber: other cases)**

- (1) In section DP 10(2), words before the paragraphs, delete “EB 24,”.
- (2) Repeal section DP 10(2)(a).
- (3) In section DP 10(2)(c), replace “Disposals” with “Certain disposals”.
- (4) In section DP 10, list of defined terms, delete “pay”.

*New clauses 22B to 22K*

After *clause 22* (page 35, after line 6), insert:

**22B New section DZ 24 (Amounts denied before 1 April 2025: treatment upon disposal of certain residential property for 2025–26 and later income years)**

After section DZ 23, insert:

**DZ 24 Amounts denied before 1 April 2025: treatment upon disposal of certain residential property**

*Disposal subject to section CB 6A: denied amount included as cost*

- (1) An amount that has been denied as a deduction for property under **section DH 8** (Deduction not allowed) before 1 April 2025 and that would have otherwise been allowed as a deduction is treated under section DB 23 (Cost of revenue account property) as a cost for the person of the relevant property in the income year of the disposal of the property, if the amount derived from the disposal is income under **section CB 6A** (Disposal within 2 years: bright-line test for residential land).

*Disposal not subject to section CB 6A: denied amount allocated under subpart EL*

- (2) An amount that has been denied as a deduction for property under **section DH 8** before 1 April 2025 and that would have otherwise been allowed as a deduction is allowed as a deduction in the income year of the disposal of the relevant property, and is subject to allocation under subpart EL (Allocation of deductions for excess residential land expenditure), if the property is or was residential rental property for purposes of subpart EL and the amount derived from the disposal of the property—
- (a) is income under a section other than **section CB 6A**; and
  - (b) is not income under **section CB 6A**.

Defined in this Act: amount, deduction, income, income year, residential rental property

**22C Section EB 24 and cross-heading repealed**

Repeal section EB 24 and the cross-heading above section EB 24.

**22D Section EE 31 amended (Annual rate for item acquired in person’s 1995–96 or later income year)**

- (1) In section EE 31(2)(d), replace “residential building” with “building”.
- (2) In section EE 31(3)(c), replace “residential building” with “building”.
- (3) In section EE 31, list of defined terms, insert “building” and delete “residential building”.

- (4) **Subsections (1), (2), and (3)** apply for the 2024–25 and later income years.

**22E Section EE 35 amended (Special rate or provisional rate)**

- (1) Replace section EE 35(2) with:

*No special rate for excluded depreciable property, special excluded depreciable property, or building*

- (2) A special rate may not be set for an item of excluded depreciable property, an item of special excluded depreciable property, or a building.

- (2) In section EE 35, list of defined terms,—

- (a) delete “residential building”;
- (b) insert “building” and “special excluded depreciable property”.

- (3) **Subsections (1) and (2)** apply for the 2024–25 and later income years.

**22F Section EE 37 amended (Improvements)**

- (1) In section EE 37(3)(a), after “(4) or (5)”, insert “unless the item is a grandparented structure, in which case the person must continue to treat the improvement as a separate item of depreciable property”.

- (2) In section EE 37, list of defined terms, insert “grandparented structure”.

- (3) **Subsections (1) and (2)** apply for the 2020–21 and later income years.

**22G Section EE 48 amended (Effect of disposal or event)**

- (1) Replace section EE 48(1C)(a) with:

- (a) **item depreciation loss** is the total of the amounts of—
  - (i) depreciation loss for which the person has been allowed deductions for the item; and
  - (ii) if the item is a building, the total amount of deductions allowed under sections DB 65, as in force before its repeal by section 4 of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020, and **DB 65B** (which deal with allowances for commercial buildings):

- (2) **Subsection (1)** applies for the 2024–25 and later income years.

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**22H Section EE 60 amended (Total deductions in section EE 56)**

- (1) In section EE 60(1)(d), replace “previous deductions under section DB 65 (Allowance for certain commercial buildings)” with “deductions allowed under sections DB 65, as in force before its repeal by section 4 of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020, and **DB 65B** (which deal with allowances for commercial buildings)”.
- (2) **Subsection (1)** applies for the 2024–25 and later income years.

**22I Section EE 61 amended (Meaning of annual rate)**

- (1) In the heading to section EE 61(3B), replace “residential buildings” with “buildings”.
- (2) In section EE 61(3B), replace “residential building” with “building”.
- (3) Replace section EE 61(7B) with:

*Special excluded depreciable property*

- (7B) The rate is 0% for all depreciation methods if the item is an item of special excluded depreciable property that would be an item of excluded depreciable property but for the exclusion in **section EE 64(3)**.
- (4) In section EE 61, list of defined terms,—
  - (a) delete “residential building”:
  - (b) insert “building” and “special excluded depreciable property”.
- (5) **Subsections (1) to (4)** apply for the 2024–25 and later income years.

**22J Section EE 64 amended (Meaning of excluded depreciable property)**

- (1) After section EE 64(2), insert:

*Another exclusion*
- (3) **Excluded depreciable property** does not include special excluded depreciable property.
- (2) In section EE 64, list of defined terms, insert “special excluded depreciable property”.
- (3) **Subsections (1) and (2)** apply for the 2024–25 and later income years.

**22K Section EE 67 amended (Other definitions)**

- (1) In section EE 67, insert, in appropriate alphabetical order:

**special excluded depreciable property** means all buildings that are not items specified in **schedule 39** (Items for purposes of definition of special excluded depreciable property)

- (2) **Subsection (1)** applies for the 2024–25 and later income years.

*New clauses 25B to 25D*

After *clause 25* (page 37, after line 9), insert:

**25B Section EZ 13 amended (Annual rate for item acquired on or after 1 April 1993 and before end of person’s 1994–95 income year)**

- (1) In section EZ 13(2)(a), replace “residential building” with “building”.
- (2) In section EZ 13(2)(c), replace “residential building” with “building”.
- (3) In section EZ 13, list of defined terms,—
- (a) delete “residential building”;
- (b) insert “building”.
- (4) **Subsections (1), (2), and (3)** apply for the 2024–25 and later income years.

**25C Section EZ 14 amended (Pre-1993 depreciation rate)**

- (1) In section EZ 14(1), replace “residential buildings” with “buildings”.
- (2) In section EZ 14, list of defined terms,—
- (a) delete “residential building”;
- (b) insert “building”.
- (3) **Subsections (1) and (2)** apply for the 2024–25 and later income years.

**25D Section EZ 23BD repealed (Loss on disposal of grandparented structure)**

- (1) Repeal section EZ 23BD.
- (2) **Subsection (1)** applies for the 2020–21 and later income years.

*New clause 27B*

After *clause 27* (page 45, after line 35), insert:

**27B Section FC 1 amended (Disposals to which this subpart applies)**

- (1) In section FC 1(1)(e), after “gift”, insert “, other than a gift of trading stock or an interest in trading stock”.

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- (2) In section FC 1, list of defined terms, insert “trading stock”.

*New clause 29B*

After *clause 29* (page 46, after line 4), insert:

**29B New subpart FD inserted (Rollover relief from the bright-line test)**

- (1) After subpart FC, insert:

Subpart FD—Rollover relief from the bright-line test

**FD 1 Relief from bright-line test for transfers between associated persons**

*When this section applies*

- (1) This section applies for the purposes of sections **CB 6A** and **CB 16A** (which relate to the bright-line test for residential land) and Part D (Deductions) when residential land is transferred within the bright-line period—
- (a) between persons associated under any of sections YB 2 to YB 13 at the date of transfer and for at least 2 years before that date; or
  - (b) to a trustee of a trust in which all beneficiaries, other than the transferor in their capacity as a beneficiary, are—
    - (i) associated with the transferor at the date of transfer and for at least 2 years before that date, except for beneficiaries aged less than 2 years and persons who have become associated due to marriage or adoption who must be associated with the transferor since birth, marriage, or adoption, as applicable; or
    - (ii) an association, club, institution, society, organisation, or trust not carried on for the private profit of any person whose funds are applied wholly or principally to any civic, community, charitable, philanthropic, religious, benevolent, or cultural purpose, whether in New Zealand or elsewhere.

*Transfer at cost*

- (2) The transfer is treated as a disposal and acquisition, at the date of transfer, for an amount that equals the cost of the residential land to the transferor.

*Bright-line start date*

- (3) The transferee’s bright-line start date for the land is the transferor’s bright-line start date.

*Use of property*

- (4) For the purposes of determining whether **section CB 16A** (Main home exclusion for disposal within 2 years) applies, the transferor’s use of the property is attributed to the transferee (for example, if the transferor used the property as a main home for 1 year, this is attributed to the transferee).

*When this section does not apply*

- (5) This section does not apply to a transfer of residential land if the section has already been applied to a transfer (the **first transfer**) of the residential land and 2 years have not passed from the date of the first transfer.

Defined in this Act: amount, associated, bright-line end date, bright-line period, bright-line start date, charitable purpose, main home, New Zealand, residential land, year

**FD 2 Relief from bright-line test for Māori rollover trusts**

*When this section applies*

- (1) This section applies for the purposes of sections **CB 6A** and **CB 16A** (which relate to the bright-line test for residential land) and Part D (Deductions) when residential land is transferred within the bright-line period as described in the following table:

Row	Transfer	Conditions to be satisfied
1	Transfers into a Māori rollover trust	The transferor is a settlor and beneficiary of a Māori rollover trust; and  The transferee is a trustee of the Māori rollover trust.
2	Transfers between Māori rollover trusts	The transferor is a trustee of a Māori rollover trust; and  The transferee is a trustee of another Māori rollover trust; and  The beneficiaries for both trusts are the same.
3	Transfers out of a Māori rollover trust	The transferor is the trustee of a Māori rollover trust; and  The transferee is a settlor of the Māori rollover trust; and  The settlors—  a) originally transferred the land to the trustee; and

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b) acquired proportionally the same amount of land back from the trustee as they had originally transferred or, where one of the settlors has died, the settlors receive at least the same proportion of the land back from the trustee as they had originally transferred; and

c) are beneficiaries of the trust.

**How to use this table:** Read the columns from left to right according to the row that fits the situation. If the parties to the transfer meet the relevant conditions, then this section applies to them.

*Other capacities*

- (2) For the purposes of **subsection (1)**, the transferors and transferees may have different capacities in relation to the different conditions in that subsection (for example, a transferee may be a settlor in their personal capacity and a beneficiary as an owner of a look-through company).

*Transfer at greater of cost or consideration derived*

- (3) The transfer is treated as a disposal and acquisition, at the date of transfer, for an amount that equals the greater of the cost of the residential land to the transferor or the consideration paid by the transferee.

*Bright-line start date*

- (4) The transferee's bright-line start date for the land is the transferor's bright-line start date.

*Meaning of Māori rollover trust*

- (5) **Māori rollover trust** means, at the time of a relevant transfer to or from a relevant trust, a trust in which—
- (a) a trustee of the trust is a Maori authority or eligible to elect to be a Maori authority; and
  - (b) all beneficiaries are—
    - (i) members of the same iwi or hapu;
    - (ii) descendants of the same tipuna; and
  - (c) the land is subject to Te Ture Whenua Maori Act 1993.

Defined in this Act: bright-line period, bright-line start date, look-through company, Maori authority, Māori rollover trust, residential land, settlor, trustee

**FD 3 Certain transfers of residential land included in settlement of claim under Treaty of Waitangi**

*When this section applies*

- (1) This section applies for the purposes of sections **CB 6A** and **CB 16A** (which relate to the bright-line test for residential land) and



Part D (Deductions) to a transfer of residential land within the bright-line period that is—

- (a) subject to Te Ture Whenua Maori Act 1993; and
- (b) made as part of the settlement of a claim under the Treaty of Waitangi; and
- (c) transferred to a trustee of a trust that is a Maori authority or is eligible to be a Maori authority under section HF 2(3)(e)(i) (Who is eligible to be a Maori authority?).

*Transfer by transferor*

- (2) The transferor is treated as transferring the land at the greater of the cost of the land to them or the consideration they derive from the disposal.

*Transfer to transferee*

- (3) The transferee is treated as acquiring the land at its market value at the time the land was transferred from the Crown.

*Bright-line start date*

- (4) The transferee's bright-line start date for the land is the transferor's bright-line start date.

Defined in this Act: bright-line period, bright-line start date, Maori authority, residential land, trust, trustee

- (2) **Subsection (1)** applies to a person's disposal of residential land if the bright-line end date for the land, as defined in the Income Tax Act 2007, is on or after 1 July 2024.

*New clauses 30BA to 30BAG*

After *clause 30* (page 47, after line 15), insert:

**30BA Section FZ 9 and cross-heading repealed**

Repeal section FZ 9 and the cross-heading above section FZ 9.

**30BAB Section GB 53B and cross-heading repealed**

Repeal section GB 53B and the cross-heading above section GB 53B.

**30BAC Section GB 53C repealed (On-lending at lower rate)**

Repeal section GB 53C.

**30BAD Section GC 1 replaced (Disposals of trading stock at below market value)**

- (1) Replace section GC 1 with:

**GC 1 Certain disposals of trading stock at below market value**

*When this section applies*

- (1) This section applies when—
- (a) a person (**person A**) disposes of trading stock for—
    - (i) no consideration; or
    - (ii) an amount that is less than the market value of the trading stock at the time of the disposal; and
  - (b) 1 or more of the following apply:
    - (i) the disposal is effected by person A taking the trading stock for their own use or consumption:
    - (ii) the disposal is not made by person A in the course of carrying on a business for the purpose of deriving their assessable income, or their excluded income, or a combination of their assessable income and excluded income:
    - (iii) the disposal is to an associated person.

*Market value consideration*

- (2) Person A is treated as deriving an amount equal to the market value of the trading stock at the time of the disposal.

*Market value expenditure*

- (3) If person A disposes of the trading stock to another person, an amount equal to the market value of the trading stock at the time of the disposal is treated as expenditure incurred by the other person in acquiring the trading stock.

*Shares in trading stock*

- (4) In this section, **trading stock** includes an interest in trading stock.

*Exclusions*

- (5) This section does not apply to a disposal of trading stock—
- (a) to a donee organisation:
  - (b) under a relationship agreement:
  - (c) by a person to another person who is not associated with them, for use by the other person in a farming, agricultural, or fishing business that is affected by a self-assessed adverse event:
  - (d) under a share-lending arrangement, by a share user to a share supplier or by a share supplier to a share user:

(e) to which section GC 20(2) or GC 21(7) applies.

Defined in this Act: amount, assessable income, associated person, business, donee organisation, excluded income, relationship agreement, self-assessed adverse event, share-lending arrangement, share supplier, share user, trading stock

(2) **Subsection (1)** applies for disposals of trading stock occurring on or after 1 April 2024.

**30BAE Section GC 20 amended (Effect of purchase price allocation agreement)**

(1) After section GC 20(2), insert:

*Exception: trading stock disposed of at below market value to associate*

(2B) Subsection (2) does not apply to a class of purchased property described in subsection (1)(a)(i) or (ii) if—

- (a) person A and person B are associated persons at the time of the disposal; and
- (b) the allocated amount for the class of purchased property is less than the total market value of the items of purchased property in the class of purchased property at the time of the disposal.

(2) In section GC 20, list of defined terms, insert “associated person”.

**30BAF Section GC 21 amended (Purchase price allocation required: no agreement)**

(1) After section GC 21(11), insert:

*Exception: trading stock disposed of at below market value to associate*

(11B) Subsection (7) does not apply to a class of purchased property described in subsection (1)(a)(i) or (ii) if—

- (a) person A and person B are associated persons at the time of the disposal; and
- (b) the relevant allocated amount provided by subsections (3) to (6) for the class of purchased property is less than the total market value of the items of purchased property in the class of purchased property at the time of the disposal.

(2) In section GC 21, list of defined terms, insert “associated person”.

**30BAG Sections GZ 3 to GZ 5 repealed**

Repeal sections GZ 3 to GZ 5.

*Clause 48*

Replace *clause 48(2)(b)* (page 59, line 31) with:

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- (b) list of defined terms, insert “multinational top-up tax” and “pay”.

*Clause 59*

After *clause 59(1)* (page 65, after line 5), insert:

- (1B) The definitions listed in **Schedule 1A** are repealed.

After *clause 59(3)* (page 65, after line 17), insert:

- (3B) In the definition of **amount**, repeal paragraph (b)(i).

After *clause 59(5)* (page 65, after line 23), insert:

- (5B) Insert, in appropriate alphabetical order:

**bright-line end date** is defined in **section CB 6A** (Disposal within 2 years: bright-line test for residential land)

- (5C) Replace the definition of **bright-line period** with:

**bright-line period** means, for a person and residential land, the period beginning with the bright-line start date for the land and ending with the bright-line end date for the land

- (5D) Insert, in appropriate alphabetical order:

**bright-line start date** is defined in **section CB 6A** (Disposal within 2 years: bright-line test for residential land)

Replace *clause 59(6)* (page 65, lines 24 to 27) with:

- (6) Insert, in appropriate alphabetical order:

**building**, in subpart EE, includes part of a building, to the extent to which it is a unit in a unit title development under the Unit Titles Act 2010, but, in subparts EE and EZ, does not include a grandparented structure.

After *clause 59(6)* (page 65, after line 27), insert:

- (6B) Replace the definition of **building** with:

**building**, in subpart EE, includes part of a building, to the extent to which it is a unit in a unit title development under the Unit Titles Act 2010, but, in subparts EE and EZ, does not include—

- (a) a grandparented structure:

- (b) commercial fit-out, except for commercial fit-out acquired as part of a building in the 2010–11 or an earlier income year for which the person has never had any deductions under any provisions other than section DB 65, as in force before its repeal by section 4 of the COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020, and **DB 65B** (Allowance for embedded fit-out of certain commercial buildings)

- (6C) In the definition of **business premises**, replace “subparts DD and DH” with “subpart DD”.

After *clause 59(10)* (page 66, after line 17), insert:

(10BA) In the definition of **dwelling**, in paragraph (ab), replace “, commercial fit-out, and residential building” with “and commercial fit-out”.

After *clause 59(11)* (page 66, after line 34), insert:

(11BA) Replace the definition of **grandparented structure** with:

**grandparented structure** means, for a person, any item on the following list if the person acquired the item, or entered into a binding contract for the purchase or construction of the item, on or before 30 July 2009:

- (a) barns, including barns (drying):
- (b) carpark (buildings):
- (c) chemical works:
- (d) fertiliser works:
- (e) powder drying buildings:
- (f) site huts.

After *clause 59(11C)* (page 67, after line 13), insert:

(11D) In the definition of **main home**, in paragraph (a), insert “mainly” after “is”.

(11E) Insert, in appropriate alphabetical order:

**Māori rollover trust** is defined in **section FD 2** for the purposes of that section

After *clause 59(12)* (page 67, after line 16), insert:

(12BA) Repeal the definition of **non-residential building**.

After *clause 59(13F)* (page 68, after line 25), insert:

(13G) Repeal the definition of **residential building**.

After *clause 59(15C)* (page 69, after line 22), insert:

(15CB) Insert, in appropriate alphabetical order:

**special excluded depreciable property** is defined in **section EE 67** (Other definitions)

After *clause 59(15E)* (page 69, after line 30), insert:

(15EB) In the definition of **timber**, paragraph (b),—

- (a) repeal subparagraph (ii):
- (b) subparagraph (iv), replace “Disposals” with “Certain disposals”.

(15EC) In the definition of **trading stock**,—

- (a) paragraph (a), delete “(bb), (bc),”:

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- (b) paragraph (b), words before the subparagraphs, replace “EB 24 (Apportionment on disposal of business assets that include trading stock), FB 13 (Trading stock),” with “FB 13 (Trading stock), FC 1 (Disposals to which this subpart applies),”:
- (c) repeal paragraphs (bb) and (bc):
- (d) paragraph (c), replace “Disposals” with “Certain disposals”.

Replace *clause 59(17)* (page 70, lines 20 to 21), with:

- (17) **Subsections (6B), (9), (10), (10BA), (12BA), (13G), (15CB), and (16)** apply for the 2024–25 and later income years.

*Clause 61*

In *clause 61*, new section *YD 4(17D)(b)*, replace “technical services fees that are treated in the same way as royalties under a double tax agreement” (page 71, lines 16 to 17) with “fees for technical, management or similar services, that are treated as royalties under a double tax agreement”.

*New clause 62B*

After *clause 62* (page 72, after line 29), insert:

**62B Schedule 15 repealed (Excepted residential land)**

Repeal schedule 15.

*New clauses 64C and 64D*

After *clause 64B* (page 74, after line 3), insert:

**64C New schedule 39 inserted (Items for purposes of definition of special excluded depreciable property)**

- (1) After schedule 38, insert the **schedule 39** set out in **Schedule 1B** of this Act.
- (2) **Subsection (1)** applies for the 2024–25 and later income years.

**64D Consequential amendments to Income Tax Act 2007 related to bright-line test**

The Income Tax Act 2007 is amended as set out in **Schedule 1C, Part A**.

*New clause 67BB*

After *clause 67B* (page 75, after line 29), insert:

**67BB Section 44C amended (Certificates about trees)**

Replace section 44C(1) with:

- (1) The question whether trees are ornamental or incidental arises under the following provisions of the Income Tax Act 2007:

- (a) section CB 25:
- (b) sections FB 6 and FB 7:
- (c) **sections GC 1** and GC 2.

*New clause 76D*

After *clause 76C* (page 84, after line 6), insert:

**76D Section 225ABA repealed (Orders in Council: periods for purposes of certain provisions of Income Tax Act 2007 relating to disposals of trading stock)**

Repeal section 225ABA.

*New clause 77D*

After *clause 77C* (page 85, after line 5), insert:

**77D Consequential amendments to Tax Administration Act 1994 related to bright-line test**

The Tax Administration Act 1994 is amended as set out in **Schedule 1C, Part B**.

*New cross-heading and clauses 89E to 89G*

After *clause 89D* (page 90, after line 37), insert:

*Amendments to Gaming Duties Act 1971*

**89E Amendments to Gaming Duties Act 1971**

**Sections 89F and 89G** amend the Gaming Duties Act 1971.

**89F Section 3 amended (Interpretation)**

In section 3, the words after the definitions, replace “sections 12B and 12M” with “sections 12B, 12M, and **12S**”.

**89G New Part 2C inserted (Offshore gambling duty)**

After Part 2B, insert:

**Part 2C**  
**Offshore gambling duty**

**12S Interpretation**

- (1) In this Part, unless the context otherwise requires,—  
**consumption charges** has the meaning set out in section 105 of the Racing Industry Act 2020

**gambling** has the meaning set out in section 4(1) of the Gambling Act 2003

**offshore gambling** means any gambling or prize competition that a person who is resident in New Zealand pays an amount of money to participate in through the supply of remote services that are physically performed outside New Zealand

**offshore gambling operator** means—

- (a) a registered person located outside New Zealand who conducts any offshore gambling; and
- (b) for any return period and the obligations and liabilities under **sections 12U to 12W** of a person who was at any time during that period an offshore gambling operator, includes that person notwithstanding that the person may have ceased, during or after the return period, to be an offshore gambling operator within the meaning of **paragraph (a)**

**prize competition** means a scheme or competition—

- (a) for which direct or indirect consideration is paid to a person for conducting the scheme or competition; and
- (b) that distributes prizes of money or in which participants seek to win money; and
- (c) for which the result is determined—
  - (i) by the performance of the participant of an activity of a kind that may be performed more readily by a participant possessing or exercising some knowledge or skill; or
  - (ii) partly by chance and partly by the performance of an activity as described in **subparagraph (i)**, whether or not it may also be performed successfully by chance

**registered person** means a person who is registered or is liable to be registered under the Goods and Services Tax Act 1985

**remote services** means a service that, at the time of the performance of the service, has no necessary connection between—

- (a) the place where the service is physically performed; and
- (b) the location of the recipient of the service

**return period** means any period of 3 consecutive calendar months that ends with the last day of March, June, September, or December for which a statement of offshore gambling profits and offshore gambling duty payable is required to be delivered under **section 12V**.



- (2) For the purposes of this Part, section 8B of the Goods and Services Tax Act 1985 applies to determine whether a person is resident in New Zealand as if the offshore gambling operator were a supplier of remote services under that Act.

**12T Offshore gambling profits**

- (1) **Offshore gambling profits**, in relation to any offshore gambling operator and any return period, means an amount calculated using the following formula for supplies of offshore gambling for which the time of supply under section 9 of the Goods and Services Tax Act 1985 has occurred in that return period:

amounts received from residents – prizes paid to residents –  
offshore betting amounts.

- (2) In the formula in **subsection (1)**,—
- (a) **amounts received from residents** is the total amount in money received by the offshore gambling operator from persons resident in New Zealand:
  - (b) **prizes paid to residents** is the total amount in money paid and payable by the offshore gambling operator to persons resident in New Zealand as winnings for offshore gambling:
  - (c) **offshore betting amounts** is the total amount in money on which consumption charges are payable under section 113 of the Racing Industry Act 2020.
- (3) If the amount calculated under the formula in **subsection (1)** for any return period is a negative amount, then that negative amount may be used to reduce a positive amount under the formula for the next return period.
- (4) If, after use of the negative amount described in **subsection (3)**, an excess negative amount remains, the excess may be used to reduce a positive amount under the formula in the immediately following return period.
- (5) **Subsection (4)** continues to apply until the excess negative amount is extinguished.
- (6) For the purposes of determining the amount of offshore gambling profits under this section, an offshore gambling operator is treated as if they were a non-resident supplier of remote services under section 8(3)(c) of the Goods and Services Tax Act 1985 to which section 77 of that Act applies.

**12U Offshore gambling duty**

There shall be paid to the Crown a duty (in this Act referred to as **offshore gambling duty**) at the rate of 12% of the offshore gam-

bling profits of an offshore gambling operator for offshore gambling profits arising on or after 1 July 2024.

**12V Quarterly returns to be furnished to Commissioner**

- (1) Every offshore gambling operator shall deliver to the Commissioner a statement in the prescribed form of—
  - (a) the offshore gambling profits of the offshore gambling operator for the previous return period; and
  - (b) the offshore gambling duty payable by the offshore gambling operator for those offshore gambling profits for that previous return period.
- (2) A person who ceases to be an offshore gambling operator shall deliver to the Commissioner a final statement as set out in **subsection (1)** for the part of the last return period for which they were an offshore gambling operator.
- (3) A statement required by **subsection (1) or (2)** must be delivered on or before—
  - (a) 7 May if the return period ends on 31 March; or
  - (b) in any other case, the 28th of the month following the end of the return period.
- (4) A statement of offshore gambling profits and offshore gambling duty payable for any return period that purports to be made by or on behalf of any offshore gambling operator shall for all purposes be deemed to have been made by that offshore gambling operator, or by that offshore gambling operator’s authority, unless the contrary is proved.

**12W Payment of offshore gambling duty**

Every offshore gambling operator shall, not later than the last day allowed under **section 12V** for the delivery of the statement of offshore gambling profits and offshore gambling duty payable for any return period, pay to the Commissioner the offshore gambling duty payable for that return period.

**12X Assessments, challenges, and recovery of duty**

Sections 12G, 12H, 12HA, 12K, and 12L (except section 12K(2)), as far as they are applicable and with any necessary modifications, shall apply for the purposes of this Part as if—

- (a) every reference in those provisions to gaming machine duty were a reference to offshore gambling duty; and

- (b) every reference in those provisions to a gaming machine operator were a reference to an offshore gambling operator; and
- (c) every reference in those provisions to gaming machine profits were a reference to offshore gambling profits; and
- (d) every reference in those provisions to section 12D were a reference to **section 12V**; and
- (e) every reference in those provisions to section 12E were a reference to **section 12W**.

*Clause 91B*

After *clause 91B(g)* (page 91, after line 34), insert:

- (h) replace “155, 167” with “155, 157B, 167”.

*Clause 91P*

In *clause 91P*, new *section 60CB(7)*, replace “60C(2)(ab), **(3B) and (3C)**, and 60H” (page 96, line 40) with “60(1C), 60C(2)(ab), (2BB), (2BE), (2BF), **(3B) and (3C)**, 60H, and **85E**”.

*New clause 91QB*

After *clause 91Q* (page 97, after line 19), insert:

**91QB New section 157B inserted (New section 85E inserted (Certain contracts entered into before 1 April 2024))**

After section 157, insert:

**157B New section 85E inserted (Certain contracts entered into before 1 April 2024)**

After section 85D, insert:

**85E Certain contracts entered into before 1 April 2024**

- (1) This section applies to a supply of listed services described in section 8C(2)(a) when—
  - (a) the supply is made through an electronic marketplace; and
  - (b) the contract under which the supply is made was entered into before 1 April 2024; and
  - (c) the time of supply for that supply takes place on or after 1 April 2024; and
  - (d) section 60C(2)(ab) would apply to the supply in the absence of this section.
- (2) Subject to **subsections (3) and (4)**, the operator of the electronic marketplace may choose that section 60C(2)(ab) will not apply to

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- the supply. For the purposes of this subsection and **subsection (3)**, a listing intermediary is treated as if they were the operator of the electronic marketplace if **section 60CB(7)** applies.
- (3) If the underlying supplier is a registered person, the operator of the electronic marketplace may only apply **subsection (2)** if they take reasonable steps within a reasonable time to—
- (a) notify the underlying supplier that the operator chooses not to apply section 60C(2)(ab) to that supply; and
  - (b) provide sufficient information to the underlying supplier to enable the underlying supplier to correctly account for output tax on the supply.
- (4) If **section 60CB(7)** does not apply and a listing intermediary is interposed between the underlying supplier and the operator of the electronic marketplace, the operator may only apply **subsection (2)** if they take reasonable steps within a reasonable time to—
- (a) notify the listing intermediary that the operator chooses not to apply section 60C(2)(ab) to that supply; and
  - (b) provide sufficient information to the listing intermediary for the listing intermediary to provide to the underlying supplier to enable the underlying supplier to correctly account for output tax on the supply.

*New Schedule 1A*

Before *Schedule 1* (page 98, before line 1), insert:

**Schedule 1A  
Definitions repealed**

**s 59(1B)**

code compliance certificate  
disallowed residential property  
excepted residential land  
exempt Māori company  
grandparented residential interest  
grandparented transitional loan  
interposed residential property holder  
interposed residential property percentage  
new build land  
residential land company  
residential land wholly-owned group member

*New Schedules 1B and 1C*

After *Schedule 1* (page 99, after line 18), insert:

**Schedule 1B**  
**New schedule 39 inserted into Income Tax Act 2007**

**s 64C**

**Schedule 39**  
**Items for purposes of definition of special excluded  
depreciable property**

**s EE 67**

Carports (hired out to householders)  
Portable huts  
Cool-stores and freezing chambers  
Slaughterhouses on farms  
Fowl houses  
Plastic hothouses and PVC tunnel houses  
Glasshouses  
Buildings affected by acid  
Milking sheds  
Roofed livestock yards  
Wintering barns and simple loafing barns  
Milk powder buildings  
Temporary buildings  
Fish processing buildings  
Tannery buildings affected by acid

**Schedule 1C**  
**Consequential amendments related to bright-line test**

**ss 64D, 77D**

**Part A**  
**Amendments to Income Tax Act 2007**

**Section CB 6AB repealed (Residential land transferred in relation to  
certain family trusts and other capacities)**

Repeal section CB 6AB.

**Section CB 6AC repealed (Residential land transferred in relation to certain Māori family trusts)**

Repeal section CB 6AC.

**Section CB 6AE repealed (Certain transfers of residential land included in settlement of claim under the Treaty of Waitangi)**

Repeal section CB 6AE.

**Section CB 13 amended (Disposal: amount from major development or division and not already in income)**

In section CB 13(1)(a), replace “CB 14, and CZ 39 (Disposal within 5 years: bright-line test for residential land: acquisition on or after 29 March 2018)” with “and CB 14”.

**Section CB 14 amended (Disposal: amount from land affected by change and not already in income)**

In section CB 14(1)(a), delete “and CZ 39 (Disposal within 5 years: bright-line test for residential land: acquisition on or after 29 March 2018)”.

**Section CB 15B amended (When land acquired)**

In section CB 15B(1)(a), delete “except sections CB 6A and CZ 39 (Disposal within 5 years: bright-line test for residential land: acquisition on or after 29 March 2018)”.

**Section CB 23B amended (Land partially disposed of or disposed of with other land)**

In section CB 23B, delete “, CZ 39, and CZ 40 (which relate to the bright-line test for residential land)”.

**Section CZ 26B amended (Land and buildings affected by North Island adverse weather event—sections CB 6A, CB 9 to CB 11, and CZ 39 overridden for local authority and Crown purchases)**

In the heading to section CZ 26B, replace “, CB 9 to CB 11, and CZ 39” with “and CB 9 to CB 11”.

In section CZ 26B, replace “, CB 9 to CB 11, and CZ 39” with “and CB 9 to CB 11”.

**Section CZ 39 repealed (Disposal within 5 years: bright-line test for residential land: acquisition on or after 29 March 2018)**

Repeal section CZ 39.

**Section CZ 40 repealed (Main home exclusion for bright-line: acquisition on or after 29 March 2018)**

Repeal section CZ 40.

**Section DB 23C repealed (Revenue account property: cost of some residential land reduced)**

Repeal section DB 23C.

**Section DB 29 amended (Apportionment when land acquired with other property)**

In section DB 29, delete “and CZ 39”.

**Section DH 5 amended (Key terms)**

In section DH 5(5)(d)(i), replace “FC 9B(a) to (e), or FO 17 (which relate to rollover relief for the bright-line rule)” with “FO 17 or **subpart FD** (which relate to rollover relief from the bright-line test)”.

**Section DH 10 amended (Limited denial of deductibility: simplified calculation of interest affected)**

In section DH 10(4)(c), replace “section FC 9B(a) to (f)” with “**subpart FD**”.

**Section DH 11 amended (Denied amounts: treatment upon disposal of disallowed residential property)**

In the headings to section DH 11(1) and (2), delete “*or CZ 39*”.

In section DH 11(1), replace “or CZ 39 (which relate to disposals for residential land within a given period from acquisition)” with “(Disposal within 2 years: bright-line test for residential land)”.

In section DH 11(2), delete “or CZ 39” in each place.

**Section EL 2 amended (Outline of subpart: specific provisions)**

In section EL 2(7), replace “sells residential land within the bright-line period” with “derives income under **section CB 6A** (Disposal within 2 years: bright-line test for residential land)”.

**Section EL 3 amended (Definitions for this subpart)**

In the definition of **land sales provisions**, delete “and CZ 39”.

**Section EL 20 amended (Allocation of deductions related to bright-line disposals of residential land)**

In section EL 20(1)(a), replace “or CZ 39 (which relate to the bright-line test for residential land)” with “(Disposal within 2 years: bright-line test for residential land)”.

In section EL 20(3)(a), delete “or CZ 39”.

**Section FB 3A amended (Residential land)**

In section FB 3A(1), replace “, CB 16A, CZ 39, and CZ 40” with “and **CB 16A**”.

In section FB 3A(3), replace “sections CB 6A, and CZ 39” with “section **CB 6A**”.

**Section FC 2 amended (Transfer at market value)**

In section FC 2(3), replace “FC 3 to FC 9C and FC 10” with “FC 3 to FC 9, FC 10, FD 1 and FD 2”.

**Section FC 9 amended (Residential land transferred to executor, administrator, or beneficiary on death of person)**

Replace section FC 9(2), other than the heading, with:

- (2) **Section CB 6A** (Disposal within 2 years: bright-line test for residential land) does not apply to the transfer of residential land, including any intervening transfer to an executor or administrator (*see also: section CB 6A(5)(b)*).

In section FC 9(4), replace “on or after 1 April 2022 to a person who is a recipient as described in section FC 9B(a) to (e)” with “to a person who is a recipient as described in **subpart FD**” and replace “sections CB 6A and CZ 39 do” with “**section CB 6A** does”.

**Section FC 9B repealed (Residential land: certain transferors)**

Repeal section FC 9B.

**Section FC 9C repealed (Residential land: certain recipients)**

Repeal section FC 9C.

**Section FC 9D repealed (Residential land: certain recipients of Treaty of Waitangi land)**

Repeal section FC 9D.

**Section FM 15 amended (Amortising property and revenue account property)**

Replace section FM 15(2B), other than the heading, with:

- (2B) For the purposes of **section CB 6A** (Disposal within 2 years: bright-line test for residential land), in relation to property that is land, company B is treated as having the same bright-line start date as company A for that land.

In section FM 15, list of defined terms, replace “bright-line acquisition date” with “bright-line start date”.



**Section FO 10 amended (When property passes on resident’s restricted amalgamation)**

In section FO 10(6), replace “5-year bright-line test, the 10-year bright-line test, or the 10-year rule in any of sections CB 6A, CB 9 to CB 11, CB 14, and CZ 39” with “2-year bright-line test in section **CB 6A** or the 10-year rule in any of sections CB 9 to CB 11, and CB 14”.

**Section FO 17 amended (Land)**

In section FO 17(2)(a), delete “, and CZ 39”.

Replace section FO 17(2)(b) with:

- (b) the land is revenue account property of the amalgamating company but not merely because of the 2-year bright-line test in section **CB 6A** or the 10-year rule in any of sections CB 9 to CB 11, and CB 14, and the land is, or may be, revenue account property of the amalgamated company because of the 2-year bright-line test or the 10-year rule.

Replace section FO 17(3) and the heading with:

*Disposal of land within 2-year bright-line test or 10-year rule*

- (3) If the land is, or may be, revenue account property of the amalgamating company because of the 2-year bright-line test in section **CB 6A** or the 10-year rule in any of sections CB 9 to CB 11, and CB 14, and the amalgamated company disposes of the land within the relevant 2-year or 10-year period after the amalgamating company acquired it, an amount derived from the disposal is income of the amalgamated company under whichever is applicable of sections **CB 6A** to CB 14.

**Section GB 52 amended (Arrangements involving residential land: companies’ shares)**

In section GB 52(1)(a), replace “the relevant date in section CB 6A(1)(a) or (b), or CZ 39(2)(a) or (b) (which relate to the bright-line test for residential land) is within 10 years or 5 years, as applicable,” with “the bright-line end date in **section CB 6A(1)** (Disposal within 2 years: bright-line test for residential land) is within 2 years”.

In section GB 52(1)(c), delete “or CZ 39 (Disposal within 5 years: bright-line test for residential land: acquisition on or after 29 March 2018)”.

In section GB 52, list of defined terms, insert “bright-line end date” and “year”.

**Section GB 53 amended (Arrangements involving residential land: trusts)**

In section GB 53(1)(c), replace “or CZ 39 (which relate to the bright-line test for residential land)” with “(Disposal within 2 years: bright-line test for residential land)”.

**Section RL 1 amended (Residential land withholding tax)**

Replace section RL(2)(a) with:

- (a) the relevant residential land purchase amount would be income of the vendor under **section CB 6A** (Disposal within 2 years: bright-line test for residential land) ignoring sections **CB 6A(5)(a)** and **CB 16A** (Main home exclusion for disposal within 2 years); and

**Section YA 1 amended (Definitions)**

Repeal the definition of **5-year test land**.

Repeal the definition of **10-year test land**.

Repeal the definition of **bright-line acquisition date**.

Repeal the definition of **bright-line disposal date** and **bright-line date**.

Repeal the definition of **bright-line grandparented home**.

In the definition of **business premises**, replace “sections CB 6A to CB 15 and CZ 39” with “sections CB 6 to CB 13 (which relate to disposals of land)”.

Repeal the definition of **date of acquisition**.

In the definition of **dispose**, in paragraph (a), replace “CB 16” with “**CB 16A**” and delete “CZ 39,”.

In the definition of **dwelling**, in paragraph (c), replace “sections CB 16A and CZ 40 (which relate to main home exclusions for disposals of residential land within bright-line periods)” with “**section CB 16A** (Main home exclusion for disposal within 2 years)”.

Repeal the definition of **exempt main home**.

Repeal the definition of **exempt main home period limit**.

Repeal the definition of **exempted predominant main home day**.

In the definition of **group of persons**, in paragraph (b), replace “10” with “2”, and repeal paragraph (e).

Repeal the definition of **main home person**.

In the definition of **residential land**, in paragraph (b), replace “CB 16A(2) (Main home exclusion for disposal within 10 years)” with “**CB 16A(1)** (Main home exclusion for disposal within 2 years)”.

**Section YA 1 amended (Definitions)**—*continued*

In the definition of **trading stock**, in paragraph (b)(v), delete “and CZ 39”.

**Part B**

**Amendments to Tax Administration Act 1994**

**Section 54C amended (Information in relation to payment of RLWT)**

In section 54C(1), words before the paragraphs, replace “bright-line date for the residential land is either within 5 years if section CZ 39 applies, or within 10 years or 5 years, as the case may be, if section CB 6A applies,” with “bright-line end date for the residential land is within 2 years”.

In section 54C(1)(b), replace “bright-line date” with “bright-line end date”.

**Section 54D amended (Information in relation to repayment of RLWT)**

In section 54D(1)(b), replace “or CZ 40” with “of that Act”.

**Section 54E amended (RLWT certificate of exemption)**

In section 54E(4), replace “or CZ 40” with “of the Income Tax Act 2007”.

**Explanatory note**

This Amendment Paper (the **AP**) amends the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Bill (the **Bill**).

***Interest deductibility for residential investment property***

In 2021, rules were introduced to limit deductions of interest incurred for residential investment property.

The AP proposes phasing back in the ability to claim full interest deductions for residential investment properties.

It is proposed that on or after 1 April 2024, 80% of deductions will be allowed, and that on or after 1 April 2025, 100% of deductions will be allowed. The percentages will apply regardless of when residential property was acquired or lending drawn down.

*New clause 21DB* amends section DH 8 of the Income Tax Act 2007 (the **ITA**) to provide 80% deductibility for the year 1 April 2024 to 31 March 2025, and *new clause 21DC* repeals the whole of subpart DH on 1 April 2025, effectively reinstating 100% deductibility on 1 April 2025. *New section DZ 24* of the ITA, in *new clause 22B*, ensures that taxpayers whose disposals of residential land are subject to tax will continue to be able to claim a deduction for interest that was denied under the interest limitation rules at the time the property is disposed of after the repeal of subpart DH.

The AP also proposes various amendments that are all consequential to the repeal of subpart DH.

### ***Returning the bright-line test to 2 years***

The AP proposes that the current 10-year, 5-year new build, and 5-year bright-line tests be repealed and replaced by a new 2-year bright-line test. *New clause 8(3)* replaces section CB 6A of the ITA to revert the 10-year bright-line test and 5-year new build bright-line test to a 2-year bright-line test. *New Schedule 1C* repeals the 5-year bright-line test in section CZ 39 of the ITA. This will return the bright-line test to its original purpose of ensuring land speculators pay their fair share of tax on gains from property sales.

Given this objective, it is proposed that other policy settings are also returned to those that existed when the original 2-year bright-line test was introduced. *New clause 9(IE)* replaces section CB 16A of the ITA for this purpose. In particular, it is proposed that the complex apportionment rules for the main home exclusion be removed. This will mean that the main home exclusion will apply if the land has been used predominantly (ie, more than 50% of the land area) for most of the time the person owned the land (ie, more than 50% of the period) for a dwelling that was the person's main home. The main home exclusion will also be modified so that the period when a dwelling is being constructed on the land is ignored in determining whether the land has been used predominantly as a main home for most of the period.

It is also proposed to extend the rollover relief rules. The rollover relief rules essentially allow a transfer between specified people to be ignored for the purposes of the bright-line test. The current rules only apply to a very limited set of transfers. *New clause 29B* introduces *new subpart FD* into the ITA. *New section FD 1* extends these rules to apply to all transfers between associated persons, provided they have been associated for at least 2 years before the transfer. *New Schedule 1C* repeals the current rollover relief rules in sections CB 6AB, CB 6AC, CB 6AE, and FC 9B to FC 9D of the ITA.

### ***Removing building depreciation***

The AP proposes to remove depreciation deductions for buildings with an estimated useful life of 50 years or more. *New clauses 22D, 22I, 25B and 25C* amend sections EE 31, EE 61, EZ 13, and EZ 14 of the ITA to give effect to this, depending on when the building was acquired. *New clause 22E* proposes to amend section EE 35 to remove the ability of the Commissioner of Inland Revenue to set special depreciation rates for these buildings. *New clause 21BC* proposes to insert *new section DB 65B* to make available a new transitional provision for commercial fit-out if the building that contains the fit-out was acquired in or before the 2010–11 income year. Deductions taken under the new transitional provision and a former transitional provision will be included when calculating depreciation recovery income for buildings sold. These changes will apply for the 2024–25 and later income years.

### ***Disposals of trading stock at below market value***

*New clause 30BAD* replaces section GC 1 of the ITA to narrow the application of a market value substitution rule to address instances of overreach.

The existing rule deems a person who disposes of trading stock at below market value to derive as income the market value of the trading stock at the time of disposal. Under *new section GC 1*, the application of the market value substitution rule is limited to disposals of trading stock at below market value in the following instances:

- when a person disposes of trading stock to themselves for their own use or consumption:
- when trading stock is not disposed of in the course of carrying on a business for the purpose of deriving assessable income, or excluded income, or a combination of both:
- when trading stock is disposed of to an associated person.

Additionally, a proposed new exclusion for a disposal of trading stock to a donee organisation would remove the current disincentive to gift trading stock to donee organisations.

*New section GC 1* will apply for disposals of trading stock occurring on or after 1 April 2024.

*New clause 27B* amends section FC 1 of the ITA to remove gifts of trading stock from the scope of section FC 2, which deems certain transfers of property to have occurred at market value and, therefore, covers the same ground as section GC 1.

*New clauses 30BAE and 30BAF* amend sections GC 20 and GC 21 of the ITA, which relate to purchase price allocation, to provide exceptions for trading stock disposed of at below market value to an associated person.

*New clause 22C* repeals section EB 24 of the ITA, which has been redundant since sections GC 20 and GC 21 came into force.

*New clauses 19B, 30BA, and 30BAG* repeal sections CZ 38, FZ 9, and GZ 3 to GZ 5 of the ITA. *New clause 76D* repeals section 225ABA of the Tax Administration Act 1994 (the TAA). These sections relate to temporary tax relief for trading stock donated in response to the Canterbury earthquakes and the COVID-19 pandemic.

*New clauses 12(1B), 21BB, 21EB, and 59(3B), (15EB), and (15EC)* make consequential amendments to sections CH 8, DB 59, DP 10, and YA 1 of the ITA. *New clause 67BB* makes a consequential amendment to section 44C of the TAA.

### ***Offshore gambling duty***

*New clause 89G* inserts *new Part 2C* into the Gaming Duties Act 1971 to introduce a new type of gaming duty, known as the offshore gambling duty.

The offshore gambling duty will apply to GST-registered persons that are located outside New Zealand to the extent they make supplies of remote gambling services to New Zealand residents. It will be 12% of the offshore gambling profits made by these persons on or after 1 July 2024.

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The offshore gambling duty rules have generally been designed to align with the existing rules for GST on remote services to allow existing systems and calculations for GST to be adapted to apply the offshore gambling duty.

The main difference from the GST remote services rules is that the proposed offshore gambling duty is calculated by excluding amounts for which the offshore gambling operator is required to pay “consumption charges” to the Department of Internal Affairs. Consumption charges are 10% charges on betting on sports and racing by New Zealand residents conducted through offshore operators.

***Transitional rule for the GST platform economy rules***

The AP proposes a transitional rule to allow electronic marketplace operators to treat the GST platform economy rules, which take effect on 1 April 2024, as not applying to contracts for short-stay or visitor accommodation entered into before 1 April 2024. *New clause 91QB* inserts *new section 85E* of the Goods and Services Tax Act 1985. The effect of this transitional rule is that marketplace operators will not be required to collect GST on supplies of short-stay accommodation booked before 1 April 2024.

This is to address the situation where an accommodation booking was taken before 1 April 2024 without GST being factored into the price, but the supply is not treated as occurring until on or after 1 April 2024, when the new GST rules are in force. This arises because the GST time of supply rules deem a supply to occur when a payment for the supply is first received or an invoice for the supply is issued, whichever happens first. Without the proposed transitional rule, marketplace operators may have unfunded and unanticipated GST liabilities on some bookings taken before the application date of the new rules but for which a payment is not made, or an invoice issued, until after that date.

***Minor and technical amendments***

The AP also makes the following minor and technical changes to the Bill:

- *clause 48(2)(b)* is replaced to insert an additional term in the defined terms list for *new section LJ 3* of the ITA; and
- *clause 61* is amended to clarify which fees will not be covered by the double tax agreement source rule.

**Departmental disclosure statement**

The Inland Revenue Department is required to prepare a disclosure statement to assist with the scrutiny of this Amendment Paper. The disclosure statement provides access to information about any material policy changes to the Bill and identifies any new significant or unusual legislative features of the Bill as amended.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=ap&subtype=government&year=2024&no=20&>

### **Regulatory impact statement**

The Inland Revenue Department produced a regulatory impact statement on 20 December 2023 to help inform the new policy decisions taken by the Government relating to the changes to the income tax treatment of disposals of trading stock at below market value made by the contents of this Amendment Paper.

A copy of this regulatory impact statement can be found at—

- <https://www.taxpolicy.ird.govt.nz/publications>
- <https://www.treasury.govt.nz/publications/legislation/regulatory-impact-assessments>