

# Taxation (Residential Land Withholding Tax, GST on Online Services, and Student Loans) Bill

Government Bill

## Explanatory note

### General policy statement

This Bill introduces amendments to the *Student Loan Scheme Act 2011*, the *Income Tax Act 2007*, the *Goods and Services Tax Act 1985*, and the *Tax Administration Act 1994*.

The following is a brief summary of the policy measures contained in this Bill. A comprehensive explanation of all the policy items will be included in a commentary on the Bill that will be available shortly after this Bill is introduced, at <http://taxpolicy.ird.govt.nz/publications/type/bill-commentary>.

### *Student Loan Scheme*

The main policy measure relating to the Student Loan Scheme provides for giving effect in domestic law to the Arrangement for the Exchange of Information regarding New Zealand Student Loans between the Commissioner of Taxation (Australia) and the Commissioner of Inland Revenue (New Zealand) (the **Arrangement**).

#### *Trans-Tasman information-sharing regarding New Zealand student loans*

The Bill proposes to amend the Student Loan Scheme Act 2011 and the Tax Administration Act 1994 in order to facilitate the sharing of information between the Australian Taxation Office and New Zealand's Inland Revenue Department (**Inland Revenue**) in relation to New Zealand student loan borrowers residing in Australia.

The Arrangement was signed by the respective Commissioners in March of this year. The Arrangement does not constitute a legally binding commitment in international law for the New Zealand Government.

The key to collecting overdue repayments is holding up-to-date contact details for defaulters. Not having contact details makes engaging with overseas-based borrowers, many of whom are believed to be living in Australia, difficult.

This information exchange would allow Inland Revenue to receive up-to-date contact details for New Zealand student loan borrowers residing in Australia through matching borrower details against the Australian Taxation Office database of Australian taxpayers. Inland Revenue would then be able to contact those individuals to keep them engaged with their loan obligations and, where appropriate, recover outstanding student loan amounts.

#### *Approval of charitable organisations for student loan purposes*

Student loan borrowers who work overseas for approved charitable organisations, in approved aid activities as volunteers, or for token payment are entitled to be treated as if they were physically present in New Zealand. As such, they are not charged interest on their student loans for a maximum period of 24 months.

However, some borrowers do not have access to the full benefit of the provision because of the time it takes to achieve Cabinet approval of a charitable organisation and have it listed in the Student Loan Scheme (Charitable Organisations) Regulations 2011. The Bill proposes to revoke those regulations and delegate the authority for approval of charitable organisations for this purpose to the Commissioner of Inland Revenue (the **Commissioner**). The Commissioner already has a similar power to approve exemptions from income tax for specified charitable organisations, relying in part on the principles established under the Charities Act 2005. Under the proposals, organisations that are already registered with Charities Services or have been approved as a tax charity would automatically be approved for the purposes of the student loan scheme. Other applicant organisations, which will generally be non-resident, will have to satisfy the Commissioner that they are established for charitable purposes in their home jurisdiction and that it is appropriate for them to be approved. A list of approved organisations will continue to be published on Inland Revenue's Internet site.

The Commissioner will also have the power to remove organisations from the student loans charities list when they no longer meet the criteria for inclusion. When that happens, borrowers who have already had an interest write-off approved will have that treatment grand-parented (in effect until they complete their volunteering assignment or reach the end of the 24-month period, whichever is earlier).

Transitional provisions will ensure that charitable organisations that are listed in the regulations immediately before the Act comes into force are carried over to the new charities list.

The proposals are expected to reduce administrative costs and provide eligible borrowers with more timely access to the interest write-off.

*Treatment of over-recovered Commissioner deductions*

The Bill proposes to align the treatment of over-recovered deductions from a borrower's salary or wages, regardless of whether they were standard deductions or additional deductions initiated by the Commissioner to recover some previous repayment shortfall. This will simplify the administration for Inland Revenue by having 1 standard process to follow.

Under the proposal, over-recovered Commissioner deductions will be offset against a borrower's consolidated loan balance in the first instance, but the borrower will be advised of the over-recovery and given the opportunity to apply for a refund of the amount.

*Notifying adjustments to net income*

Student loan borrowers are required to make specified adjustments to their net income to ensure that their student loan repayments are calculated with regard to the full amount they have available to apply to those repayments. The Bill proposes amendments to ensure that all borrowers with the relevant types of income make those adjustments. However, they will be allowed to simply notify the Commissioner of the adjustments rather than making a declaration that meets the requirements of the Oaths and Declarations Act 1957. A number of consequential amendments are needed to incorporate the changed wording.

*Main income equalisation scheme deposits and refunds*

The main income equalisation scheme is intended to allow persons carrying on an agricultural, fishing, or forestry business to smooth their incomes for income tax purposes to address large fluctuations in income over several years. Consequently, deposits to the scheme are allowed as deductions for income tax purposes. However, because the amounts deposited would have been available to a student loan borrower to apply to their student loan repayments, they are one of the required adjustments to net income referred to previously. Conversely, when deposits are refunded they are not counted as income for student loan purposes. The proposed amendments are technical corrections to ensure that the provisions work as intended, including when the borrower's interest is more indirect, through a company or a trust with which the borrower is associated.

*Other remedial changes to Student Loan Scheme Act 2011*

The Bill proposes to relax the requirements for cancellation of loan contracts by allowing a person to notify the Ministry of Social Development in writing, including by electronic means, that they wish to cancel the contract. This is consistent with the requirements under the Credit Contracts and Consumer Finance Act 2003 and the arrangements that were in place prior to a previous amendment. The provision will be retrospective to 1 January 2012, when the law was changed, to ensure that borrowers have not inadvertently been in breach of the law.

A transitional provision will make it clear that the loan balance thresholds for calculating the repayment obligations of overseas-based borrowers apply only in respect of tax years commencing 1 April 2014 and later.

*Consequential amendments to other enactments*

As a consequence of the changes relating to charitable organisations in the Student Loan Scheme Act 2011, the Bill proposes an amendment to section MK 2(1)(d)(ii) of the Income Tax Act 2007, which allows a KiwiSaver member volunteering overseas to continue to receive member tax credits if they meet the criteria established for the student loan scheme.

The Bill also proposes the following amendments to the Tax Administration Act 1994 as a consequence of the proposed changes to the Student Loan Scheme Act 2011:

- amendments to make it explicit that student loan borrowers with adjustments to net income are subject to the record retention requirements in respect of those adjustments; and
- an amendment to create an additional exception to taxation secrecy provisions to allow for communication in accordance with the Arrangement.

***Residential Land Withholding Tax***

The Bill proposes a new tax named residential land withholding tax (**RLWT**). The objective of the RLWT is to act as a collection mechanism for the new bright-line test, which would require income tax to be paid on any gains from the disposal of residential land that is acquired and disposed of within 2 years, subject to some exceptions.

With the introduction of the bright-line test, it is highly likely that overseas vendors who sell residential property within 2 years will have a tax liability in New Zealand in relation to income from that property. Given the general difficulty faced in collecting tax from foreign investors with no or limited presence in New Zealand, RLWT would optimise the effectiveness of the bright-line test and support the integrity of the tax system as it would be consistent with New Zealand's broader approach to withholding taxes to withhold tax on the payment received by the vendor.

It is proposed that RLWT is payable from 1 July 2016, in the same circumstances as bright-line residential land income, except there is no "main home" exemption. Because the focus of RLWT is on New Zealand residential land sold by offshore persons, a main home exemption is a compliance cost of marginal use. There will be an exemption for disposals of inherited property, as well as relief for relationship property.

It is proposed to impose RLWT at the point in time when New Zealand land is sold by an offshore vendor, so as to improve collection of any annual income tax liability for bright-line residential land income the offshore person might have.

Payment of RLWT generates a tax credit that may be used to pay the annual income tax liability for bright-line residential land income. If the tax credit for RLWT is not needed to pay income tax liability, the tax credit / RLWT is refundable.

“Offshore person” includes a New Zealand citizen who is living overseas, if they have been overseas for the last 3 years. An individual who holds a New Zealand residence class visa may be an offshore person if they have been living overseas for the last 12 months. New Zealand trusts and companies may also be offshore persons if there are significant offshore interests in them.

The mechanism proposed for the collection of RLWT at the point in time when residential land located in New Zealand is disposed of is, primarily, an obligation on the offshore person / vendor. It is proposed that the offshore vendor’s conveyancer, or, in the absence of a vendor’s conveyancer, the purchaser’s conveyancer, is treated as the “RLWT agent” of the offshore vendor. In absence of a vendor’s conveyancer and a purchaser’s conveyancer, the purchaser themselves is treated as the RLWT agent. In the case of association between the offshore vendor and the purchaser, the purchaser will be primarily liable.

The amount of RLWT required to be paid would be the lower of:

- 33% of the offshore vendor’s gain on that property, or 28% if the vendor is a company (i.e.  $33\%$  (or  $28\%$ )  $\times$  (agreed purchase price – vendor’s acquisition cost)); and
- 10% of the agreed purchase price of that property.

The amount of RLWT is reduced, if it would otherwise subtract from the amount of a payment to discharge a mortgage on the relevant land and the mortgage is held by a New Zealand registered bank or licensed non-bank deposit taker. This reduction would only be available where the RLWT agent is the seller’s conveyancer.

The RLWT agent is agent only in respect of RLWT, and is not primarily liable for the RLWT. As conveyancers for the sale and purchase of residential land, the RLWT agents have access to the principal’s / offshore vendor’s funds, namely the sale proceeds. It is proposed that the conveyancers make RLWT returns and payments as agents on behalf of liable offshore vendors. While a RLWT agent may not be primarily liable for the RLWT as agent, if they fail to pay, they may be exposed to penalties for their failure, as well as possible reporting to their professional body.

It is proposed that RLWT will be remitted to the Commissioner on a monthly basis. However, this does not preclude a RLWT agent from remitting RLWT for a particular transaction to the Commissioner immediately following settlement.

### ***Goods and services tax on cross-border services and intangibles***

In principle, goods and services tax (GST) should apply to all consumption that occurs in New Zealand, ensuring the system is fair, efficient, and simple. However, currently GST is not collected on most cross-border services and intangibles (including internet downloads and online services).

When GST was introduced in 1986, few New Zealand consumers purchased offshore services and online digital products were not available. Therefore, GST was not imposed on these products. The growth of e-commerce has meant that the volume of services on which no GST is collected has become increasingly significant. Many are concerned about the impact that this uneven GST treatment may have on the competitiveness of domestic providers and on future tax revenues.

The amendments in this Bill address the non-taxation of cross-border remote services and intangibles in order to maintain the broad base of New Zealand's GST system and create a level playing field for domestic and offshore suppliers.

The non-taxation of cross-border remote services and intangibles is an international issue faced by countries that have a GST or Value Added Tax (VAT) system. The Organisation for Economic Cooperation and Development (OECD) has developed guidelines to establish an international set of principles for determining when countries should have the right to tax these supplies, which is expected to minimise the potential for double taxation or double non-taxation. The proposed amendments are consistent with these guidelines, which recommend that supplies of "remote" services to consumers should be taxed in the place of the consumer's usual residence.

#### *Supplies to consumers resident in New Zealand*

The Bill proposes amendments to the Goods and Services Tax Act 1985 which would apply GST to supplies of "remote" services and intangibles by offshore suppliers to New Zealand resident consumers. Remote services are those where there is no necessary connection between the physical location of the customer and the place where the services are performed. These "remote" services include both digital services (such as internet downloads and online services) and more traditional services (such as legal and accounting services that are supplied remotely).

Special rules for remote supplies of general insurance and gambling services will apply to offshore suppliers in order to provide comparable treatment of these supplies to other remote services. The current special rules for determining the GST treatment of telecommunications services are not impacted by these amendments.

#### *Supplies to GST-registered businesses*

The amendments that would tax supplies of remote services and intangibles will not apply to such supplies made to New Zealand GST-registered businesses unless the offshore supplier and registered business agree that these supplies are to be zero-rated. As GST-registered businesses are not able to claim deductions for GST charged on these supplies, non-resident offshore suppliers will not be required to provide tax invoices on their supplies of remote services and intangibles.

However, if an offshore supplier inadvertently charges GST to a GST-registered business and the consideration for the supply does not exceed \$1,000, the supplier would have the option of providing a tax invoice to allow the registered business to deduct the GST charged.

*Registration threshold*

Offshore suppliers will be required to register and return GST if their supplies to New Zealand residents exceed NZD \$60,000 in a 12-month period, which is the existing domestic registration threshold. Supplies of remote services and intangibles to New Zealand GST-registered businesses will only count towards this threshold if the offshore supplier and the registered business have agreed that the supply is zero-rated.

*Electronic marketplaces*

An operator of an electronic marketplace would be required to register and return GST on supplies of remote services and intangibles made through the marketplace, when certain criteria are met. This recognises that an electronic marketplace is often in a better position to account for GST on these supplies than the underlying suppliers, as the marketplace is likely to have the best access to the information needed to determine the GST liability arising from a transaction. The proposed rules for electronic marketplaces are broadly consistent with those in other jurisdictions that adopt a similar regime to that proposed in the Bill.

*Determining the tax treatment of a supply*

An offshore supplier must treat a customer as a New Zealand resident on the basis of 2 non-conflicting pieces of evidence, such as the customer's billing address and the origin of their payment. The legislation provides a list of residence proxies that may be used, and allows for other commercially relevant information to be used. The Commissioner of Inland Revenue would be able to prescribe an alternative method in circumstances where sufficient information is not commercially available.

An offshore supplier must treat a recipient as not being registered for GST unless the recipient notifies the supplier that they are registered, or provides their GST registration number or New Zealand business number. A provision would allow the Commissioner and a supplier to agree on an alternative method of determining whether a customer is a GST-registered business.

If a recipient knowingly provides false or misleading information to avoid the payment of GST, the existing knowledge offences would apply. Additionally, where the amount of GST involved is substantial or where the behaviour is repeated, the Commissioner will have a discretion to register the customer and require them to pay the GST that should have been charged.

**Departmental disclosure statement**

Inland Revenue is required to prepare a disclosure statement to assist with the scrutiny of this Bill. It provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2015&no=93>

### Regulatory impact statements

The Inland Revenue has produced regulatory impact statements to help inform the main policy decisions taken by the Government relating to the contents of this Bill.

A copy of these regulatory impact statements can be found at—

- <http://taxpolicy.ird.govt.nz/publications/type/ris>
- <http://www.treasury.govt.nz/publications/informationreleases/ris>

### Clause by clause analysis

*Clause 1* is the Title clause.

*Clause 2* gives appropriate commencement dates for the provisions of the Bill.

## Part 1

### Amendments to Student Loan Scheme Act 2011

*Clause 3* provides that *Part 1* of the Bill amends the Student Loan Scheme Act 2011.

*Clause 4* amends definitions in section 4(1). In particular,—

- definitions of *entity* and *list* are inserted, and the definition of *charity* is replaced, as a consequence of the amendments made to the way charities are approved for the purposes of section 25(1)(b) (*see clause 7*):
- definitions of terms relating to deposits into and refunds from main income equalisation accounts are added as a consequence of technical corrections made to ensure the deposits and refunds are treated correctly for the purposes of assessing borrowers' repayment obligations (*see clause 30*):
- adjusted net income definitions are amended as a result of changes made to a number of provisions to clarify that formal declarations of adjusted net income are not required (*see clauses 10 to 21*).

*Clause 5* amends section 5 to update the terminology used in a defined term to reflect the amendments made to the provisions relating to a borrower's adjusted net income (*see clause 20*).

*Clause 6* amends section 15 to allow borrowers to cancel their loan contracts by email or other electronic means, provided that the borrower complies with certain requirements of the Electronic Transactions Act 2002. This amendment is backdated to 1 January 2012 (which was when the prior amendment was made) to ensure that borrowers who have previously done this have not inadvertently been in breach of the requirements.

*Clause 7* inserts *new sections 27A to 27E* to enable charities to be listed on a list kept by the Commissioner (rather than in regulations as at present). Borrowers doing volunteer work overseas for charities on the list may apply to be treated as physically in New Zealand under section 25(1)(b). The new listing provisions operate as follows:

- under *new section 27A*, the Commissioner must keep and publish the list. The list must state the charity and the dates for which the listing as a charity applies (or ceases to apply, if applicable):
- *new section 27B* sets out the eligibility requirements for listing. All registered charities under the Charities Act 2005 and any other recognised tax charities will qualify for listing. In addition, other entities will be eligible for listing as charities if they satisfy the Commissioner that they meet the charitable purpose test and are otherwise appropriate to be listed for the purposes of section 25(1)(b). All existing charities specified in the regulations will be listed as soon as practicable after commencement under the transitional provisions inserted in *new Part 4 of Schedule 6*:
- *new section 27C* provides an application process for entities that wish to be listed. In addition, even if there is no application, the Commissioner may list a registered charity or an already recognised tax charity under *new section 27D* (for example, if the Commissioner is alerted to the fact that an entity is a relevant charity because a borrower makes an application under section 25(1)(b)):
- under *new section 27E*, the Commissioner may remove an entity's listing if it no longer qualifies for listing (but only after following appropriate steps).

*Clause 8* replaces a cross-heading above section 63 as a consequence of the insertion of *new sections 68A to 68C* and the insertion of a *new cross-heading* above those sections (see *clause 9*).

*Clause 9* provides a procedure in *new sections 68A to 68C* for dealing with over-deductions caused by Commissioner deductions. Commissioner deductions are additional deductions that the Commissioner may obtain from a borrower's salary or wages in certain circumstances when standard deductions from salary or wages result in a repayment shortfall. At present, sections 63 to 67 provide a procedure for dealing with significant over-deductions caused by standard deductions, but there is no corresponding procedure for dealing with over-deductions caused by Commissioner deductions. *New sections 68A to 68C* apply the procedure provided in existing sections 65 to 67 to Commissioner deductions, except that—

- an over-deduction caused by a Commissioner deduction need not be a significant over-deduction (so it need not be above a certain amount) before the procedure in *new sections 68A to 68C* applies; and
- if a borrower notifies the Commissioner of the over-deduction, it is not required that they do so within 6 months of the over-deduction being made; and
- *new section 68A*, unlike present section 65, does not require the borrower to provide any evidence or information to the Commissioner to help determine whether an over-deduction was made.

In most circumstances, the borrower will be entitled to seek a refund for any overpaid amount caused by a Commissioner deduction.

*Clauses 10 to 21* make a number of remedial amendments relating to a borrower's adjusted net income. The amendments remove the requirement for borrowers to make

a declaration of adjusted net income, as declarations need to meet the requirements of the Oaths and Declarations Act 1957. The requirement in section 74 for borrowers to make a declaration of adjusted net income is replaced with a requirement to notify the Commissioner of the Schedule 3 adjustments component of their adjusted net income. More specifically—

- *clause 10* replaces section 73, by inserting new definitions relating to adjusted net income:
- *clause 11* replaces section 74, which currently provides that New Zealand-based borrowers who are New Zealand residents are required to make a declaration of adjusted net income if they are not required to file a return of income or provide details of adjusted net income under section 114. The declaration of adjusted net income (which includes details of Schedule 3 adjustments made to their net income other than net income from salary or wages) is replaced with a requirement to notify the Commissioner only of the Schedule 3 adjustments component of their adjusted net income. This is because the Commissioner will already have the details of any relevant net income derived by the borrower because of the obligation to file a return of income imposed by the Tax Administration Act 1994. Section 74 has also been amended so that filing a return of income does not remove the requirement for the borrower to notify the Commissioner of Schedule 3 adjustments:
- *clause 12* amends section 75 so that the terms used correspond to the terms used in amended section 74:
- *clause 13* amends section 76 to clarify that the Commissioner requires the borrower's statement of adjusted net income before the Commissioner assesses the borrower's end-of-year repayment obligation for a tax year:
- *clauses 14 to 16* amend sections 79, 82, and 83 as a consequence of the amendments made to section 76:
- *clause 17* replaces section 114. The amendments to section 114 reflect the proposed amendments to section 74, except that section 114 applies to borrowers for periods when the borrower is a non-resident for the purposes of the Student Loan Scheme Act 2011:
- *clause 18* amends section 114A so that the terms used correspond to the terms used in amended section 114:
- *clause 19* amends section 146A to update the terminology used in a defined term to reflect the amendments made by *new section 155*:
- *clauses 20 and 21* replace sections 155 and 156 to update the terminology to reflect the amendments made to section 74.

*Clause 22* amends section 173 to remove the decision by the Commissioner to refuse to list a charity, or remove a charity listing, from the process for disputing assessments under Part 4A of the Tax Administration Act 1994. Instead the decision can be challenged by the entity under Part 8A of the Tax Administration Act 1994 (under *new section 176A*, inserted by *clause 23*).

*Clause 24* replaces section 185 to update the terminology used in a defined term to reflect the amendments made to the provisions relating to a borrower's adjusted net income (*see clause 20*).

*Clause 25* amends section 202 to insert a reference to section 15B of the Tax Administration Act 1994. This amendment explicitly makes borrowers subject to the obligations set out in section 15B of that Act, including the obligation relating to the retention and disclosure of information. *Clause 25* also amends section 202(d) to update the terminology to reflect the amendments made to the provisions relating to a borrower's adjusted net income (*see clauses 10 to 21*).

*Clause 26* inserts *new section 209A* to enable the exchange of information between Inland Revenue and the Australian Taxation Office for the purpose of assisting the Commissioner to obtain and verify contact details of overseas-based borrowers and administer the student loan scheme in relation to them. The provisions enable the Commissioner to release specified information to the Australian Taxation Office. This will enable the Australian Taxation Office (under provisions in Australian legislation that authorise the release of information for this purpose) to provide up-to-date borrower contact details so as to enable Inland Revenue to continue to contact overseas-based borrowers on student loan matters while they are in Australia.

*Clause 27* amends section 215 by repealing section 215(b). Section 215(b) allowed regulations to be made for the purposes of specifying charitable organisations for the purposes of the definition of charity in section 4(1). As a result of the amendments made by *clause 7*, charitable organisations will no longer be specified in regulations.

*Clause 28* amends section 220, which relates to application, savings, and transitional provisions, so that it covers the new transitional provisions inserted by *clause 32*.

*Clause 29* amends Schedule 1 in relation to borrowers' applications to be treated as physically in New Zealand on the basis that they are volunteering overseas for a charity. The effect of the changes is that the charity must be on the Commissioner's list either at the time the borrower is doing the volunteer work (if the work is completed before the application is made) or at the time the application is granted. This will mean that even if a charity is subsequently removed from the list, the removal will not affect an already granted application from a borrower.

*Clause 30* amends Schedule 3. The clauses in Schedule 3 relating to adjustments to net income that borrowers need to make as a result of deposits into, or refunds from, main income equalisation accounts are amended. The amendments are to ensure that where a deposit has been made into, or a refund has been received from, a main income equalisation account by an associated entity of a borrower, the deposit or refund will only affect the net income of the borrower to the extent of the borrower's interest.

*Clause 31* amends Schedule 4 to update the terminology to reflect the amendments made to the provisions relating to a borrower's adjusted net income (*see clauses 10 to 21*).

*Clause 32* amends Schedule 6 (which contains transitional provisions). These changes—

- ensure that previous amendments made by the Student Loan Scheme Amendment Act 2014 to repayment obligations do not apply to tax years that commenced before 1 April 2014 (but for which the repayment obligations are being assessed on or after that date). Instead, the previous repayment obligations will continue to apply to those earlier tax years. This change is backdated to the date on which that amendment Act came into force:
- ensure that existing charities specified in the regulations before the changes made by this Act come into force will be listed as charities on the list kept by the Commissioner.

*Clause 33* revokes the Student Loan Scheme (Charitable Organisations) Regulations 2011 as a consequence of the changes made by *clause 7*.

## **Part 2**

### **Amendments to Income Tax Act 2007**

*Clause 34* sets out clauses that affect the *Income Tax Act 2007*.

*Clause 35* amends *section BE 1*, to fit RLWT into the current structure of the *Income Tax Act 2007*.

*Clause 36* amends *section BF 1*, to fit RLWT into the current structure of the *Income Tax Act 2007*.

*Clause 37* amends *section CB 6A*, to remedy a fault in expression in the bright-line test for residential land.

*Clause 38* amends *section LA 6*, to ensure that a tax credit is available for RLWT that has been paid.

*Clause 39* inserts a *new section LB 6B*, to ensure that a tax credit is available for RLWT that has been paid.

*Clause 40* updates *section MK 2(1)(d)(ii)* to refer to charities listed under the Student Loan Scheme Act 2011 (rather than in regulations) as a consequence of the changes made by *clause 7* to that Act.

*Clause 41* inserts a *new section RA 6B*, to fit RLWT into the current structure of the *Income Tax Act 2007*.

*Clause 42* amends *section RA 10*, to ensure that vendors are primarily liable, as well as purchasers' conveyancers, in the case of association between vendors and purchasers.

*Clause 43* amends *section RA 15*, to provide a monthly payment date for RLWT.

*Clause 44* inserts a *new subpart RL*, to provide the core provisions of RLWT. *Section RL 1* sets out, in general terms, the application of RLWT, as well as signposts to other provisions in the RLWT rules. *Section RL 2* provides the primary rules of liability for the offshore vendor. It also provides rules for the agency of the vendor's conveyancer, or, in the absence of a vendor's conveyancer, the purchaser's conveyancer. *Section RL 2* also provides penalties for RLWT agent conveyancers, and a rule that any amounts

subtracted or retained by an agent (for example: RLWT taken from sales proceeds) are treated in law as received by the vendor. *Section RL 3* provides that in the case of association between vendors and purchasers, purchasers are primarily liable for RLWT, not vendors. *Section RL 4* quantifies the amount of RLWT. *Section RL 5* provides rule for remitting RLWT on a monthly basis.

*Clause 45* amends *section YA 1*. *Subclause (2)* amends the definition of *amount of tax*, to fit RLWT into the current structure of the *Income Tax Act 2007*. *Subclause (3)* amends the definition of *ancillary tax*, to fit RLWT into the current structure of the *Income Tax Act 2007*. *Subclause (4)* amends a cross-reference in the definition of *bright-line date* to account for RLWT information provisions. *Subclause (5)* inserts a new definition of *conveyancer*, for the purposes of RLWT. *Subclause (6)* amends a cross-reference in the definition of *bright-line date* to account for RLWT information provisions. *Subclause (7)* inserts a new definition of *licensed security holder* for the purposes of the security-related RLWT reduction in *section RL 4*. *Subclause (8)* inserts a new definition of *offshore person*, for the purposes of RLWT. *Subclause (9)* inserts a new definition of *residential land purchase amount*, for the purposes of RLWT. *Subclause (10)* inserts a new definition of *RLWT*, to fit RLWT into the current structure of the *Income Tax Act 2007*. *Subclause (11)* inserts a new definition of *RLWT rules*, to fit RLWT into the current structure of the *Income Tax Act 2007*.

### Part 3

#### Amendments to Tax Administration Act 1994

*Clause 46* sets out clauses that affect the *Goods and Services Tax Act 1985*.

*Clause 47* amends *section 2*. *Subclause (2)* amends the definition of *adjustment period*, as a consequence of the insertion of *new section 20(3JC)*. *Subclause (3)* inserts a new definition of *electronic marketplace*, as electronic marketplaces, rather than the underlying supplier, will in most circumstances be treated as the supplier of remote services to residents in New Zealand. *Subclause (4)* amends the definition of *goods* to exclude all products that are transmitted by means of a wire, cable, radio, optical or other electromagnetic system or by means of a similar technical system, regardless of whether the supplier and recipient are residents or non-residents. This amendment clarifies that these intangible products are services, rather than goods, in all cases. *Subclauses (5)–(7)* amend the definitions of *percentage actual use*, *percentage difference*, and *percentage intended use* as a consequence of the insertion of *new section 20(3JC)*. *Subclause (8)* inserts a new definition of *remote services* to define the types of services that may be subject to GST when supplied to residents in New Zealand.

*Clause 48* amends *section 5*, which defines what is meant by a supply. *New section 5(10B)* is added and *section 5(11)* is amended to expand the definition of supply to include the provision of remote gambling services to residents in New Zealand. *New section 5(13)(d)* removes the requirement for a GST-registered person to return output tax where a payment is received under a contract of insurance that is zero-rated under *new section 11A(1)(x)*. *New section 5(27)* provides a reverse charge provision which

will apply in certain limited circumstances where the recipient of a supply of remote services knowingly notifies a fact or provides information to the supplier that is altered, false, or misleading, in order to avoid GST being applied to the supply.

*Clause 49* amends *section 8*. *New section 8(3)(c)* treats remote services provided by non-resident suppliers to residents in New Zealand as being supplied in New Zealand, provided that the services are not physically performed in New Zealand by a person who is in New Zealand at the time the services are performed. The reverse charge in *section 8(4B)* is amended to include supplies of remote services that are treated as being supplied outside New Zealand and that are acquired or used for partly non-taxable purposes.

*Clause 50* inserts *new section 8B*, which prescribes how a supplier must determine whether a recipient of remote services is a resident in New Zealand and, if so, whether the resident is GST-registered.

*Clause 51* amends *section 9*. *Section 9(2)(e)*, which describes when the supply of gambling services is treated as taking place, has been amended to refer to *new section 5(10B)* as well as current *section 5(10)*.

*Clause 52* amends *section 10* by inserting *new subsections (14B) and (14C)*. These new subsections describe how to calculate the consideration for a supply of remote gambling services to a resident in New Zealand. In addition, *section 10(15C)* has been amended to refer to *new section 20(3JC)*.

*Clause 53* amends *section 11A*. *Section 11A(1)(j)* is amended to exclude supplies of remote services that are provided to a resident in New Zealand who is not a registered person. *New section 11A(1)(x)* is inserted to zero-rate a supply of remote services to a GST-registered resident in New Zealand who has agreed with the supplier under *section 8(4)* to zero-rate the supply. *New section 11A(7)* provides that *new section 11A(1)(x)* does not apply to zero-rate a supply of remote services where the supplier subsequently has chosen to provide a tax invoice to the recipient of the services under *new section 24(5B)*.

*Clause 54* amends *section 15* to provide for different taxable periods. For the transitional period of 1 October 2016 to 31 March 2017, a non-resident supplier who only supplies remote services to a resident in New Zealand will have default 6-monthly taxable periods, but can choose to have 2-monthly taxable periods. Fixed quarterly taxable periods will apply on and after 1 April 2017.

*Clause 55* amends *section 20*. *New section 20(3)(d)(vii)* is inserted to deny a deduction to a non-resident insurer for an insurance payment made under a contract of insurance that is subject to the zero-rating rule in *new section 11A(1)(x)*. *New section 20(3)(dc)* is inserted to prevent double taxation by allowing a special input tax deduction where a supplier has already paid a consumption tax in another country or territory in respect of a supply of remote services physically performed in New Zealand, but supplied to a non-resident person in New Zealand. *New section 20(3JC)* is inserted to provide a new reverse charge provision which will apply when a supply of remote services is zero-rated under *new section 11A(1)(x)* and where either the intended use

at acquisition is less than 95%, or the actual taxable use is less than 95% at the end of an adjustment period. *New section 20(4C)* is inserted to provide that a non-resident supplier of remote services to which *new section 8(3)(c)* applies can only claim a deduction of input tax in relation to the supply if the supplier elects to provide the recipient of the supply with a tax invoice in the circumstances set out in *new section 24(5B)*. *New section 20(4D)* provides that *new section 20(4C)* does not apply to a supply of remote services that is treated by *section 5B* as being made by the recipient of the supply, and where the recipient has accounted for the output tax charged on the supply.

*Clause 56* amends a cross-reference in *section 21G*, so that *section 21G(1)* refers to *new section 20(3JC)* as well as *section 20(3H)*.

*Clause 57* amends *section 24*. A new exception is inserted into *section 24(5)* to provide that a non-resident supplier of remote services to which *new section 8(3)(c)* applies is not required to provide a tax invoice. *New section 24(5B)* is inserted to provide that, despite the exceptions in *section 24(5)*, a non-resident supplier of remote services to which *new section 8(3)(c)* applies can, in certain circumstances, choose to provide a tax invoice. The proviso in *section 24(4)* is amended to ensure that it will not apply to suppliers who have elected to provide a tax invoice under *new section 24(5B)*. The tax invoices provided by those suppliers will need to contain the particulars set out in *section 24(3)* (not *section 24(4)*), despite the fact that the amount of consideration does not exceed \$1,000. *New section 24(5C)* provides that *new section 24(5B)* does not apply to the supply of a contract of insurance. *New section 24(5D)* provides that if an election is made under *new section 24(5B)* in circumstances where *section 8(4)* was incorrectly applied to the treatment of the supply so that services supplied to a GST-registered recipient were inadvertently treated as being made in New Zealand, then the supplier and the recipient are treated as agreeing that *section 8(4)* will not apply to the supply.

*Clause 58* amends *section 24B* to add a cross-reference to *new section 20(3JC)*.

*Clause 59* amends *section 25* by inserting 2 new paragraphs into *section 25(1)*. *New sections 25(1)(aab)* and *(abb)* will allow suppliers of remote services who inadvertently charge GST at the standard rate in *section 8(1)* to deduct the amount of GST charged from output tax within 2 years of the time of supply. The new paragraphs apply when either the services should have been treated as supplied outside New Zealand under *section 8(4)*, or the supplies should have zero-rated under *new section 11A(1)(x)*. These paragraphs do not apply in circumstances where the supplier has elected to provide a tax invoice under *new section 24(5B)*.

*Clause 60* amends *section 25AA(1)(a)* so that *section 25AA* will apply in situations where a supplier has provided the recipient with a tax invoice under *section 24(5B)* to enable the recipient to make adjustments when they have already applied the reverse charge.

*Clause 61* amends *section 51B*. *New section 51B(7)* deems recipients who are treated as suppliers by the reverse charge in *new section 5(27)* to be registered from the date on which the supply is physically performed.

*Clauses 62 and 63* amend the titles of *sections 54B and 54C* to clarify that these sections do not apply to all non-resident suppliers.

*Clause 64* amends *section 56B* to add a cross-reference to *new section 20(3JC)*.

*Clause 65* amends *section 60*. *New section 60(1C)* is inserted to allow an operator of an electronic marketplace and an underlying supplier who is a resident in New Zealand to treat a supply as 2 separate supplies — one from the underlying supplier to the operator of the electronic marketplace, and one from the operator of the electronic marketplace to the recipient.

*Clause 66* inserts *new section 60C*, which treats supplies made through an electronic marketplace as being made by the operator of the electronic marketplace rather than the underlying supplier, unless certain requirements are met.

*Clause 67* amends *section 75* to provide an exception to the rule that a registered person must seek the Commissioner's permission to keep records in a language other than English or in a place outside New Zealand. The exception provides in *new subsection (3F)* provides that the rule will not apply to non-resident suppliers of remote services to which *new section 8(3)(c)* applies.

*Clause 68* amends *section 77* to allow non-resident suppliers of remote services to which *new section 8(3)(c)* applies to elect to express amounts in a foreign currency at the time of their supplies, and to convert amounts into New Zealand dollars on the day of filing their return (or on the due date for filing their return if that is earlier). A 'lock-in' rule will prevent the supplier from revoking their election within a 2-year period. This is intended to prevent the supplier from taking advantage by switching between currencies.

## Part 4

### Amendments to Tax Administration Act 1994

*Clause 69* sets out clauses that affect the *Tax Administration Act 1994*.

*Clause 70* amends *section 22* by inserting *new section 22(2)(fc) and (n)*. The new paragraphs make student loan borrowers with adjusted net income explicitly subject to the record retention requirements in *section 22*, as a consequence of amendments made by Part 1 to the Student Loan Scheme Act 2011.

*Clause 71* amends *section 24BA*, which requires an offshore person to have a fully-functional New Zealand bank account in order to obtain an IRD number. *New section 24BA(1B)* provides an exception to this requirement for non-resident suppliers of remote services who require an IRD number only because they are registering for GST because they make supplies of remote services under *new section 8(3)(c)* of the *Goods and Services Tax Act 1985*.

*Clause 72* inserts *new sections 54B and 54C*, to provide administrative information flows for the payment and return of RLWT.

*Clause 73* amends *section 81*, to allow the Commissioner to inform a conveyancer's professional body of a conveyancers default in paying RLWT and to reflect the infor-

mation-sharing provisions inserted in the Student Loan Scheme Act 2011 by *clause 26*.



*Hon Todd McClay*

## **Taxation (Residential Land Withholding Tax, GST on Online Services, and Student Loans) Bill**

Government Bill

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**The Parliament of New Zealand enacts as follows:**

**1 Title**

This Act is the Taxation (Residential Land Withholding Tax, GST on Online Services, and Student Loans) Act **2015**.

**2 Commencement**

- (1) This Act comes into force on the day after the date on which it receives Royal assent, except as provided in this section. 5
- (2) **Section 6** is deemed to have come into force on 1 January 2012.
- (3) **Section 32(1)** is deemed to have come into force on 1 April 2014.
- (4) **Section 37** is deemed to have come into force on 1 October 2015.
- (5) **Section 72, 73(2), and Part 2** other than **sections 37 and 40** come into force on 1 July 2016. 10
- (6) **Section 71, and Part 3** other than **section 54(2)** come into force on 1 October 2016.
- (7) **Section 54(2)** comes into force on 1 April 2017.

**Part 1**

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**Amendments to Student Loan Scheme Act 2011**

**3 Student Loan Scheme Act 2011**

This Part amends the Student Loan Scheme Act 2011.

**4 Section 4 amended (Interpretation)**

- (1) In section 4(1), insert in their appropriate alphabetical order: 20
- entity** means the trustees of a trust, a society, or an institution
- list** means, in relation to an entity, to include the entity, in the list kept under **section 27A**, as a charity
- main income equalisation account** has the same meaning as in section EH 36 of the Income Tax Act 2007 25
- main income equalisation deposit** means a payment made to the Commissioner on or after 1 April 2014 under section EH 4 of the Income Tax Act 2007, for which a deduction is allowed under section DQ 1 of that Act
- main income equalisation refund** means a refund under sections EH 8 to EH 26 of the Income Tax Act 2007, to the extent to which the refund— 30
- (a) relates to a deposit made on or after 1 April 2014; and
- (b) is not interest payable under section EH 6 of the Income Tax Act 2007
- Schedule 3 adjustments** has the meaning given to it in **section 73**
- statement of adjusted net income** and **provides a statement of adjusted net income** have the meaning given to them in **section 73** 35

- (2) In section 4(1), replace the definition of **charity** with:
- charity—**
- (a) means, for the purposes of section 25(1)(b), an entity that is listed as a charity at the relevant time; and
- (b) includes that entity’s international, national, and regional branches, offices, sections, organisations, affiliates, members, associations, and programmes at that relevant time 5
- (3) In section 4(1), replace the definition of **late filing penalty** with:
- late notification penalty** means a penalty imposed under **section 155**
- (4) In section 4(1), repeal the definition of **declaration of adjusted net income**. 10
- 5 Section 5 amended (Meaning of unpaid amount)**
- Replace section 5(1)(g) with:
- (g) a late notification penalty:
- 6 Section 15 amended (Right to cancel loan contract)**
- In section 15(1)(a), replace “formally notifying the loan manager” with “notifying the loan manager in writing”. 15
- 7 New sections 27A to 27E inserted**
- After section 27, insert:
- 27A Commissioner must keep and publish list of charities**
- (1) The Commissioner must keep a list of entities that are charities for the purposes of section 25(1)(b). 20
- (2) The list must specify—
- (a) the date on and from which each entity’s listing as a charity applies; and
- (b) if applicable, the date on which each entity’s listing as a charity ceases to apply. 25
- (3) The Commissioner must publish the list in a manner chosen by the Commissioner.
- 27B When entity qualifies to be listed as charity**
- (1) An entity qualifies to be listed as a charity under **section 27A** if the Commissioner is satisfied that— 30
- (a) the entity is a tax charity under section CW 41(5) of the Income Tax Act 2007; or
- (b) the entity meets the requirements of section 13(1)(a) or (b) of the Charities Act 2005 and it is otherwise appropriate for the entity to be listed as a charity for the purposes of section 25(1)(b). 35

- (2) In determining whether it is appropriate for the entity to be listed as a charity under **subsection (1)(b)**, the Commissioner may have regard to—
- (a) the standing of the entity as a charitable organisation; and
  - (b) the entity’s systems and processes in monitoring and evaluating its charitable work; and
  - (c) any other matters the Commissioner considers relevant.

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**27C Application by entity to be listed as charity**

- (1) An entity may apply to be listed as a charity by—
- (a) notifying the Commissioner in writing with a completed application in the form approved by the Commissioner; and
  - (b) notifying the Commissioner in writing with any other information required by the Commissioner.
- (2) The Commissioner may request further information from the applicant and obtain information relating to the applicant from other persons before deciding whether or not to list the applicant.
- (3) The Commissioner must list an applicant as a charity (by adding the applicant’s name to the list and a date on and from which the listing applies) if the entity qualifies for listing under **section 27B**.
- (4) The date on and from which the listing applies must not be earlier than the date of the entity’s application under this section.
- (5) If the Commissioner proposes to refuse to list an applicant as a charity, the Commissioner must—
- (a) notify the applicant in writing of—
    - (i) the Commissioner’s reasons for the proposed decision; and
    - (ii) the period within which arguments against the proposed decision may be provided (which must be a period of at least 30 days after the date of the notice); and
  - (b) consider any arguments against the proposed decision that the applicant provides within that period.
- (6) The Commissioner must notify the applicant in writing of the final decision under this section.

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**27D Commissioner may list tax charities even if no application made**

- (1) The Commissioner may list an entity as a charity, even if there is no application under **section 27C**, if the entity is qualified under **section 27B(1)(a)** (by adding the entity’s name to the list and a date on and from which the listing applies).
- (2) The date on and from which the listing applies must not be earlier than the date of the Commissioner’s decision under this section.

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<b>27E</b>	<b>Commissioner may remove entity's listing as charity</b>	
(1)	The Commissioner may remove an entity's listing as a charity (by adding to the list a date on which the entity's listing as a charity ceases to apply) if the Commissioner determines that the entity no longer qualifies under <b>section 27B</b> to be listed.	5
(2)	The date on which the listing ceases to apply must not be earlier than the Commissioner's final decision under this section.	
(3)	If the Commissioner proposes to remove an entity's listing as a charity, the Commissioner must—	
(a)	notify the entity in writing of—	10
(i)	the Commissioner's reasons for the proposed decision; and	
(ii)	the period within which arguments against the proposed decision may be provided (which must be a period of at least 30 days after the date of the notice); and	
(b)	consider any arguments against the proposed decision that the applicant provides within that period.	15
(4)	The Commissioner must notify the entity in writing of the final decision under this section.	
<b>8</b>	<b>Cross-heading above section 63 replaced</b>	
	Replace the cross-heading above section 63 with:	20
	<i>Standard deductions resulting in significant under-deductions or over-deductions</i>	
<b>9</b>	<b>New sections 68A to 68C and cross-heading inserted</b>	
	After section 68, insert:	
	<i>Commissioner deductions resulting in over-deductions</i>	25
<b>68A</b>	<b>Commissioner over-deduction identified by borrower</b>	
(1)	If a borrower reasonably believes that a Commissioner over-deduction was made in relation to him or her, the borrower may request the Commissioner to determine whether a Commissioner over-deduction was made.	
(2)	A request under <b>subsection (1)</b> must be made by notifying the Commissioner ( <i>see</i> section 211).	30
(3)	In this section, and in <b>sections 68B and 68C</b> , <b>Commissioner over-deduction</b> means a Commissioner deduction that is made on or after the date on which—	
(a)	the Commissioner notifies the borrower's employer or PAYE intermediary to stop making Commissioner deductions; or	35

- (b) the Commissioner deductions equal the amount specified in the additional rate notice in accordance with section 49(2)(b).

**68B Commissioner must determine whether Commissioner over-deduction made**

If the Commissioner receives a request in accordance with **section 68A**, the Commissioner must, as soon as practicable,—

- (a) determine whether a Commissioner over-deduction was made; and
- (b) notify the borrower in writing if the Commissioner determines that a Commissioner over-deduction was not made.

**68C Procedure if Commissioner over-deduction made**

- (1) This section applies if the Commissioner—
  - (a) identifies that a Commissioner over-deduction was made in relation to a borrower; or
  - (b) determines (in accordance with **section 68B**) that a Commissioner over-deduction was made in relation to a borrower.
- (2) The Commissioner must, as soon as practicable, notify the borrower—
  - (a) that a Commissioner over-deduction was made in relation to the borrower; and
  - (b) of the amount of the Commissioner over-deduction; and
  - (c) that the Commissioner over-deduction has been offset against the borrower's consolidated loan balance; and
  - (d) that the borrower may, subject to **subsections (3) and (4)**, choose to receive a refund of the Commissioner over-deduction (*see* sections 199 and 200); and
  - (e) of the time frame within which the borrower must notify the Commissioner if the borrower chooses to receive a refund of the Commissioner over-deduction.
- (3) In any case where there is also, in relation to the borrower and any tax year, a significant under-deduction or an unpaid amount that the Commissioner has at any time identified, the significant under-deduction or unpaid amount may be offset against a Commissioner over-deduction identified or determined under **subsection (1)** before any refund is made.
- (4) To receive a refund of the Commissioner over-deduction, the borrower must notify the Commissioner in a manner acceptable to the Commissioner within 6 months after the date on which the borrower was notified in accordance with **subsection (2)**.
- (5) A choice made by the borrower to receive a refund of the Commissioner over-deduction is irrevocable.

**10 Section 73 replaced (Meaning of adjusted net income)**

Replace section 73 with:

<b>73</b>	<b>Meaning of adjusted net income, Schedule 3 adjustments, and related terms</b>	
(1)	In this Act,—	5
	<b>adjusted net income</b> —	
	(a) means net income (as defined in section YA 1 of the Income Tax Act 2007) with any Schedule 3 adjustments; but	
	(b) excludes salary and wages	
	<b>Schedule 3 adjustments</b> means the adjustments set out in Schedule 3 (including any adjustment determined by the Commissioner under clause 15 of that schedule)	10
	<b>statement of adjusted net income</b> means the return of income or notification of Schedule 3 adjustments (or both) referred to in <b>subsection (2)</b> .	
(2)	In this Act, a borrower <b>provides a statement of adjusted net income</b> if the borrower—	15
	(a) files a return of income only, if there are no Schedule 3 adjustments; or	
	(b) notifies Schedule 3 adjustments under <b>section 74 or 114</b> only, if the borrower is not required to file a return of income under the Tax Administration Act 1994; or	20
	(c) both files a return of income and notifies Schedule 3 adjustments under <b>section 74 or 114</b> , in any other case.	

**11 Section 74 replaced (Declaration of adjusted net income)**

Replace section 74 with:

<b>74</b>	<b>Notification of Schedule 3 adjustments</b>	25
(1)	This section applies to a borrower if—	
	(a) this subpart applies to the borrower; and	
	(b) any Schedule 3 adjustments are applicable; and	
	(c) the borrower is not required to notify the Commissioner of the Schedule 3 adjustments under <b>section 114</b> .	30
(2)	The borrower must notify the Commissioner of the Schedule 3 adjustments on or before—	
	(a) 7 July in the tax year following the tax year in which the relevant adjusted net income was derived; or	
	(b) if the borrower has received an extension of time to notify the Commissioner under section 75, the date on which the borrower is required to notify the Commissioner; or	35

- (c) if the Commissioner has granted the borrower an extension of time for the notification (other than under section 75), the date specified by the Commissioner.
- 12 Section 75 amended (Extension of time for making declaration of adjusted net income)** 5
- (1) Replace the heading to section 75 with “**Extension of time for notification of Schedule 3 adjustments**”.
- (2) In section 75, replace “the making of a declaration of adjusted net income” with “notifying the Commissioner of Schedule 3 adjustments under **section 74**”. 10
- (3) In section 75(c), replace “declaration of adjusted net income” with “notification of Schedule 3 adjustments”.
- 13 Section 76 amended (Commissioner to assess borrower’s end-of-year repayment obligation)**
- Replace section 76(1) with: 15
- (1) The Commissioner must assess the amount (if any) of a borrower’s end-of-year repayment obligation for a tax year as soon as practicable after the borrower provides a statement of adjusted net income.
- 14 Section 79 amended (Payment of end-of-year repayment obligation)**
- Replace section 79(2)(b) with: 20
- (b) the borrower has not provided a statement of adjusted net income for a tax year, and the borrower’s end-of-year repayment obligation for the immediately preceding tax year was \$1,000 or more.
- 15 Section 82 amended (Calculation of interim payments for next tax year)**
- Replace section 82(3)(a)(ii) with: 25
- (ii) if the borrower did not provide a statement of adjusted net income for the immediately preceding tax year, the amount of the borrower’s end-of-year repayment obligation for the year before the immediately preceding tax year multiplied by 110%; but
- 16 Section 83 amended (Commissioner may assess interim payments if information for preceding year not provided)** 30
- Replace section 83(1) with:
- (1) The Commissioner may assess a borrower’s interim payments for a tax year in the manner set out in section RC 6(3) of the Income Tax Act 2007 if, for the immediately preceding tax year, the borrower did not provide a statement of adjusted net income. 35

**17 Section 114 replaced (Notification of worldwide income by New Zealand-based non-resident borrowers)**

Replace section 114 with:

**114 Notification of Schedule 3 adjustments by New Zealand-based non-resident borrowers**

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- (1) This section applies to a New Zealand-based borrower who is a non-resident and who has Schedule 3 adjustments.
- (2) For each tax year and each part of a tax year to which this section applies to a borrower, the borrower must notify the Commissioner of the Schedule 3 adjustments.
- (3) The borrower must notify the Commissioner of the Schedule 3 adjustments under this section at the time when, if the borrower were a New Zealand resident, he or she would have had to notify the Commissioner of the Schedule 3 adjustments under **section 74**.
- (4) The Commissioner may require the borrower to provide evidence of the Schedule 3 adjustments.

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**18 Section 114A amended (Extension of time for making notification of worldwide income)**

- (1) Replace the heading to section 114A with “**Extension of time for notification of Schedule 3 adjustments**”.
- (2) In section 114A(2), replace “the making of a notification of the borrower’s adjusted net income” with “notifying the Commissioner of the Schedule 3 adjustments under **section 114**”.
- (3) In section 114A(2)(c), replace “adjusted net income” with “Schedule 3 adjustments”.

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**19 Section 146A amended (Commissioner may grant relief from penalties)**

Replace section 146A(3)(a)(i) with:

- (i) a late notification penalty:

**20 Section 155 replaced (Late filing penalty for certain declarations)**

Replace section 155 with:

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**155 Late notification penalty for Schedule 3 adjustments under section 74**

- (1) If a borrower does not notify the Commissioner of Schedule 3 adjustments under **section 74** on time, the Commissioner may—
  - (a) notify the borrower in writing that a late notification penalty will be imposed if the borrower does not notify the Commissioner of the Schedule 3 adjustments within 30 days after the date of the Commissioner’s notification; or

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<p>(b) give public notice that a late notification penalty will be imposed on borrowers who do not notify the Commissioner of Schedule 3 adjustments within 30 days after the date of the Commissioner’s public notice.</p> <p>(2) A borrower is liable to pay a penalty under this section if—</p> <p style="padding-left: 20px;">(a) the Commissioner notified the borrower or gave public notice in accordance with <b>subsection (1)</b>; and</p> <p style="padding-left: 20px;">(b) the borrower did not notify the Commissioner of the Schedule 3 adjustments within 30 days of the date of the Commissioner’s notification or public notice.</p> <p>(3) The penalty for a borrower with adjusted net income—</p> <p style="padding-left: 20px;">(a) below \$100,000 is \$50;</p> <p style="padding-left: 20px;">(b) between \$100,000 and \$1,000,000 (both figures inclusive) is \$250;</p> <p style="padding-left: 20px;">(c) above \$1,000,000 is \$500.</p>	<p>5</p> <p>10</p>
<p><b>21 Section 156 replaced (Due dates for payment of late filing penalty)</b></p> <p>Replace section 156 with:</p>	<p>15</p>
<p><b>156 Due dates for payment of late notification penalty</b></p> <p>A borrower who is liable to pay a penalty under <b>section 155</b> must pay the penalty on or before the later of—</p> <p style="padding-left: 20px;">(a) the date that is 60 days after the date of the notification to the borrower or public notice given under <b>section 155(1)</b>;</p> <p style="padding-left: 20px;">(b) if the borrower does not have an extension of time under section 75 to notify the Commissioner of Schedule 3 adjustments, the date in column B of the table in Part A of Schedule 3 of the Income Tax Act 2007 that corresponds to the month of the borrower’s balance date;</p> <p style="padding-left: 20px;">(c) if the borrower does have an extension of time under section 75 to notify the Commissioner of Schedule 3 adjustments, the date in column F of the table in Part A of Schedule 3 of the Income Tax Act 2007 that corresponds to the month of the borrower’s balance date.</p>	<p>20</p> <p>25</p>
<p><b>22 Section 173 amended (Part 4A of Tax Administration Act 1994 applies to disputes under this Act)</b></p> <p>Replace section 173(2) with:</p>	<p>30</p>
<p>(2) However, subsection (1) does not apply to an objection to—</p> <p style="padding-left: 20px;">(a) the details of a loan advance made or charged to a borrower (<i>see</i> section 167); or</p> <p style="padding-left: 20px;">(b) a decision of the Commissioner under <b>sections 27C to 27E</b> (which relate to decisions on the listing of an entity as a charity).</p>	<p>35</p>

- 23 New section 176A inserted (Challenge to decision relating to listing of entity as charity)**
- After section 176, insert:
- 176A Challenge to decision relating to listing of entity as charity** 5
- An entity may challenge a decision by the Commissioner under **sections 27C to 27E** to refuse to list, or to remove the listing of, the entity as a charity, or the date or dates for which a listing applies or ceases to apply, on the ground that the decision—
- (a) is not fair and reasonable; or
- (b) is erroneous. 10
- 24 Section 185 replaced (Challenge to late filing penalty)**
- Replace section 185 with:
- 185 Challenge to late notification penalty**
- A borrower who is charged with a late notification penalty may challenge the penalty on the ground that it was imposed on the borrower in error. 15
- 25 Section 202 amended (Provisions of Tax Administration Act 1994 and Income Tax Act 2007 to apply to this Act)**
- (1) In section 202, replace “Sections” with “Sections 15B,”.
- (2) Replace section 202(d) with:
- (d) every reference to a return were a reference to a statement of adjusted net income. 20
- 26 New section 209A inserted (Disclosure of information to Australian Taxation Office in relation to borrowers who are, or may be, overseas-based)**
- After section 209, insert: 25
- 209A Disclosure of information to Australian Taxation Office in relation to borrowers who are, or may be, overseas-based**
- (1) The purpose of this section is to facilitate the exchange of information between the Inland Revenue Department and the Australian Taxation Office for the purposes of assisting the Commissioner to— 30
- (a) obtain or verify contact details of borrowers who are, or may be, overseas-based; and
- (b) administer the student loan scheme in relation to those borrowers.
- (2) For those purposes, the Commissioner may provide the information set out in **subsection (3)** to a person who is— 35
- (a) an officer, employee, or agent of the Australian Taxation Office; and

- (b) authorised to receive the information by the chief executive officer of the Australian Taxation Office.
- (3) The information is—
- (a) a borrower’s name or any other name by which a borrower is known:
  - (b) a borrower’s date of birth: 5
  - (c) a borrower’s tax file number:
  - (d) a borrower’s last known address and contact details:
  - (e) any other information that the Commissioner considers relevant for the purposes referred to in **subsection (1)(a) and (b)**.
- (4) This section applies despite any obligation as to secrecy or other restriction imposed by any enactment or otherwise on the disclosure of information. 10

**27 Section 215 amended (Regulations)**

Repeal section 215(b).

**28 Section 220 amended (Application, savings, and transitional provisions)**

In section 220(2), table, after the items relating to the Student Loan Scheme Amendment Act 2013, insert: 15

Provisions relating to Student Loan Scheme Amendment Act 2014	<b>Part 3</b>
Provisions relating to Taxation (Residential Land Withholding Tax, GST on Online Services, and Student Loans) Act 2015	<b>Part 4</b>

**29 Schedule 1 amended**

In Schedule 1, replace clause 2(2) with:

- (2) The charity must be listed as a charity under **section 27A** either—
- (a) at the time the Commissioner grants the application; or 20
  - (b) if the work is completed before an application is made, for the period of work to which the application relates.

**30 Schedule 3 amended**

- (1) In Schedule 3, replace clause 7 with:

**7 Deposits in main income equalisation accounts** 25

The borrower’s adjusted net income is increased by the amount of a main income equalisation deposit the borrower makes for the income year.

**7A Refunds from main income equalisation accounts**

The borrower’s adjusted net income does not include the amount of a main income equalisation refund the borrower receives for the income year. 30

- (2) In Schedule 3, replace clause 8 with:

<b>8</b>	<b>Borrowers who are major shareholders in close companies</b>	
(1)	This clause applies for the purpose of determining the amount that is included in the adjusted net income of a borrower for an income year when the borrower is a major shareholder in a close company (the <b>company</b> ) on the last day of the company's income year.	5
(2)	The amount included in the borrower's adjusted net income is the greater of—	
	(a) zero; and	
	(b) the amount calculated using the formula in <b>subclause (3)</b> , adjusted, if applicable, by <b>subclauses (4) and (5)</b> for main income equalisation account amounts.	10
(3)	For the purposes of <b>subclause (2)</b> , the relevant amount is calculated using the formula—	
	$p \times (r - s)$	
	where—	
	p is the percentage voting interests for the company held, on the last day of the company's income year, by the borrower	15
	r is the net income of the company for the company's income year	
	s is the total dividends paid by the company for the company's income year.	
(4)	For the purposes of <b>subclause (2)(b)</b> , if the company makes a main income equalisation deposit for the company's income year, the amount of the deposit is added to item r in the formula in <b>subclause (3)</b> .	20
(5)	For the purposes of <b>subclause (2)(b)</b> , if the company receives a main income equalisation refund for the company's income year, the amount of the refund is subtracted from item r in the formula in <b>subclause (3)</b> .	25
(3)	In Schedule 3, replace clause 11 with:	
<b>11</b>	<b>Borrowers who are settlors of trusts</b>	
(1)	This clause applies for the purpose of determining the amount that is included in the adjusted net income of a borrower for an income year when the borrower is the settlor of a trust (the <b>borrower's trust</b> ) at a time in the income year, other than solely as a result of providing personal services for less than market value in the administration of the trust or the maintenance of trust property.	30
(2)	This clause does not apply if—	
	(a) the trustee of the borrower's trust is registered as a charitable entity under the Charities Act 2005:	35
	(b) the borrower's trust is solely for the benefit of a local authority:	
	(c) interest and dividends derived by the trustee of the borrower's trust would be exempt income of the trustee under section CW 45 (funeral trusts) of the Act:	

- (d) the borrower's trust is a superannuation fund:
- (e) the borrower is not permitted to benefit from the borrower's trust except under an order of a court.
- (3) The amount included in the borrower's adjusted net income is the amount calculated using the formulas in **subclauses (4) and (5)**, adjusted, if applicable, by **subclauses (6) and (7)** for main income equalisation account amounts. 5
- (4) For the purposes of **subclause (3)**, the relevant amount is calculated using the formula—
- $$(a + b) \div c$$
- where— 10
- a is the net income of the trustee of the borrower's trust for the income year reduced, to not less than zero, by the amount of the trustee's income that vests or is paid by the trustee as beneficiary income for the trustee's income year
- b is the greater of zero and the amount given by totalling the amounts calculated by applying the formula in **subclause (5)** to each company in which the trustee of the borrower's trust and associated persons hold, on the last day of the company's income year, voting interests of 50% or more 15
- c is the number of settlors of the borrower's trust who are alive at any time in the income year, including the borrower, for which this clause applies. 20
- (5) For the purposes of item b in the formula in **subclause (4)**, an amount to be totalled is, for each relevant company, calculated using the formula—
- $$d \times (e - f)$$
- where— 25
- d is the percentage voting interests for the relevant company held, on the last day of the company's income year, by the trustee
- e is the net income of the relevant company for the company's income year
- f is the total dividends paid by the relevant company for the company's income year. 30
- (6) For the purposes of **subclause (3)**, if the trustee or a company described in the definition of item b in **subclause (4)** makes a main income equalisation deposit for an income year, the amount of the deposit is added to—
- (a) item a in the formula in **subclause (4)**, if the trustee makes the deposit: 35
- (b) item e in the formula in **subclause (5)**, if the company makes the deposit.

(7)	For the purposes of <b>subclause (3)</b> , if the trustee or a company described in the definition of item b in <b>subclause (4)</b> receives a main income equalisation refund for an income year, the amount of the refund is subtracted from—	
(a)	item a in the formula in <b>subclause (4)</b> , if the trustee receives the refund:	5
(b)	item e in the formula in <b>subclause (5)</b> , if the company receives the refund.	
(4)	In Schedule 3, repeal clause 13.	
<b>31</b>	<b>Schedule 4 amended</b>	
(1)	In Schedule 4, replace clause 1(f) with:	10
(f)	every reference to a return of income were a reference to a statement of adjusted net income; and	
(2)	In Schedule 4, replace clause 2(c) with:	
(c)	for a borrower required to provide a statement of adjusted net income, section RC 5(3) of the Income Tax Act 2007—	15
(i)	applies only if the borrower's end-of-year repayment obligation for the second preceding tax year is \$1,000 or more; and	
(ii)	for a statement of adjusted net income for the immediately preceding tax year, or an estimate of the end-of-year repayment obligation, that is not provided by the due date for payment of the final interim payment, applies as if the borrower has filed a statement showing an estimate of the end-of-year repayment obligation for that tax year equal to the total amount of interim payments paid by the borrower on or before that date.	20
<b>32</b>	<b>Schedule 6 amended</b>	25
(1)	In Schedule 6, after clause 17, insert:	
<b>Part 3</b>		
<b>Transitional provision relating to Student Loan Scheme Amendment Act 2014</b>		
<b>18</b>	<b>Savings provision for section 110</b>	30
(1)	Section 110 and any related provisions, as in force immediately before the amendment Act came into force, apply to the repayment obligation of a borrower for any tax year ending on or before 31 March 2014.	
(2)	In this section,—	
	<b>amendment Act</b> means the Student Loan Scheme Amendment Act 2014	35

**related provision** means a provision of the Student Loan Scheme Act 2011 that has an effect in relation to section 110 as in force immediately before the amendment Act came into force (for example, a definition).

- (2) In Schedule 6, after clause 18 (as inserted by **subsection (1)**), insert:

<b>Part 4</b>		5
<b>Transitional provisions relating to Taxation (Residential Land Withholding Tax, GST on Online Services, and Student Loans) Act 2015</b>		
<b>19</b>	<b>Application of specified amendments</b>	
	The following provisions of the Taxation (Residential Land Withholding Tax, GST on Online Services, and Student Loans) Act <b>2015</b> apply for the 2016–2017 and later tax years:	10
	(a) <b>sections 5, 10 to 21, 24, 25, 31, and 70</b> (which relate to changes to the notification of Schedule 3 adjustments or statement of adjusted net income):	15
	(b) <b>section 30</b> (which relates to deposits and refunds for main income equalisation accounts).	
<b>20</b>	<b>Existing charities to be listed as charities on commencement</b>	
(1)	On commencement,—	
	(a) an existing charity is treated as qualifying to be listed as a charity under <b>section 27B</b> ; and	20
	(b) the Commissioner must—	
	(i) list each existing charity as a charity; and	
	(ii) specify, on the list, the date on which the existing charity was first specified in regulations made under section 215(b) (or any provision that section 215(b), with or without modification, replaced or corresponded to) as the date on and from which the listing applies; and	25
	(c) the Commissioner may consider any application from an entity to be listed as a charity, even if the application was received before commencement.	30
(2)	Nothing in <b>subclause (1)</b> prevents the Commissioner from exercising the power under <b>section 27E</b> to remove the person’s listing on the ground that it does not qualify under <b>section 27B</b> to be listed.	
(3)	In this section,—	35
	<b>commencement</b> means the date on which <b>section 7</b> comes into force	

**existing charity** means a person that, immediately before commencement, was specified in the existing regulations

**existing regulations** means the Student Loan Scheme (Charitable Organisations) Regulations 2011 as in force immediately before commencement.

**33 Student Loan Scheme (Charitable Organisations) Regulations 2011  
consequentially revoked** 5

The Student Loan Scheme (Charitable Organisations) Regulations 2011 (SR 2011/355) are consequentially revoked.

**Part 2**

**Amendments to Income Tax Act 2007** 10

**34 Income Tax Act 2007**

This Part amends the Income Tax Act 2007.

**35 Section BE 1 amended (Withholding liabilities)**

- (1) After section BE 1(5B), insert:

*Residential land purchase amount* 15

- (6) A person described in **section RL 3** (Associated persons: who must pay, and how?) must withhold an amount from a residential land purchase amount under the RLWT rules.

- (2) In section BE 1, in the list of defined terms, insert “residential land purchase amount” and “RLWT rules”. 20

**36 Section BF 1 amended (Other obligations)**

- (1) After section BF 1(c), insert:

(d) RLWT under **subpart RL** (Residential land withholding tax), if the person is described in **section RL 2** (Vendors: who must pay, and how?):

- (2) In section BF 1, in the list of defined terms, insert “RLWT”. 25

**37 Section CB 6A amended (Disposal within 2 years: bright-line test for residential land)**

- (1) In section CB 6A(3), replace “in land” with “in residential land”.  
(2) In section CB 6A(4), replace “in land” with “in residential land”.

**38 Section LA 6 amended (Remaining refundable credits: PAYE, RWT, and certain other items)** 30

After section LA 6(1)(cb), insert:

(cc) section **LB 6B** (Tax credits for RLWT):

**39 New section LB 6B inserted (Tax credits for RLWT)**

After section LB 6, insert:

**LB 6B Tax credits for RLWT**

A person has a tax credit for a tax year equal to the amount of RLWT paid in relation to residential land that they have disposed of. 5

Defined in this Act: amount, dispose, residential land, RLWT, tax credit, tax year

**40 Section MK 2 amended (Eligibility requirements)**

Replace section MK 2(1)(d)(ii) with:

- (ii) work overseas as a volunteer or for token payment for a charity (within the meaning of section 4(1) of the Student Loan Scheme Act 2011) and the work meets 1 or more of the requirements in schedule 1, clause 2(1) of that Act. 10

**41 New section RA 6C inserted (Withholding and payment obligations for residential land)**

After section RA 6B, insert: 15

**RA 6C Withholding and payment obligations for residential land**

*RLWT: vendors*

- (1) A person described in **section RL 2** (Vendors: who must pay, and how?) must pay RLWT for a residential land purchase amount to the Commissioner under **subpart RL** (Residential land withholding tax) by the due date. 20

*RLWT: associated persons*

- (2) A person described in **section RL 3** (Associated persons: who must pay, and how?) must withhold and pay RLWT for a residential land purchase amount to the Commissioner under **subpart RL** by the due date. 25

Defined in this Act: pay, residential land purchase amount, RLWT

**42 Section RA 10 amended (When obligations not met)**

- (1) In section RA 10(1)(a), replace “a PAYE income payment” with “a PAYE income payment, a residential land purchase amount”.
- (2) In section RA 10(1)(b), replace “amount.” with “amount; or”, and after section RA 10(1)(b), insert: 30
  - (c) a vendor liable to pay an amount of RLWT does not pay the amount.
- (3) In section RA 10, in the list of defined terms, insert “residential land purchase amount” and “RLWT”.

**43 Section RA 15 amended (Payment dates for interim and other tax payments)**

- (1) In section RA 15(1)(c), replace “contribution.” with “contribution; or”, and after section RA 15(1)(c), insert:

(d) to pay under **section RA 6C(1)** or to withhold and pay under **section RA 6C(2)**, an amount to the Commissioner for a residential land purchase amount. 5

- (2) In section RA 15(3)(b),—

(a) replace “and RSCT” with “RSCT, and RLWT” in both places in which it appears: 10

(b) replace “or RH 2(2)” with “RH 2(2), or **RL 5**”.

- (3) In section RA 15, in the list of defined terms, insert “residential land purchase amount” and “RLWT”.

**44 New subpart RL inserted (Residential land withholding tax)**

After subpart RH, insert: 15

Subpart RL—Residential land withholding tax

**RL 1 Residential land withholding tax**

*What this subpart does*

- (1) This subpart imposes an obligation to pay a tax called residential land withholding tax (**RLWT**). 20

*When this subpart applies*

- (2) This subpart applies for a residential land purchase amount in relation to a disposal of residential land located in New Zealand by a person (the **vendor**) to another (the **purchaser**) if—

- (a) the relevant residential land purchase amount is or would be income of the vendor under section CB 6A (Disposal within 2 years: bright-line test for residential land), but ignoring section CB 16A (Main home exclusion for disposal within 2 years); and 25
- (b) the vendor is an offshore person. 30

*Specific rules*

- (3) In this subpart,—

(a) **section RL 2** provides rules for vendors and conveyancers in relation to who must pay RLWT and satisfy RLWT liability:

(b) **section RL 3** provides rules for purchasers in relation to who must withhold RLWT from relevant residential land purchase amounts. It also provides rules for segregating the RLWT withheld: 35

(c) **section RL 4** provides rules for calculating how much tax must be paid or withheld and paid for residential land purchase amounts:

(d) **section RL 5** provides rules for paying RLWT.

*Information provisions in Tax Administration Act 1994*

(4) **Sections 54B and 54C** of the Tax Administration Act 1994 provide for the giving of statements and information in relation to RLWT obligations. 5

Defined in this Act: dispose, land, offshore person, residential land, residential land purchase amount, RLWT

## **RL 2 Vendors: who must pay, and how?**

*Liability of vendor* 10

(1) The vendor is liable to pay the amount of RLWT provided in **section RL 4**.

*Conveyancers: agency for RLWT obligations*

(2) The vendor's conveyancer, or if the vendor does not have a conveyancer, the purchaser's conveyancer, is treated as the agent (the **paying agent**) of the vendor in relation to the RLWT, and, in relation to the RLWT, must make assessments, provide returns, and satisfy the vendor's liability. 15

*Conveyancers: no agency for other obligations*

(3) The paying agent is not treated as the vendor's agent for income under section CB 6A (Disposal within 2 years: bright-line test for residential land), or for a tax obligation other than RLWT, solely because of their agency in relation to RLWT. 20

*Conveyancers: relationship with subject matter*

(4) Sections HD 2, HD 3, and HD 4 (which relate to agents) do not apply to a paying agent that is agent only in relation to RLWT.

*Liability of conveyancers* 25

(5) The paying agent, as agent in relation to the RLWT, is not jointly and severally liable in relation to the vendor's RLWT or in relation to a debt under **section RA 10** (When obligations not met). The vendor alone is liable to pay the RLWT, despite the paying agent's obligation to satisfy the vendor's liability.

*Liability of conveyancers: exception for penalties* 30

(6) Despite **subsection (5)**, if the paying agent fails to satisfy the vendor's liability, then,—

(a) for the purposes of Part 9 of the Tax Administration Act 1994 (Penalties), the paying agent is treated as failing to pay an amount of withholding tax equal to the amount of RLWT liability they failed to satisfy, if the paying agent has subtracted or retained an amount from a residential land purchase; or 35

(b) for the purposes of Part 9 of the Tax Administration Act 1994 other than section 139B, the paying agent is treated as failing to pay an amount of

withholding tax equal to the amount of RLWT liability they failed to satisfy, if the paying agent has not subtracted or retained an amount from a residential land purchase.

*Treatment of amount*

- (7) An amount subtracted or retained from a residential land purchase by a paying agent to satisfy the vendor's RLWT liability— 5
- (a) is treated as received—
- (i) by the vendor; and
- (ii) at the time the residential land purchase amount is paid to them; and 10
- (b) is treated for the purposes of this Act as derived by the vendor at the same time and in the same way as they derive the residential land purchase amount.

Defined in this Act: agent, amount, amount of tax, Commissioner, conveyancer, pay, residential land purchase amount, RLWT 15

**RL 3 Associated persons: who must pay, and how?**

Despite **section RL 2**, if the vendor and purchaser are associated persons—

- (a) the vendor is not liable to pay the amount of RLWT provided in **section RL 4**; and
- (b) the purchaser must withhold the amount of RLWT provided in **section RL 4**. The purchaser must hold the RLWT withheld in a separate bank account, segregated from other money, for the benefit of the Commissioner. 20

Defined in this Act: amount, Commissioner, conveyancer, RLWT, RLWT rules

**RL 4 How much RLWT?** 25

*How much tax?*

- (1) The amount that the relevant person described in **section RL 2 or RL 3** must pay or withhold from a residential land purchase amount is equal to the lesser of the amounts described in **subsections (2), (4), and (6)**.

*Calculation of amount* 30

- (2) For the purposes of **subsection (1)**, the amount is the greater of zero and the amount calculated using the formula—

$$\text{RLWT rate} \times (\text{current purchase price} - \text{vendor's acquisition cost}).$$

*Definition of items in formula*

- (3) In the formula in **subsection (2)**,— 35
- (a) **RLWT rate** means 0.33, or, if the vendor is a company that is not acting as a trustee, 0.28:

(b)	<b>current purchase price</b> is the purchase price agreed by the vendor and purchaser for the disposal of the residential land, including deposits and part payments, that the residential land purchase amount relates to:	
(c)	<b>vendor's acquisition cost</b> is the purchase price paid by the vendor for their acquisition of the residential land.	5
	<i>Calculation of amount</i>	
(4)	For the purposes of <b>subsection (1)</b> , the amount is calculated using the formula—  $0.10 \times \text{current purchase price.}$	
	<i>Definition of item in formula</i>	10
(5)	In the formula in <b>subsection (4)</b> , <b>current purchase price</b> has the same meaning as in <b>subsection (3)(b)</b> .	
	<i>Calculation of amount</i>	
(6)	For the purposes of <b>subsection (1)</b> , the amount is calculated using the formula—  $\text{current purchase price} - \text{security discharge amount.}$	15
	<i>Definition of items in formula</i>	
(7)	In the formula in <b>subsection (6)</b> ,—  (a) <b>current purchase price</b> has the same meaning as in <b>subsection (3)(b)</b> : (b) <b>security discharge amount</b> is the total of the amounts required by licensed security holders to discharge their mortgages or other securities over the residential land, if the relevant person who must pay RLWT is the vendor or the vendor's conveyancer.	20
	<i>A definition</i>	
(8)	In this section, <b>licensed security holder</b> means a person who has a mortgage or other security over the relevant residential land, if that person is—  (a) a registered bank: (b) a licensed NBDT as defined in section 4 of the Non-bank Deposit Takers Act 2013.	25
	Defined in this Act: amount, amount of tax, company, dispose, licensed security holder, residential land purchase amount, registered bank, residential land	30
<b>RL 5 Paying RLWT</b>		
	<i>Paying RLWT</i>	
(1)	A person who is required to pay or withhold RLWT must pay the amount of tax to the Commissioner under <b>section RA 15</b> (Payment dates for interim and other tax payments).	35

*Basis for payment of RLWT*

- (2) For the purposes of **section RA 6C** (Withholding and payment obligations for residential land), the person must pay the amount of tax on a monthly basis.

Defined in this Act: amount of tax, Commissioner, RLWT

**45 Section YA 1 amended (Definitions)**

5

- (1) This section amends section YA 1.
- (2) In the definition of **amount of tax**, replace “RSCT rules” with “RSCT rules, RLWT rules”.
- (3) In the definition of **ancillary tax**, after paragraph (kb), insert:

(kc) RLWT:

10

- (4) In the definition of **bright-line date**, replace “and section CB 16A (Main home exclusion for disposal within 2 years)” with “, section CB 16A (Main home exclusion for disposal within 2 years), and **section 54C** of the Tax Administration Act 1994”.

- (5) Insert, in appropriate alphabetical order:

15

**conveyancer** means,—

- (a) for a vendor or a purchaser, the lawyer, incorporated law firm, conveyancing practitioner, or incorporated conveyancing firm that provides **conveyancing services**, as that term is used in the Lawyers and Conveyancers Act 2006, to the vendor or purchaser using a New Zealand-based trust account; but

20

- (b) for a purchaser who does not have a conveyancer described in **paragraph (a)**, the purchaser themselves

- (6) In the definition of **date of acquisition**, replace “and section CB 16A (Main home exclusion for disposal within 2 years)” with “, section CB 16A (Main home exclusion for disposal within 2 years), and **section 54C** of the Tax Administration Act 1994”.

25

- (7) Insert, in appropriate alphabetical order:

**licensed security holder** is defined in **section RL 4(8)** (How much RLWT?) for the purposes of **section RL 4**

30

- (8) Insert, in appropriate alphabetical order:

**offshore person** means, for the purposes of **subpart RL** (Residential land withholding tax),—

- (a) a natural person, if—

- (i) the person is a New Zealand citizen who is outside New Zealand and they have not been in New Zealand within the last 3 years:

35

- (ii) the person holds a residence class visa granted under the Immigration Act 2009, and they are outside New Zealand and have not been in New Zealand within the last 12 months:
- (iii) the person is not a New Zealand citizen and they do not hold a residence class visa granted under the Immigration Act 2009: 5
- (b) a person that is acting as a trustee of a trust, if—
- (i) the person is an offshore person:
- (ii) the person has a co-trustee that is an offshore person:
- (iii) a settlor of the trust is an offshore person:
- (iv) all natural person beneficiaries and all natural person discretionary beneficiaries of the trust are offshore persons: 10
- (v) all beneficiaries and all discretionary beneficiaries of the trust are offshore persons:
- (vi) a beneficiary that is an offshore person has received a distribution from the trust within the last 6 years of a relevant disposal of residential land: 15
- (c) a person, other than a natural person, if—
- (i) the person is incorporated outside New Zealand:
- (ii) the person is registered outside New Zealand:
- (iii) the person is constituted under foreign law: 20
- (iv) the person has a member that is an offshore person:
- (v) the person has an executive or director that is an offshore person:
- (vi) the person is a company and 25% or more of the company's shareholder decision-making rights are held directly or indirectly by offshore persons 25
- (9) Insert, in appropriate alphabetical order:
- residential land purchase amount** means, in relation to residential land located in New Zealand, an amount paid or payable for the disposal of the land, but excludes a deposit or part payment (the **part-amount**) if deposits and part payments, including the part-amount, total, in aggregate, less than 50% of the purchase price for the land 30
- (10) Insert, in appropriate alphabetical order:
- RLWT** means residential land withholding tax and refers to an amount payable under the RLWT rules
- (11) Insert, in appropriate alphabetical order: 35
- RLWT rules** means—
- (a) sections LA 4, **LA 6, and LB 6B** (which relate to tax credits for RLWT); and

- (b) **subpart RL** (Residential land withholding tax); and
- (c) **sections 54B and 54C**, and Part 9 of the Tax Administration Act 1994.

### Part 3

#### Amendments to Goods and Services Tax Act 1985

5

#### 46 Goods and Services Tax Act 1985

This Part amends the Goods and Services Tax Act 1985.

#### 47 Section 2 amended (Interpretation)

- (1) This section amends section 2.
- (2) In the definition of **adjustment period**, replace “(3J)” with “(3J) and **(3JC)**”. 10
- (3) Insert in the appropriate alphabetical order:

##### **electronic marketplace—**

- (a) means a marketplace that is operated by electronic means through which a person (the underlying supplier) makes a supply of remote services by electronic means through another person (the operator of the marketplace) to a third person (the recipient); and 15
- (b) includes a website, internet portal, gateway, store, distribution platform, or other similar marketplace; and
- (c) does not include a marketplace that solely processes payments
- (4) In the definition of **goods**, delete “by a non-resident to a resident”. 20
- (5) In the definition of **percentage actual use**, replace “9(2)(h),” with “9(2)(h), **20(3JC)**, 20G,”.
- (6) In the definition of **percentage difference**, replace “sections 21” with “sections 20G and 21”.
- (7) In the definition of **percentage intended use**, replace “20(3H),” with “20(3H), **20(3JC)**, 20G,”. 25
- (8) Insert in the appropriate alphabetical order:

**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 30
- (b) the location of the recipient of the services

#### 48 Section 5 amended (Meaning of term supply)

- (1) After section 5(10), insert:
- (10B) For the purposes of this Act, when a person who is resident in New Zealand pays an amount of money to participate in gambling or in a prize competition 35

- through a supply of remote services that are physically performed outside New Zealand, the payment is treated as a payment for a supply of services by the person who conducts the gambling or prize competition, as applicable.
- (2) In section 5(11), replace “subsection (10)” with “subsections (10) and **(10B)**”.
- (3) In section 5(13)(c), replace “apply to it.” with “apply to it; or”. 5
- (4) After section 5(13)(c), insert:
- (d) the supply of the contract of insurance is a supply of remote services that is zero-rated under **section 11A(1)(x)**.
- (5) After section 5(26), insert:
- (27) The Commissioner may treat a person resident in New Zealand who receives a supply of remote services to which **section 8(3)(c)** applies as if they were making a supply of services that is chargeable with tax under section 8(1) if— 10
- (a) the person has knowingly notified a fact or provided information under **section 8B(5)** that is altered, false, or misleading; and
- (b) after the date on which the services have been physically performed, it is found that the notification or provision of information has led to the supply being treated as— 15
- (i) zero-rated under **section 11A(1)(x)**; or
- (ii) not being a service supplied in New Zealand; and
- (c) either— 20
- (i) the act of the person described in **paragraph (a)** is a repeated occurrence; or
- (ii) the amount of tax that was not charged on the supply through the act described in **paragraph (a)** is substantial.
- 49 Section 8 amended (Imposition of goods and services tax on supply) 25**
- (1) In section 8(3),—
- (a) before the paragraphs, delete “either”:
- (b) in paragraph (b), replace “the services are performed.” with “the services are performed; or”:
- (c) after paragraph (b), insert: 30
- (c) the services are remote services supplied to a person resident in New Zealand, other than services that are physically performed in New Zealand by a person who is in New Zealand at the time the services are performed.
- (2) In section 8(4B) replace “subsections (3)(b) and (4)” with “subsections (3)(b) and **(c)** and (4)”. 35

**50 New section 8B inserted (Remote services: determining residence and status of recipients)**

After section 8A, insert:

**8B Remote services: determining residence and status of recipients**

- (1) **Subsection (2)** applies to determine whether a supply is made in New Zealand under **section 8(3)(c)**, or for the purposes of **sections 10(14B), 11A(1)(j), and 60C**, when remote services are supplied to a person resident in New Zealand. 5
- (2) A supplier must treat the recipient of the supply as a person resident in New Zealand if 2 of the following items are non-contradictory and support the conclusion that the person is resident in New Zealand: 10
- (a) the person's billing address:
  - (b) the internet protocol address of the device used by the person or another geolocation method:
  - (c) the person's bank details, including the account the person uses for payment or the billing address held by the bank: 15
  - (d) the mobile country code of the international mobile subscriber identity stored on the subscriber identity module card used by the person:
  - (e) the location of the person's fixed land line through which the service is supplied to them: 20
  - (f) other commercially relevant information.
- (3) For the purposes of **subsection (2)**,—
- (a) if, in addition to having 2 non-conflicting items from the list in **subsection (2)** supporting residence in New Zealand, a supplier also has 2 non-conflicting items that support residence in a country other than New Zealand, the supplier must choose the evidence that is more reliable to determine a recipient's residence: 25
  - (b) the Commissioner may prescribe the use of another method to determine a recipient's residence if a supplier is unable to establish a recipient's residence by 2 non-conflicting items from the list in **subsection (2)**. 30
- (4) **Subsection (5)** applies to determine the treatment of a supply to a registered person of remote services described in **section 8(3)(c)** when section 8(4) applies, and for the purposes of **sections 11A(1)(j) and 60C**.
- (5) Having established the New Zealand residence of a recipient of a supply of services under **subsection (2)**, a supplier must treat the recipient as not being a registered person unless the recipient— 35
- (a) notifies the supplier that they are a registered person; or
  - (b) provides their registration number or New Zealand business number.

- (6) For the purposes of **subsection (5)**, the Commissioner may agree with the supplier on the use of another method to determine whether the supply is made to a registered person.

**51 Section 9 amended (Time of supply)**

- In section 9(2)(e), replace “section 5(10)” with “section 5(10) or **(10B)**”. 5

**52 Section 10 amended (Value of supply of goods and services)**

- (1) After section 10(14), insert:

- (14B) If a supply of services is treated as having been made under **section 5(10B)**, the consideration for the supply is calculated using the formula—

$$\text{resident amounts} - \text{worldwide prizes} \times (\text{resident amounts} \div \text{worldwide amounts}).$$
 10

- (14C) In the formula in **subsection (14B)**,—

- (a) **resident amounts** is the total amount in money received in relation to the supply by the non-resident person who conducts the gambling or the prize competition, as applicable, from all persons resident in New Zealand as determined under **section 8B(1) to (3)**: 15
- (b) **worldwide prizes** is the total amount of all prizes paid and payable in money worldwide in relation to the supply:
- (c) **worldwide amounts** is the total amount in money received worldwide in relation to the supply by the non-resident person who conducts the gambling or the prize competition, as applicable. 20

- (2) In section 10(15C), replace “the supply, the value of the supply” with “the supply, or **section 20(3JC)** applies, the value of the supply”.

**53 Section 11A amended (Zero-rating of services)**

- (1) In section 11A(1)(j), replace “outside New Zealand; or” with “outside New Zealand, other than a supply of remote services provided to a person resident in New Zealand who is not a registered person; or”. 25

- (2) In section 11A(1)(w), replace “standard.” with “standard; or”, and after section 11A(1)(w), insert:

- (x) the services are remote services to which **section 8(3)(c)** applies that are provided to a registered person and the supplier and the registered person have made an agreement as described in section 8(4). 30

- (3) After section 11A(6), insert:

- (7) **Subsection (1)(x)** does not apply to a supply of services for which the supplier subsequently makes an election under **section 24(5B)**. 35

**54 Section 15 amended (Taxable periods)**

- (1) After section 15(5), insert:
- (6) Despite subsections (1) to (4), the taxable period of a non-resident supplier whose only supplies are supplies of remote services to which **section 8(3)(c)** applies, is a 6-month period. However, the supplier may apply to the Commissioner to pay on the basis of a 2-month period. 5
- (2) Replace **section 15(6)**, as inserted by **subsection (1)**, with:
- (6) Despite subsections (1) to (4), the taxable period of a non-resident supplier whose only supplies are supplies of remote services to which **section 8(3)(c)** applies, is a 3-month period, based on a first quarter ending on 31 March. 10

**55 Section 20 amended (Calculation of tax payable)**

- (1) In section 20(3)(d)(vi), replace “supply; and” with “supply:”.
- (2) After section 20(3)(d)(vi), insert:
- (vii) does not apply to the supply of a contract of insurance that is zero-rated under **section 11A(1)(x)**; and 15
- (3) After section 20(3)(db), insert:
- (dc) an amount of output tax charged on a supply of remote services to the extent that the supplier has, in relation to the supply, incurred liability for, returned, and paid a consumption tax in another country or territory, when the remote services are— 20
- (i) physically performed in New Zealand; and
- (ii) supplied to a non-resident person in New Zealand who is not a registered person; and
- (4) After section 20(3JB), insert:
- (3JC) For a supply of remote services to which **section 11A(1)(x)** applies, if the recipient of the supply— 25
- (a) estimates at the time of acquisition that the percentage intended use of the services is less than 95%, then the recipient must, on acquisition—
- (i) identify the nominal amount of tax (the **nominal GST component**) that would be chargeable on the value of the supply, as if the value were equal to the consideration charged for the supply, at the rate set out in section 8(1); and 30
- (ii) based on the percentage intended use of the services, account for output tax under subsection (4) for the proportion of the nominal GST component for any non-taxable use of the services: 35
- (b) determines at the end of an adjustment period that the percentage actual use of the services is less than 95%, then the recipient must, at the end of the adjustment period—

- (i) identify the nominal GST component that would have been chargeable on the value of the supply, as if the value were equal to the consideration charged for the supply, at the rate set out in section 8(1); and
- (ii) based on their percentage actual use of the services, account for output tax under subsection (4) for the proportion of the nominal GST component for any non-taxable use of the services: 5
- (c) is required to account for output tax under **paragraph (a) or (b)**, then the recipient must, for later adjustment periods, make adjustments under the apportionment rules set out in sections 20G and 21 to 21H in relation to the taxable supply referred to in **paragraph (a) or (b)**. 10
- (5) After section 20(4B), insert:
- (4C) For a supply of remote services to which **section 8(3)(c)** applies, a recipient of the supply is denied a deduction of input tax in relation to the supply unless the recipient has obtained a tax invoice under **section 24(5B)**. 15
- (4D) **Subsection (4C)** does not apply to a supply of remote services that is treated by section 5B as being made by the recipient and the recipient has accounted for the output tax charged on the supply.
- 56 Section 21G amended (Definitions and requirements for apportioned supplies and adjustment periods)** 20
- In section 21G(1), before paragraph (a), replace “20(3H),” with “20(3H) and **(3JC)**,”.
- 57 Section 24 amended (Tax invoices)**
- (1) In section 24(4), replace the text after paragraph (e) with:
- provided that this subsection does not apply to a supply— 25
- (f) that is charged with tax pursuant to section 11, 11A, 11AB, or 11B:
- (g) for which a supplier made an election under **subsection (5B)**.
- (2) Replace section 24(5) with:
- (5) Notwithstanding any other provision of this Act, a supplier is not required to provide a tax invoice if— 30
- (a) the consideration in money for a supply does not exceed \$50 (or such greater amount as the Governor-General may, from time to time, by Order in Council declare):
- (b) the supplier is a non-resident supplier of remote services to which **section 8(3)(c)** applies. 35
- (5B) Despite **subsection (5)**, a supplier may choose to provide a tax invoice to the recipient of the services if—

- (a) the supplier is a non-resident supplier of remote services to which **section 8(3)(c)** applies, and—
- (i) section 8(4) was incorrectly applied to the treatment of the supply, so that the services were treated as being supplied in New Zealand when they should have been treated as being supplied outside New Zealand; or 5
- (ii) **section 11A(1)(x)** was incorrectly applied to the treatment of the supply, so that the supply was not zero-rated when it should have been; and
- (b) the consideration in money for the supply does not exceed \$1,000; and 10
- (c) the recipient—
- (i) notifies the supplier that they are a registered person; or
- (ii) provides their registration number or New Zealand business number to the supplier.
- (5C) **Subsection (5B)** does not apply to the supply of a contract of insurance. 15
- (5D) If an election is made under **subsection (5B)** in circumstances where section 8(4) was incorrectly applied to the treatment of the supply, the supplier and the recipient are treated as agreeing that section 8(4) will not apply to the supply.
- 58 Section 24B amended (Records to be kept by recipient of imported services)** 20
- In section 24B, replace “as being made in New Zealand” with “as being made in New Zealand, or who is required to account for output tax under **section 20(3JC)**,”.
- 59 Section 25 amended (Credit and debit notes)**
- (1) After section 25(1)(aa), insert: 25
- (aab) section 8(4) was incorrectly applied to the treatment of the supply, so that the services were treated as having been supplied in New Zealand when they should have been treated as being supplied outside New Zealand, for a supply—
- (i) made by a non-resident supplier of services to which **section 8(3)(c)** applies; and 30
- (ii) for which no election was subsequently made under **section 24(5B)**; or
- (2) After section 25(1)(ab), insert:
- (abb) **section 11A(1)(x)** was incorrectly applied to the treatment of the supply, so that the supply was not zero-rated when it should have been, and the supplier did not subsequently make an election under **section 24(5B)**; or 35

- 60 Section 25AA amended (Consequences of change in contract for imported services)**
- (1) In section 25AA(1)(a)(iv), replace “non-resident; and” with “non-resident.”.
- (2) After section 25AA(1)(a)(iv), insert:
- (v) the supplier has provided the recipient with a tax invoice under section 24(5B); and 5
- 61 Section 51B amended (Persons treated as registered)**
- After section 51B(6), insert:
- (7) For the purposes of this Act, in relation to a supply of remote services to which **section 8(3)(c)** applies, a recipient who is treated as a supplier under **section 5(27)** is treated as registered from the date on which the services are physically performed. 10
- 62 Section 54B amended (Non-residents: registration)**
- Replace the section heading with “**Requirements for registration for certain non-resident suppliers**”.
- 15
- 63 Section 54C amended (Non-residents: cancellation of registration)**
- Replace the section heading with “**Cancellation of registration of certain non-resident suppliers**”.
- 64 Section 56B amended (Branches and divisions in relation to certain imported services)**
- 20
- In section 56B(1), replace “made in New Zealand.” with “made in New Zealand, or in relation to which an output tax liability under **section 20(3JC)** arises.”
- 65 Section 60 amended (Agents and auctioneers)**
- After section 60(1B), insert: 25
- (1C) For the purposes of **section 60C**, an operator of an electronic marketplace and a resident supplier who makes supplies of services to recipients through the marketplace may treat a supply as 2 separate supplies, being—
- (a) a supply of services from the underlying supplier to the operator of the marketplace; and 30
- (b) a supply of those services from the operator of the marketplace to the recipient, treating the operator as if they were the underlying supplier of the services.
- 66 New section 60C inserted (Electronic marketplaces)**
- After section 60B, insert: 35

**60C Electronic marketplaces**

- (1) **Subsection (2)** applies when—
- (a) a supply of remote services is made through an electronic marketplace; and
  - (b) the marketplace is operated by a non-resident person; and 5
  - (c) the supply is made to a person resident in New Zealand.
- (2) The operator of the marketplace is treated as making the supply in the course or furtherance of a taxable activity. But this subsection does not apply if—
- (a) the documentation provided to the recipient identifies the supply as made by the underlying supplier and not the marketplace; and 10
  - (b) the underlying supplier and the operator of the marketplace have agreed in a document signed by them that the supplier is liable for the payment of tax; and
  - (c) the electronic marketplace does not— 15
    - (i) authorise the charge to the recipient; or
    - (ii) authorise the delivery of the supply to the recipient; or
    - (iii) set the terms and conditions under which the supply is made.
- (3) If, in relation to a single supply of remote services, more than 1 operator of an electronic marketplace is liable for tax on the supply, the first operator that authorises a charge or receives consideration for the supply is treated as making the supply. If no operator exists that meets this requirement, the first operator that authorises delivery of the supply is treated as making the supply. 20
- (4) This section overrides section 60(1).

**67 Section 75 amended (Keeping of records)**

After section 75(3E), insert— 25

- (3F) Subsection (3BA) does not apply to require a non-resident supplier whose only supplies are supplies of remote services to which **section 8(3)(c)** applies, to keep and retain records—
- (a) in English; or
  - (b) at a place in New Zealand. 30

**68 Section 77 replaced (New Zealand currency)**

Replace section 77 with:

**77 New Zealand or foreign currency**

- (1) All amounts of money must, for the purposes of this Act, be expressed in terms of New Zealand currency, and in any case where and to the extent that any such amount is consideration in money for a supply, that amount must be expressed in terms of New Zealand currency as at the time of that supply. 35

- (2) Despite **subsection (1)**, a non-resident supplier of remote services to which **section 8(3)(c)** applies may choose to express the amount of consideration in money for their supplies in a foreign currency as at the time of supply.
- (3) If a supplier makes an election under **subsection (2)**, the supplier must convert the foreign currency amounts into New Zealand currency on the earlier of— 5
- (a) the date the supplier files their return for the relevant period;
- (b) the due date for filing their return for the relevant period.
- (4) A supplier may not revoke an election made under **subsection (2)** until at least 24 months after making the election. 10

## Part 4

### Amendments to Tax Administration Act 1994

#### 69 Tax Administration Act 1994

This Part amends the Tax Administration Act 1994.

#### 70 Section 22 amended (Keeping of business and other records) 15

- (1) In section 22(2)(fb), replace “year,—” with “year:”.
- (2) After section 22(2)(fb), insert:
- (fc) is a borrower under section 4(1) of the Student Loan Scheme Act 2011 who has adjusted net income as defined in **section 73** of that Act,—
- (3) In section 22(2)(m), replace “trust,—” with “trust; and” 20
- (4) After section 22(2)(m), insert:
- (n) adjusted net income under the Student Loan Scheme Act 2011,—

#### 71 Section 24BA amended (Offshore persons’ bank accounts and tax file numbers)

- (1) After section 24BA(1), insert: 25
- (1B) Subsection (1) does not apply to a person who requires a tax file number only because they are a non-resident supplier who makes a supply of remote services under **section 8(3)(c)** of the Goods and Services Tax Act 1985.
- (2) In section 24BA(2), replace “A person” with “A person to whom subsection (1) applies” 30

#### 72 New sections 54B and 54C inserted

After section 54, insert:

#### 54B Statement of payment of RLWT

A person that must make a payment of RLWT must give the Commissioner a statement in relation to their RLWT obligations, in the form prescribed by the 35

Commissioner, at the time at which the RLWT must be paid to the Commissioner or within such further time as the Commissioner may allow.

#### 54C Information in relation to RLWT

- (1) This section applies if a person (the **vendor**) disposes of residential land (the **disposal**), and the bright-line date for the residential land is within 2 years of— 5
- (a) the date on which the instrument to transfer the land to the person was registered under the Land Transfer Act 1952; or
  - (b) their date of acquisition of the land, if an instrument to transfer the land to the person is not registered on or before the bright-line date.
- (2) The vendor must give to their conveyancer, or if they do not have a conveyancer or they are associated with the purchaser, give to the purchaser's conveyancer information in relation to RLWT, in the form prescribed by the Commissioner, before the disposal is completed. 10
- (3) The information must be accompanied by certified copies of relevant and appropriate documents, as prescribed by the Commissioner, to evidence the information in the form (for example: a certified copy of a vendor's New Zealand passport, to support information in the form that they are not an offshore person). 15
- (4) The information that a vendor must give includes— 20
- (a) their full name, address and tax file number; and
  - (b) whether or not they are an offshore person; and
  - (c) if they are an offshore person,—
    - (i) whether or not they are associated with the purchaser; and
    - (ii) whether or not **section RL 1(2)(a)** of the Income Tax Act 2007 applies for the disposal. 25
- (5) The person who receives the information must keep and retain the information for a period of at least 7 years.

#### 73 Section 81 amended (Officers to maintain secrecy)

- (1) After section 81(4)(gba), insert: 30
- (gbb) communicating to a person referred to in **section 209A(2)** of the Student Loan Scheme Act 2011 any information specified in **subsection (3)** of that section for the purposes set out in **subsection (1)** of that section:

- (2) After section 81(4)(o), insert:
- (ob) communicating to a relevant professional body appropriate details of a failure by 1 of its members to satisfy, as agent, a person's liability to pay RLWT in accordance with the RLWT rules: