

Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Bill

Government Bill

Explanatory note

General policy statement

This taxation omnibus Bill introduces amendments to the following Inland Revenue Acts:

- Income Tax Act 2007:
- Tax Administration Act 1994:
- Income Tax Act 2004:
- Goods and Services Tax Act 1985:
- Child Support Act 1991.

Generally speaking, the taxation amendments contained in this Bill are aimed at improving the current tax settings within a broad-base, low rate (**BBLR**) framework. Under a BBLR framework, the tax treatment of alternative forms of income and expenditure is intended to be as even as possible. This ensures that overall tax rates can be kept low, while also minimising the biases that taxation introduces into economic decisions. The BBLR framework is the cornerstone of the Government's Revenue Strategy and helps maintain confidence that the tax system is broadly fair, which is crucial to encouraging voluntary compliance.

Although New Zealand has relatively robust tax settings, it is important to maintain the tax system and ensure that it continues to be fit for purpose. Changes in the economic environment, business practice, or interpretation of the law can mean that the tax system becomes unfair, inefficient, complex, or uncertain. The tax system needs to be responsive to accommodate these concerns.

The policy measures within this Bill have been developed in accordance with the Generic Tax Policy Process (**GTPP**). This is a very open and interactive process which helps ensure that tax policy changes are well thought through. A good tax policy process is an essential ingredient for a good tax system. This process is designed to ensure better, more effective tax policy development through early consideration of all aspects – and likely impacts – of proposals, and increased opportunities for public consultation.

The GTPP means that major tax initiatives are subject to public scrutiny at all stages of their development. As a result, Inland Revenue and Treasury officials have the opportunity to develop more practical options for reform by drawing on information provided by the private sector and the people who will be affected. Further information on the GTPP can be found at:

- <http://taxpolicy.ird.govt.nz/how-we-develop-tax-policy>

Below is a 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/2013-commentary-arearm/overview>

Employee allowances

The Bill proposes to clarify the tax treatment of employer-provided accommodation, accommodation allowances, and other payments provided by employers to employees to reimburse them for expenditure incurred.

Since accommodation, meals, and clothing have an inherent private benefit for an employee, the starting position is that payments by employers to cover expenses for these items should be treated as income of the employee. However, situations arise where the private benefit is minimal or hard to measure, and the benefit is clearly not a sub-

stitute for salary or wages. Practical rules are needed in this area to determine where to draw the line between what is taxable and what is not taxable.

The main areas of concern addressed in the Bill are employer-provided accommodation, allowances, and payments, particularly when they are linked to business travel, secondments, and projects.

Accommodation

Accommodation and accommodation payments provided to employees who are required to work away from their normal work place on secondment or projects will be exempt from income tax:

- for up to 2 years generally, when there is an expectation that the employee will be working away for no more than 2 years;
- this is extended to 3 years when an employee is involved in a capital project; and
- up to 5 years for employees involved in Canterbury earthquake recovery projects.

Accommodation and accommodation payments will also be exempt when there is more than 1 regular workplace.

When an accommodation benefit is taxable, it will generally be valued at market value. However, specific valuation rules are proposed for ministers of religion and New Zealand Defence Force personnel, to reflect existing practice:

- ministers of religion – value of church supplied accommodation will be capped at 10% of remuneration; and
- accommodation provided to Defence Force personnel will continue to be valued at a discount to market value, reflecting the particular nature and restrictions of military life.

Meal payments and distinctive work clothing

The Bill proposes that the full amount of meal payments will be exempt, if the meal payment is linked to work-related travel (for up to the 3 months). The full amount of meal payments and light refreshments outside of work-related travel (such as conferences) will also be tax exempt.

A specific exemption is proposed for distinctive work clothing, to match the outcome when clothing is provided directly by the em-

ployer. Plain clothes allowances will also be exempt if paid to employees who are provided with a uniform but because of the nature of their current duties are required not to wear that uniform.

General rule for other payments

The general rule covering when other types of payments are not taxable will also be clarified. To provide greater flexibility to handle any future issues, the Commissioner will have the power to issue determinations for other types of payments affecting a wide group of employees when the private benefit is hard to measure and not a salary substitute. These determinations setting out what portion of the payment will be taxable will not be binding on the taxpayer.

Thin capitalisation

Amendments are proposed to the interest apportionment rules. The rules are intended to affect taxpayers who have a disproportionately high level of debt funding in relation to their worldwide interest expenditure and taxpayers who can control the relative levels of their debt funding and equity funding. Different aspects of the rules relate to situations in which New Zealand residents have investments in non-resident entities (the **outbound rules**) and situations in which non-residents have investments in New Zealand residents (the **inbound rules**). The rules also require taxpayers to determine which related entities are in their New Zealand group and in their worldwide group for the purpose of calculations.

The proposed amendments relate to 5 policy areas:

- extending the inbound rules to cover groups of non-residents who act together when investing in New Zealand (the rules currently apply only when a single non-resident controls the investment):
- changing the calculation, in the inbound rules, of the worldwide group debt for a group of entities so as to exclude debt linked to shareholders of group entities and debt linked to persons associated with shareholders:
- extending the inbound rules to apply to resident trustees if 50% or more of settlements made on the trust were made by a non-resident, by non-residents acting together, or by other entities subject to the interest apportionment rules:

- in the outbound rules, forcing consolidation of interests held by individuals or trustees with interests held by companies in which they have an interest:
- ignoring increases in asset values that are the result of transactions between associated persons, unless the increase would be allowed by accounting standards if there were no sale of the relevant property.

Under the proposed changes, a group of non-resident shareholders in a company are treated as acting together if—

- the group makes up 50% or more of the company’s shareholders and the members of the group have debt in the company in proportion to their equity:
- for a company that is not widely held, the group makes up 50% or more of the company’s shareholders and the members of the group have an agreement that sets out how the company is to be funded:
- the group holds 50% or more of the company’s shares and the members of the group are effectively coordinated by a person, such as a non-resident private equity manager.

Changes are proposed to the rules about New Zealand groups and worldwide groups, following from the introduction of the concept of non-resident shareholders acting together.

Black hole expenditure

Several amendments are proposed relating to business expenditure of a capital nature that is not immediately deductible for tax purposes and does not give rise to a depreciable asset, so cannot be deducted as tax depreciation over time. Such expenditure is commonly referred to as “black hole expenditure”.

The 2 broad areas of black hole expenditure focused on are certain company running costs and the costs of applying for patents, resource consents, and plant variety rights.

Foreign account information-sharing agreements

Currently, United States legislation commonly known as the *Foreign Account Tax Compliance Act (FATCA)* is due to take effect on 1 July 2014. Under FATCA, financial institutions, regardless of their

location, will be required to report on certain United States account holders directly to the United States' Internal Revenue Service, or face a withholding tax on United States sourced income of 30%.

It is proposed that New Zealand enter into an “intergovernmental agreement” (**IGA**) with the United States, to significantly reduce the compliance costs of FATCA for New Zealand financial institutions. Negotiations for such an agreement are currently underway. The provisions in this Bill will enable financial institutions to comply with the IGA, and any future similar agreements.

Charities deregistration

New rules are proposed which set out the obligations of a deregistered charity when it ceases to derive exempt income as a result of being deregistered. A deregistered charity is an entity which is removed from the register of charitable entities. These new rules set out a method for establishing the initial tax base of the entity at the time it ceases to derive exempt income.

The rules also prescribe how to determine the date from which the entity will no longer be deriving exempt income. Entities which have been compliant with their constitutions and other information supplied at the time of registration will only be liable for tax prospectively. Entities which have not been compliant with these documents will face tax liabilities from the time they ceased to comply with the documents.

The rules also impose new requirements with respect to any assets and income a deregistered charity may have accumulated before it was deregistered. The entity will be taxed on the accumulated assets it still holds 1 year after it ceases to derive exempt income if it has not distributed those assets for charitable purposes during that year. Assets, excluding money, which were gifted to the entity while it was deriving exempt income will not be taxed.

Community housing providers

New rules are proposed which confer tax-exempt status on a small subset of community housing entities. The new rules also set out that gifts of \$5 or more which are made to one of these entities will qualify for charitable donations tax relief.

To qualify for the exemption, the community housing entity must supply housing products and services only to certain classes of recipients, as well as meeting a number of other requirements. These requirements include:

- the business must not be carried out for the private pecuniary profit of any individual;
- all profits of the business must be reinvested back into the business;
- no person with some control over the business may be able to direct or divert an amount derived by the business for their own benefit or advantage; and
- the entity must also be a registered community housing provider under the *Housing Restructuring and Tenancy Matters Act 1992*.

The classes of recipients will be set out by Order in Council. When making such an Order in Council, the Governor-General will take the following factors into account:

- the maximum income of the person or household, adjusting that threshold with respect to the person's geographic location in New Zealand, and the composition of the household that the person lives in; and
- the person's assets.

Financial arrangements: Foreign currency agreements for sale and purchase

This Bill proposes to change the tax treatment of agreements for the sale and purchase of property or services denominated in foreign currency (the **foreign currency agreements**) in order to reduce complexity, minimise volatility, and reflect economic reality.

The changes require taxpayers using international financial reporting standards (**IFRS**) to follow their accounting treatment for foreign currency arrangements. This means the value of the property and services and any interest included in foreign currency arrangements will follow the accounting treatment. Non-IFRS taxpayers will follow similar rules to IFRS taxpayers that are based on spot exchange rates. There will be the ability to use forward exchange rates when these taxpayers elect to follow a prescribed foreign currency hedging tax treatment.

The amendments apply to foreign currency arrangements entered into from the 2014–15 income year. IFRS taxpayers may make a once-and-for-all election to apply the new tax treatment to foreign currency arrangements entered into from the beginning of an income year commencing with the 2011–12 income year.

In addition, it is proposed to validate tax positions already taken consistently for pre-existing foreign currency arrangements, if they are essentially in agreement with the proposed new rules.

Land-related lease payments

This proposal includes measures taxing and providing deductions for payments made for transfers of certain leases or licences of land. It also proposes 4 technical amendments to tax law relating to leases and licences of land.

Under changes made by the *Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013*, provisions were inserted in the *Income Tax Act 2007* that treat lease inducement and lease surrender payments as deductible to the payer and taxable to the recipient over the term of the lease from 1 April 2013.

The changes proposed in this Bill are intended to build on those provisions so as to provide for a consistent and coherent tax treatment of land-related lease payments and remove distortions, thereby improving business efficiency and fairness.

The main amendments proposed will tax lease transfer payments that are substitutable for taxable lease surrender and lease premium payments.

The technical amendments are:

- a payment for a permanent easement will be excluded from being income of a land owner under *section CC 1 of the Income Tax Act 2007*;
- leases that are perpetually renewable (“Glasgow leases”) will be excluded from being depreciable property, since they are more appropriately treated in the same way as fee simple estates in land;
- the definition of *legal life* for a lease will be extended to include extensions, renewals, and further grants to which the lessee or an associated person is entitled when the lessee enters the lease; and

- occupation rights agreements, as defined in the *Retirement Villages Act 2003*, will be excluded from the financial arrangements rules.

Annual rates of income tax

This Bill sets the annual rates of income tax for the 2014–15 tax year, at the same rates that apply for the 2013–14 tax year.

Date of acquisition of land

Whether the proceeds from a disposal of land by a taxpayer are taxed may depend on the intention or purpose of the taxpayer when acquiring the land. The Courts have held that the relevant intention or purpose should be tested on the date of the acquisition of the land.

Identification of that date is not straightforward, because the definition of *land* in the *Income Tax Act 2007* includes all estates and interests in land. For example, a taxpayer who agrees to buy a fee simple estate in a piece of land acquires different interests and estates, all of which are within the definition of *land*, at different times during the process leading to the settlement of the agreement. The different interests and estates are then merged when the title to the land is registered. Neither the legislation nor common law provides sufficient clarity as to the stage in the process of acquisition that must be reached for land to be regarded as acquired.

The Bill proposes a solution to the problem by defining the date on which a person acquires land as being the date on which the person first has an estate or interest in the land, alone or jointly or in common with another person. The proposal relies on the existing definitions of *estate* and *interest in land*. As a result, the person acquires the land at the stage in the process of acquisition when the person has a right in the land and is entitled to apply to a Court for protection of that right.

Substituting debentures

This Bill proposes the repeal of the substituting debenture rule in the *Income Tax Act 2007*. This rule re-characterises shareholders' debt in a company as equity in that company where the debt is issued by reference to the shareholding. As a consequence, the company is

denied a deduction for interest paid on the shareholder debt and the interest payments are treated as dividends for tax purposes.

The rule was enacted in 1940 and is largely redundant. It does not fit within the current policy framework, particularly, the imputation system. The rule is also causing problems in practice, and there are more targeted rules governing the tax treatment of debt and equity. The rule is also imposing unnecessary compliance costs on taxpayers.

Withholding tax on inflation-indexed bonds

This Bill proposes that non-resident withholding tax (**NRWT**) and resident withholding tax (**RWT**) is withheld on account of the coupon (that is the interest payment on the inflation-indexed bond) and on the inflation-indexation uplift at the time when the coupon is paid. This is in accordance with, and confirms, current practice. For RWT, the withholding is limited to the lesser of the coupon amount or the inflation-indexation uplift.

To enable Inland Revenue to administer these proposed legislative changes, additional record-keeping requirements for the bond issuer are required. Therefore amendments to the record-keeping provisions are included to:

- provide that the bond issuer must notify the bond holder of the requirement to file a tax return if there is a remaining tax liability, with a corresponding exclusion from non-return filing requirements; and
- provide that the bond issuer notify the Commissioner of any remaining tax liability.

Deductions for underground gas storage

It is proposed that underground gas storage facilities be removed from the concessionary petroleum mining tax rules and be included in the general depreciation tax rules, with deductions for expenditure being spread over the estimated economic life of the asset. Grandparenting is proposed for some expenditure. A transitional provision is also proposed to apply on disposal of an underground gas storage facility to apportion the sale proceeds to reflect expenditure incurred under the existing rules.

Schedule 32 donee status

It is proposed to give Everyhome Global Concern Incorporated and Namibian Charitable Trust donee status, under *schedule 32 of the Income Tax Act 2007*. Monetary gifts to them may qualify for tax benefits.

GST: Definitions of dwelling and commercial dwelling

The definitions of *dwelling* and *commercial dwelling* in the *Goods and Services Tax Act 1985 (GST Act)* were amended in 2011. Part of the amendment to the definition of *dwelling* was importing the idea of “quiet enjoyment” from *section 38 of the Residential Tenancies Act 1986*. However, the contractual obligations retirement villages and rest homes impose upon their tenants that enable operators to enter the residential units and provide limited services at short or no notice could undermine the tenants’ “quiet enjoyment” of their units. The proposed amendments will clarify that when the consideration paid is for the right to occupy the unit, a residential unit in a retirement village or rest home is a *dwelling* and not a *commercial dwelling*.

A transitional rule was also enacted for registered persons required to treat their accommodation as a commercial dwelling as a result of the changes to the definitions of commercial dwelling and dwelling. The rule allows those affected to claim an input tax deduction in relation to the acquisition of the property. Two additions to the transitional rule are proposed. The first ensures those affected cannot claim an input tax deduction on costs incurred prior to 1986. The second gives those affected the option of either including or not including a commercial dwelling (with supplies less than \$60,000) as part of their broader taxable activity.

GST: Apportionment rules

An amendment to the apportionment rules is proposed in new *section 21FB of the GST Act* which will require taxpayers to perform a wash-up calculation when they change from using an asset for both taxable and non-taxable purposes to 100% taxable or non-taxable use.

When the apportionment rules were changed in 2011, the ability of non-profit bodies to claim all their input deductions was inadvertently

affected. A proposed amendment to *section 20(3K) of the GST Act* ensures that non-profit bodies can claim all of their GST input deductions other than on inputs that relate to the making of exempt supplies.

GST: Output tax and the disposal of land

A proposed amendment to *section 5(16) of the GST Act* clarifies the policy relating to subsequent supplies of land or dwellings when input tax has been claimed, requiring a wash-up calculation on the disposal.

GST: Directors' fees

Some uncertainty has arisen when an employee, such as a director, is engaged by a third party and receives a fee for which they must account to their employer. If both the employer and third party are registered persons but the employee is not, the GST effect is not neutral. It is proposed to treat the employer, in these circumstances, as the supplier of the service to the third person.

GST: Zero-rating of land

Amendments are proposed to clarify that:

- an assignment or surrender to which the provision applies is a supply of land;
- a commercial lease for which no contemporaneous or advance payment has been made may be excluded from the zero-rating requirements;
- the procurement of a lease is a supply of land; and
- a purchaser that was already registered for GST when they incorrectly zero-rated a transaction will still be able to claim an input tax credit.

GST: Residents and non-residents

Services supplied to a non-resident who is outside New Zealand at the time the services are performed are zero-rated. A proposed amendment to the meaning of *outside New Zealand* clarifies that, for a natural person, a minor presence in New Zealand that is not directly connected with the supply does not invalidate the rule.

The definition of *resident* is also proposed to be amended, so that the retrospective application of the day count residence tests in *section YD 1(4) and (6) of the Income Tax Act 2007* is switched off, with the result that for GST purposes, the day count rules apply only prospectively.

Minor clarifications of the non-resident registration provisions ensure that the extended period within which to claim refunds applies only to registered non-residents, and the deregistration period for non-compliance is more accurately expressed.

Definition of hire purchase agreement

The definition of *hire purchase agreement* under *section YA 1 of the Income Tax Act 2007* and *section OB 1 of the Income Tax Act 2004* is proposed to be amended to explicitly incorporate contracts under which the person has an option to purchase, but that option is not exercised until a later date.

Loss grouping and insolvent loss companies

The use of tax losses by a profit company within a group of companies is contingent on the loss company in the group of companies fully satisfying its debts for deductible expenditure incurred. This Bill proposes an amendment to reduce the benefit of past grouped tax losses if the loss company is liquidated or the loss company and the profit company grouping status is broken. The reduction in the benefit of past grouped tax losses is achieved by treating the amount of the unpaid debts as income of the profit company.

The amendment allows for consistency with self-assessment and corrects an unintended consequence for group companies arising from a policy change made to the treatment of remitted debts in rewriting provisions of the *Income Tax Act 1994* into the *Income Tax Act 2004*.

Bankrupts with remitted debts

The Rewrite Advisory Panel has reviewed the policy history and practice of the Commissioner of Inland Revenue relating to setting off remission income against a bankrupt's loss balance. Clarification is necessary to ensure that the bankrupt is not saddled with tax debt, but rather, any of the bankrupt's tax losses should be reduced by amounts remitted.

Public and local authority tax exemption

A proposed amendment will clarify that the exempt income rule does not apply to income derived by a local or public authority as a trustee. But if that income is distributed as beneficiary income, the beneficiary may be entitled to the local or public authority exemption, if they qualify.

Non-resident oil rig operators

At present, there is a temporary 5-year exemption from tax on the income of non-resident offshore oil rig and seismic vessel operators. The exemption is due to expire on 31 December 2014. This Bill proposes a further temporary 5-year exemption. It is also proposed that modular drilling rigs will not be covered by the exemption, because the exemption is intended for large rigs that have high mobilisation and demobilisation costs, not modular rigs.

Serious hardship

The Bill proposes to clarify 2 aspects of the financial relief provisions in the *Tax Administration Act 1994*. The Bill clarifies the definition of *serious hardship* and ensures that factors that give rise to the taxpayer not being able to pay the outstanding tax are not taken into account in determining whether the taxpayer is in serious hardship.

The Bill also clarifies that the Commissioner can, in appropriate circumstances, bankrupt a taxpayer who is in serious hardship. In many cases it is appropriate that the outstanding tax is written off, but in some cases if, for example, the Commissioner is concerned that writing off the outstanding tax would have an adverse effect on taxpayers' perceptions of the integrity of the tax system, the taxpayer could be made bankrupt.

Mining permits

A proposed item clarifies the status in the *Income Tax Act 2007* of permits that grant a right to explore for natural resources. Under the *Crown Minerals Act 1991*, such permits are neither real property nor personal property. Such a status produces problems when some double tax agreements are applied to revenue derived by non-residents from the permits. The proposed amendment treats permits under the

Crown Minerals Act 1991 as real property for the purposes of the *Income Tax Act 2007*.

Child support remedial items

Proposed amendments seek to ensure that the policy objectives of the recent child support reform are achieved by correcting errors, clarifying wording, making additional consequential changes and making minor improvements to simplify the child support scheme. For example, the formula for distributing the minimum amount of child support in *section 98 of the Child Support Act 1991* is aligned with the formula in *section 32* of that Act so that the minimum amount of child support is distributed in the same way under the Act to all receiving carers.

Working for Families

Working for Families tax credits are targeted to families with dependent children who need additional financial assistance because of the level of their household income. Family scheme income is a broader concept than taxable income and includes payments received from other sources. However, the tax credits are income tested and are not asset tested. This bill proposes that various payments that are of a capital nature or are windfall gains are excluded from the definition of *family scheme income* in *section MB 13 of the Income Tax Act 2007*. These include repayments of mistaken or misdirected payments, refunds, a capital payment from a person's ownership in a business, inheritances, and lottery winnings.

Rules for income from controlled foreign companies (CFCs) and foreign investment funds (FIFs)

Offshore investments of New Zealand residents are generally taxed under 1 of 2 regimes: the controlled foreign company (CFC) or the foreign investment fund (FIF) rules. The Bill proposes several remedial amendments to these rules:

- Australian unit trusts that are not taxed as companies under Australian law will be excluded from the exemptions available to Australian resident entities in the CFC and FIF rules.

- *Section DB 55 of the Income Tax Act 2007* will be repealed. The section allows companies to claim deductions for expenses incurred in deriving exempt foreign dividends. The section no longer serves a useful purpose following changes enacted in the *Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009*.
- The rules applying to indirectly held interests in FIFs will be clarified.
- The grouping rules for the active income test in the CFC rules will be relaxed so that wholly-owned groups of companies can form test groups of CFCs including any of the interests held by the group.
- The formula in *section EX 21E(5) of the Income Tax Act 2007* will be amended so a negative numerator no longer disqualifies a CFC from passing the active business test.
- The accounting standards test will be amended to give taxpayers the option of including foreign exchange gains and losses on both financial assets and liabilities.
- The apportioned funding income provision will be moved from *section EX 20C to EX 20B of the Income Tax Act 2007*, as it relates to income rather than deductions. This will allow taxpayers to take the adjustment into account when performing the active business test under *section EX 21D of the Income Tax Act 2007*.

Remedial items

A number of remedial matters are proposed in the Bill, some of which have been identified by the Rewrite Advisory Panel. In addition to fixing minor faults of expression, reader's aids, and incorrect cross-references, the following specific issues are addressed:

- clarifying the spreading of income, from the grant of a lease, derived in anticipation, or from disposing of land to the Crown:
- technical changes to the mixed use asset rules in the *Income Tax Act 2007*, to ensure that the rules are consistent with the policy intent of the legislation as introduced:
- ensuring that under the transitional depreciation recovery rule in the mixed use assets rules, depreciation recovery income is crystallised when the shareholder sells to a third party:

- clarifying the amendment of assessments by the Commissioner on recovery of a dividend from a shareholder:
- remedying the definitions of *direct control interest* and *direct income interest* and the right of a person to receive income of the company or have the income dealt with in their interest or on their behalf:
- clarifying that a new due date is not required if the assessment is made electronically when the taxpayer has defaulted in providing a return, and if an assessment is not made in such circumstances, but replaces an assessment that has been, the replacement assessment must be treated as a new assessment and a new due date must be set for all the tax payable under the replacement assessment:
- clarifying the ability of a company that is part of a wholly-owned group of companies to use a tax loss to pay a shortfall penalty imposed on another company in the group:
- electing to use balance dates used in foreign countries:
- remedying the item **costs** in the formula for the comparative value method:
- remedying expenditure incurred when land is transferred to close relatives after a person dies:
- clarifying that joint and several liability removed when a company leaves a consolidated group of companies:
- clarifying the effective date for the revocation of directors' elections for qualifying companies.

Generic tax policy process: consultation

Consultation on specific matters was undertaken with relevant professional groups, industry representatives, and individual taxpayers, according to their expertise on the proposed amendments. The Treasury was consulted in the development of the proposals in the Bill. In addition the Department of Internal Affairs, the Ministry of Social Development, Ministry of Foreign Affairs and Trade, Ministry of Education, Ministry of Health, Ministry of Justice, Ministry of Business, Innovation and Employment, CERA, Crown Law Office, the Officials' Committee on Economic Growth and Infrastructure Group, Department of Corrections, New Zealand Customs Service, Immigration New Zealand, New Zealand Defence Force,

the New Zealand Law Society, KPMG, the New Zealand Institute of Chartered Accountants, Office of the Privacy Commissioner, Department of Prime Minister and Cabinet, New Zealand Police, Te Puni Kokiri, Association of Non-Governmental Organisations of Aotearoa, Fundraising Institute of NZ, Volunteering NZ, Council of Trade Unions, Corporate Taxpayers' group, Inter-church Working Party on Taxation, Petroleum Exploration and Production Association of NZ, the Community Housing Association of NZ, BNZ, Contact Energy, Deloitte, Ernst & Young, PwC, Russell McVeagh, Sky City, NZX, Transpower, Rewrite Advisory Panel, Staples Rodway, Veda, QIC, Greenpeace Social Development Partners, and the New Zealand Bankers' Association were consulted on relevant aspects of the proposals.

Departmental disclosure statement

The Inland Revenue Department 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=2013&no=176&>.

Regulatory impact statement

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

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

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

Clause by clause analysis

Clause 1 gives the title of the Act.

Clause 2 gives the dates on which the clauses come into effect.

Part 1

Annual rates of income tax

Clause 3 gives the annual rates of income tax for the 2014–15 tax year.

Part 2

Amendments to Income Tax Act 2007

Clause 4 gives the clauses that affect the *Income Tax Act 2007*.

Clause 5 amends *section BB 3*, consequential on the amendments to implement foreign account information-sharing agreements and FATCA.

Clause 6 amends *section BH 1*, to ensure that foreign account information-sharing agreements, including the 1 for FATCA, are part of the double tax agreement regime.

Clause 7 inserts *new section CB 15B*, to clarify the date of acquisition of land.

Clause 8 amends *section CC 1*, to ensure that consideration for the grant of certain easements are not derived as income under that section.

Clause 9 replaces *section CC 1B*, to clarify the income tax treatment of consideration relating to the grant, renewal, extension or transfer of certain leasehold estates and licences.

Clause 10 amends *section CD 40*, as a rewrite remedial, to reproduce the effect of *section CF 2(8)(b) of the Income Tax Act 1994* in relation to the amendment of assessments of the company and the shareholder when the Commissioner is notified of the recovery of a dividend from a shareholder.

Clause 11 amends *section CE 1* as a consequence of the clarification of the rules related to employer-provided accommodation.

Clause 12 inserts *new sections CE 1B to CE 1D* which state the general rule for the tax treatment of employer-provided accommodation, and provides for exceptions for the valuation of overseas accommodation, and accommodation provided to New Zealand Defence Force personnel.

Clause 13 amends *section CE 5* as a consequence of the clarification of the accommodation provisions.

Clause 14 amends *section CG 2*, consequential to inserting *new sections CG 2B to CG 2D*, which relate to the treatment of remitted amounts on discharge from bankruptcy, on liquidation, or when companies leave a group of companies.

Clause 15 inserts *new sections CG 2B to CG 2D* which relate to the treatment of remitted amounts on discharge from bankruptcy, on liquidation, or when companies leave a group of companies. The new provisions detail when income is derived, by whom, and the amount of the income.

Clause 16 inserts *new section CG 7B* to claw back as income an earlier deduction for expenditure on certain failed intangible property applications if the failed application property is subsequently sold or used.

Clause 17 amends *section CT 1* to clarify the relationship of that section with the new transitional provision inserted in relation to petroleum storage facilities.

Clause 18 amends *section CT 7* to provide that an underground gas storage facility is not a petroleum mining asset.

Clause 19 inserts a *new section CV 17* to ensure that a ceased charity is taxed appropriately on certain accumulations that were derived while tax exempt.

Clause 20 inserts *new sections CW 16B to CW 16F* as part of the clarification of the rules related to employer-provided accommodation. The amendments relate to tax treatment of employment expenditure on accommodation for employees on out-of-town secondments and projects, and their associated time limits, and when employees attend conferences requiring overnight stays, and the treatment of new employees and employees with multiple workplaces. The relevant amounts are exempt income of the employee.

Clause 21 amends *section CW 17* by inserting *new subsections (2B) to (2D)*. The amendments clarify when expenditure is treated as being incurred in connection with an employee's employment or service, and enable the Commissioner to determine the level of benefit provided when an employer makes a payment to a class of employees when the benefit is hard to measure.

Clause 22 inserts *new section CW 17CB* to clarify the tax treatment of expenditure that an employer incurs for a meal for their employees. A 3-month limit applies to some expenditure.

Clause 23 inserts *new section CW 17CC* for the treatment of payments that employers make for distinctive work clothing, which includes a portion of plain clothes allowances in certain specified instances. The payments are exempt income of the employee.

Clause 24 inserts *new section CW 25B* as part of the clarification of the rules related to employer-provided accommodation. The amendment relates to accommodation provided to ministers of religion, and limits the extent to which the market rental value of the accommodation is taxable.

Clause 25 amends *section CW 38* to clarify an ambiguity related to the exemption for an amount derived by a public authority as a trustee. The amendment clarifies that the amount is not exempt income unless it is an amount distributed as beneficiary income for a beneficiary who enjoys exempt income status.

Clause 26 amends *section CW 39* to clarify an ambiguity related to the exemption for an amount derived by a local authority as a trustee. The amendment clarifies that the amount is not exempt income unless it is an amount distributed as beneficiary income for a beneficiary who enjoys exempt income status.

Clause 27 amends *section CW 41*, to ensure that certain charities who may be de-registered nevertheless qualify for tax-exempt status in circumstances where they are compliant and the deregistration is not final.

Clause 28 amends *section CW 42* as part of granting a tax exemption to certain community housing providers.

Clause 29 inserts *new section CW 42* to grant a tax exemption to certain community housing providers.

Clause 30 amends *section CW 57*, to grant a 5-year extension of a tax exemption for non-residents involved in certain petroleum exploration and development activities, and to remove from the concessionary regime modular drilling rigs.

Clause 31 amends *section CX 19* as a consequence of the clarification of the rules related to employer-provided accommodation.

Clause 32 amends *section CX 28*, as part of the clarification of the rules related to employer-provided accommodation.

Clause 33 inserts *new section CZ 29* as part of the clarification of the rules related to employer-provided accommodation. The amendment is a transitional provision for expenditure by an employer in greater

Christchurch on accommodation for employees on secondment or working on a project, and modifies the time periods applying under the general provisions.

Clause 34 inserts *new section CZ 30* as part of the clarification of the rules related to employer-provided accommodation. The amendment is a transitional provision for expenditure by an employer on accommodation for employees for a period before the rules come into effect. The employer may choose to apply the new provisions if they have not taken a contrary tax position for the relevant year.

Clause 35 inserts *new section CZ 31* as part of the clarification of the rules related to employer-provided accommodation. The amendment is a transitional provision and treats the rent paid by a member of the Defence Force for accommodation provided by the Defence Force as effectively the market rental value.

Clause 36 inserts *new section CZ 32* which relates to the treatment of expenditure on underground gas storage facilities incurred before the date of enactment of this Bill. On disposal of the storage facility, the petroleum miner has an amount of income that is a percentage of the expenditure for which they have been allowed a deduction.

Clause 37 amends *section DB 1*, to clarify that no deduction is available for certain amounts withheld under FATCA.

Clause 38 amends *section DB 10*, as part of removing the redundant substituting debenture rule.

Clause 39 amends *section DB 19*, to allow a deduction for what would otherwise be black hole expenditure on failed resource consent applications.

Clause 40 amends *section DB 25*, as part of removing the redundant substituting debenture rule.

Clause 41 amends *section DB 37*, to allow a deduction for what would otherwise be black hole expenditure on failed patent applications.

Clause 42 inserts *new section DB 40BA*, to allow a deduction for what would otherwise be black hole expenditure on failed plant variety rights applications.

Clause 43 amends *section DB 55*. *Subsection (1)* replaces *section DB 55(3)* as a remedial matter. *Subsection (2)* repeals *section DB 55*.

Clause 44 inserts a *new heading* and *new sections DB 63 to DB 63C*, to provide rules relating to the deductibility of certain company ad-

ministration expenses, including some expenses that would otherwise be black hole expenditure.

Clause 45 amends *section DD 4* as a consequence of the clarification of the rules related to employer-provided accommodation.

Clause 46 amends *section DD 10* as a consequence of the clarification of the rules related to employer-provided accommodation.

Clause 47 amends *section DG 6* to correct a cross-reference and to repeal 1 of the rules for shareholders and companies mistakenly included in the *Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013*.

Clause 48 amends *section DZ 21* to replace the transitional provision related to depreciation recovery income for mixed-use assets that are transferred from a company to its shareholders in the 2013–14 income year.

Clause 49 amends *examples in subpart DG*, as a remedial matter.

Clause 50 amends *section DO 5*, as a remedial matter.

Clause 51 amends *section DP 8*, as part of removing the redundant substituting debenture rule.

Clause 52 amends *section EA 3* as a consequence of the clarification of the rules related to employer-provided accommodation.

Clause 53 amends *section EE 7*, to correct a cross-reference, and clarify its ambit in regard to leases with perpetual rights of renewal.

Clause 54 amends *section EE 25*, to ensure an appropriate deduction for expenditure on a plant variety rights application when the rights are granted.

Clause 55 amends *section EE 57*, to ensure that the depreciation rules work appropriately when deductions for expenditure relating to certain items of intangible property have been clawed back.

Clause 56 amends *section EE 67*, to ensure that the definition of *legal life* accounts appropriately for land rights and their renewals.

Clause 57 amends *section EG 1* to clarify the income years to which the election applies.

Clause 58 amends *section EI 7* to clarify the method of allocation of income derived in anticipation from a lease, and to provide a transitional provision for existing unallocated amounts.

Clause 59 amends *section EI 8* to clarify the method of allocation of income derived on disposal of land to the Crown, and to provide a transitional provision for existing unallocated amounts.

Clause 60 amends *section EW 15D*, as part of ensuring appropriate tax treatment of certain agreements for sale and purchase (ASAPs) and their hedges under the financial arrangements rules.

Clause 61 amends *section EW 15F*, as part of ensuring appropriate tax treatment of certain ASAPs and their hedges under the financial arrangements rules.

Clause 62 amends *section EW 15G*, as part of ensuring appropriate tax treatment of certain ASAPs and their hedges under the financial arrangements rules.

Clause 63 amends *section EW 15H*, as part of ensuring appropriate tax treatment of certain ASAPs and their hedges under the financial arrangements rules.

Clause 64 amends *section EW 15I*, as part of ensuring appropriate tax treatment of certain ASAPs and their hedges under the financial arrangements rules.

Clause 65 amends *section EW 32*, to ensure appropriate tax treatment of certain ASAPs and their hedges under the financial arrangements rules.

Clause 66 inserts *new sections EW 32B and EW 32C*, as part of ensuring appropriate tax treatment of certain ASAPs and their hedges under the financial arrangements rules. In particular the new sections provide for hedges and for foreign exchange conversion.

Clause 67 amends *section EW 35*, as a remedial matter.

Clause 68 amends *section EX 5* as a rewrite remedial to clarify the nature of the rights related to direct control interests.

Clause 69 amends *section EX 9* as a rewrite remedial to clarify the nature of the rights related to direct income interests.

Clause 70 amends *section EX 20B*, to move the apportioned funding income provision from *section EX 20C*, as it relates to income rather than deductions.

Clause 71 amends *section EX 20C*, to move the apportioned funding income provision to *section EX 20B*, as it relates to income rather than deductions.

Clause 72 amends *section EX 21B*, to provide for members of wholly-owned groups.

Clause 73 amends *section EX 21D*, to provide for members of wholly-owned groups.

Clause 74 amends *section EX 21E*, to provide for members of wholly-owned groups, and to allow taxpayers options in applying the relevant accounting standards-based tests.

Clause 75 amends *section EX 22*, to exclude Australian unit trusts that are not taxed as companies under Australian law from the exemptions available to Australian resident entities in the CFC and FIF rules.

Clause 76 amends *section EX 35*, to exclude Australian unit trusts that are not taxed as companies under Australian law from the exemptions available to Australian resident entities in the CFC and FIF rules.

Clause 77 amends *section EX 46*, to correct a cross-reference error.

Clause 78 amends *section EX 50*, to clarify the rules applying to indirectly held interests in FIFs.

Clause 79 amends *section EX 51* as a rewrite remedial to include a reference to expenditure incurred on behalf of the owner of the FIF interest.

Clause 80 amends *section EX 58*, to clarify the rules applying to indirectly held interests in FIFs.

Clause 81 amends *section EZ 32D*, to correct cross-references.

Clause 82 inserts *new sections EZ 70 and EZ 71*, to provide validation for the tax treatment of pre-existing foreign currency ASAPs, if the tax treatment is essentially in agreement with the proposed new ASAP rules.

Clause 83 inserts *new section EZ 72*, to provide a transition out of the redundant substituting debenture rules.

Clause 84 amends *section FA 2*, as part of removing the redundant substituting debenture rule.

Clause 85 amends *section FB 15*, to remedy expenditure incurred when land is transferred to close relatives after a person dies.

Clause 86 amends *section FC 5* as a rewrite remedial to include expenditure incurred by an administrator or executor of a deceased person's estate in the cost price of land.

Clause 87 amends *section FE 1(1)* by redrafting the description of the intended effect of the *interest apportionment rules*, which relate to deductions for interest expenditure by entities with certain sorts of overseas ownership or ownership interests in overseas entities. The description of the type of situation to which the rules apply is amended to include a situation in which a taxpayer's worldwide group has excessive debt funding from associated entities compared to debt funding from third parties. The description of the types of overseas ownership that bring a taxpayer within the scope of the rules is also expanded.

Clause 88 amends *section FE 2* to expand the types of overseas ownership that bring a New Zealand company within the rules and the sources of settlements on a trust that bring the trustee within the rules. Rules relating to the treatment of persons as being associated in some contexts are also introduced.

Clause 89 amends *section FE 3* to specify the New Zealand and worldwide groups of the members of a controlling body for a New Zealand company.

Clause 90 amends *section FE 4* to introduce the definition of a *non-resident owning body* for a company.

Clause 91 amends *section FE 13* to provide for the treatment of financial arrangements held by the trustee of a trust having assets that are all financial arrangements.

Clause 92 amends *section FE 14* by inserting rules that the assets and debts of a member of a controlling body may be included in the assets and debts of not more than a single New Zealand group and a single worldwide group.

Clause 93 amends *section FE 16* by providing for the treatment of investments by trustees in controlled foreign companies (CFCs) and specifying situations in which an increase in the valuation of an asset may be included in the total group assets of a New Zealand group.

Clause 94 amends *section FE 18* by excluding, from the measurement of total group debt for an entity, a financial arrangement involving the provision of funds by a third party to the entity if an associated person provides or undertakes to provide funds to the third party.

Clause 95 makes consequential amendments to *section FE 25*, taking into account the provisions for non-resident owning bodies.

Clause 96 amends *section FE 26* to provide that a non-resident owning body for a company is the company's New Zealand parent if the company does not have a New Zealand parent under another provision.

Clause 97 inserts *new section FE 31D* to provide for a company's worldwide group if the company's New Zealand parent is determined by the existence of a non-resident owning body.

Clause 98 inserts a defined term into lists of defined terms in *subpart FE*, consequential to changes to that subpart.

Clause 99 amends *section FM 5* to clarify that when a company leaves a consolidated group, its liability for the income tax obligations of the group is removed for all years in which it was a member of the group.

Clause 100 amends *section GB 34* to correct a cross-reference.

Clause 101 amends *section HA 31* to clarify when the revocation of an election by a director takes effect.

Clause 102 amends *section HC 27* to correct a cross-reference.

Clause 103 amends *section HC 30* to correct a reference to a defined term.

Clause 104 amends *section HC 31*, as part of giving deregistered charities a tax base, and the rules to tax accumulations derived while tax-exempt.

Clause 105 amends *section HD 14*, as part of removing the redundant substituting debenture rules.

Clause 106 amends *section HM 1* to correct a cross-reference.

Clause 107 inserts a *new heading* and *new section HR 11*, to give deregistered charities a tax base.

Clause 108 inserts *new section HR 12*, to provide rules to tax accumulations of deregistered charities derived while tax-exempt.

Clause 109 amends *section IW 1* to clarify that the shortfall penalty may be 1 imposed on the company or on another company in the group.

Clause 110 amends *section LD 3*, to give a donation tax credit for gifts to certain charities and to certain community housing providers.

Clause 111 amends *section LJ 3* to include a reference to a foreign territory for consistency with other provisions.

Clause 112 amends *section LJ 5* to correct a cross-reference.

Clause 113 amends *subpart LZ* to remove redundant cross-headings.

Clause 114 amends *section MB 1*, as a remedial matter.

Clause 115 amends *section MB 7B*, as a remedial matter.

Clause 116 amends *section MB 13*, to exclude from family scheme income mistaken or misdirected payments, refunds, a capital payment from a person's ownership in a business, inheritances, and lottery winnings.

Clause 117 amends *section RD 5* as a consequence of the clarification of the rules related to employer-provided accommodation.

Clause 118 amends *section RD 6* as a consequence of the clarification of the rules related to employer-provided accommodation.

Clause 119 amends *section RE 2*, as part of remedying RWT for inflation-indexed instruments.

Clause 120 amends *section RE 14* to correct the formula.

Clause 121 inserts a new *section RE 18B*, to remedy RWT for inflation-indexed instruments.

Clause 122 amends *section RF 2*, to remedy NRWT for inflation-indexed instruments.

Clause 123 amends *section YA 1*. *Subclause (1)* is a machinery provision. *Subclause (2)* inserts a definition of *12 month ASAP* as part of appropriately taxing ASAPs. *Subclause (3)* replaces the definition of *accommodation* as a consequence of the clarification of the rules related to employer-provided accommodation. *Subclause (4)* inserts an index entry definition of *Canterbury earthquakes* for the purposes of the rules related to employer-provided accommodation. *Subclause (5)* amends the definition of *capital contribution* to correct a cross-reference error. *Subclause (6)* amends the definition of *charitable organisation*, to ensure that certain deregistered charities have access to fringe benefit tax concessions. *Subclause (7)* inserts a definition of *community housing entity* for the purpose of granting certain community housing providers a tax exemption. *Subclause (8)* inserts a definition of *day of final decision* to time when certain complying deregistered charities are still entitled to tax-exempt status. *Subclause (9)* inserts a definition of *distant workplace* for the purposes of the rules related to employer-provided accommodation. *Subclause (10)* inserts a cross-reference into the definition of *distinctive work clothing*. *Subclause (11)* amends the cross-references in the definition of *employee*. *Subclause (12)* inserts a paragraph in the definition

of *employer* for the purposes of the rules related to employer-provided accommodation. *Subclause (13)* amends the definition of *excluded fixed rate security*, as part of removing the redundant substituting debenture rules. *Subclause (14)* inserts a new definition of *financial liability*, as part of remedying the CFC and FIF rules. *Subclause (15)* inserts a definition of *foreign account information-sharing agreement*, as part of implementing FATCA, the proposed IGA, and the foreign account information sharing agreements rules. *Subclause (16)* inserts a definition of *foreign ASAP*, as part of ensuring appropriate tax treatment of certain ASAPs and their hedges under the financial arrangements rules. *Subclause (17)* inserts a definition of *FX hedge*, as part of ensuring appropriate tax treatment of certain ASAPs and their hedges under the financial arrangements rules. *Subclause (18)* inserts an index entry definition of *greater Christchurch* for the purposes of the rules related to employer-provided accommodation. *Subclause (19)* amends the definition of *hire purchase agreement* to change the scope of the agreement, explicitly incorporating a contract under which a person has an option to purchase to be exercised at a later date. *Subclause (20)* amends the definition of *hire purchase agreement* to update a cross-reference. *Subclause (21)* inserts a definition of *IFRS designated FX hedge*, as part of ensuring appropriate tax treatment of certain ASAPs and their hedges under the financial arrangements rules. *Subclause (22)* inserts a definition of *inflation-indexed instrument*, as part of remedying NRWT and RWT for inflation-indexed instruments. *Subclause (23)* amends the definition of *land provisions*, to update cross-references. *Subclause (24)* amends the definition of *lease*, as a technical remedial matter, to account for multiple leases. *Subclause (25)* amends the definition of *lease*, to include occupation right agreements. *Subclause (26)* inserts a definition of *minister of religion* for the purposes of the rules related to employer-provided accommodation. *Subclause (27)* amends the definition of *net asset balance*, as a remedial matter. *Subclause (28)* inserts a definition of *net assets*, as part of providing rules to tax accumulations of deregistered charities derived while tax-exempt. *Subclause (29)* inserts a definition of *non-IFRS designated FX hedge*, as part of ensuring appropriate tax treatment of certain ASAPs and their hedges under the financial arrangements rules. *Subclause (30)* inserts an index entry definition of *non-resident owning body* for the purposes of the amendments to the thin capitalisation regime. *Subclause*

(31) inserts a definition of *out-of-town secondment* for the purposes of the rules related to employer-provided accommodation. *Subclause (32)* replaces the definition of *ownership interest*, to update it for the purposes of the amendments to the thin capitalisation regime. *Subclause (33)* inserts a definition of *period of continuous work* for the purposes of the rules related to employer-provided accommodation. *Subclause (34)* inserts a definition of *project of limited duration* for the purposes of the rules related to employer-provided accommodation. *Subclause (35)* inserts a definition of *real property* to include *Crown Minerals Act 1991* permits. *Subclause (36)* inserts an index entry definition of *rebuilding* for the purposes of the rules related to employer-provided accommodation. *Subclause (37)* replaces the definition of *recognised seasonal employment scheme*, to update it. *Subclause (38)* inserts an index entry definition of *recovery* for the purposes of the rules related to employer-provided accommodation. *Subclause (39)* inserts a definition of *rights date*, as part of ensuring appropriate tax treatment of certain ASAPs and their hedges under the financial arrangements rules. *Subclause (40)* deletes the definition of *substituting debenture*, because the substituting debenture rule is redundant. *Subclause (41)* inserts a definition of *workplace* for the purposes of the rules related to employer-provided accommodation. *Subclauses (42) to (47)* provide appropriate application dates for the other subclauses in *clause 123*.

Clause 124 amends *schedule 14*, to insert an item of depreciable intangible property related to resource consents.

Clause 125 amends *schedule 20*, as a remedial matter related to the historical removal of depreciation loading.

Clause 126 amends *schedule 32* to add 2 new organisations to the list of recipients of charitable or other public benefit gifts.

Part 3

Amendments to other enactments

Tax Administration Act 1994

Clause 127 gives the clauses that affect the *Tax Administration Act 1994*.

Clause 128 amends *section 3*. *Subclause (1)* replaces the definition of *competent authority*, as part of implementing FATCA, the proposed IGA, and the foreign account information sharing agreements

rules. *Subclause (2)* inserts a definition of *foreign account information-sharing agreement*, as part of implementing FATCA, the proposed IGA, and the foreign account information sharing agreements rules. *Subclause (3)* inserts a definition of *inflation-indexed instrument*, as part of remedying NRWT and RWT for inflation-indexed instruments. *Subclause (4)* inserts a definition of *relief company*, as part of clarifying the rules around serious hardship relief for tax debt. *Subclause (5)* replaces the definition of *tax return*, as part of implementing FATCA, the proposed IGA, and the foreign account information sharing agreements rules.

Clause 129 amends *section 22*, to require record keeping as part of implementing FATCA, the proposed IGA, and the foreign account information sharing agreements rules.

Clause 130 amends *section 25*, as part of remedying NRWT and RWT for inflation-indexed instruments.

Clause 131 amends *section 33A*, as part of remedying NRWT and RWT for inflation-indexed instruments.

Clause 132 amends *section 33AA*, as part of remedying NRWT and RWT for inflation-indexed instruments.

Clause 133 amends *section 51*, as part of remedying NRWT and RWT for inflation-indexed instruments.

Clause 134 inserts a *new heading* and *new section 91AAT* containing a determination-making power enabling the Commissioner to determine the level of benefit provided when an employer makes a payment to a class of employees when the benefit is hard to measure.

Clause 135 amends *section 93*, to correct cross-references.

Clause 136 amends *section 94*, to correct cross-references.

Clause 137 amends *section 95*, to correct cross-references.

Clause 138 amends *section 97*, to correct cross-references.

Clause 139 amends *section 97B*, to correct cross-references.

Clause 140 amends *section 98*, to correct cross-references.

Clause 141 amends *section 98B*, to correct cross-references.

Clause 142 amends *section 99*, to correct cross-references.

Clause 143 amends *section 100*, to correct cross-references.

Clause 144 amends *section 101*, to correct cross-references.

Clause 145 amends *section 101B*, to correct cross-references.

Clause 146 amends *section 141B*, to correct cross-references.

Clause 147 amends *section 141EB*, to update cross-references.

Clause 148 repeals *section 141FD*, because it is redundant.

Clause 149 amends *section 142A*, as a remedial matter related to the setting of new due dates.

Clause 150 amends *section 143*, to create a new offence of failing to register, as part of implementing FATCA and the foreign account information-sharing agreements rules.

Clause 151 amends *section 143A*, to create a new offence of knowingly failing to register, as part of implementing FATCA, the proposed IGA, and the foreign account information-sharing agreements rules.

Clause 152 amends *section 173B*, as part of implementing FATCA, the proposed IGA, and the foreign account information sharing agreements rules.

Clause 153 amends *section 176*, to allow, in appropriate circumstances, the Commissioner to bankrupt a taxpayer who is in serious hardship, and to ensure that the reason why the debt arose is not a factor in determining if a taxpayer is in serious hardship.

Clause 154 amends *section 177*, as part of clarifying the rules around serious hardship relief for tax debt.

Clause 155 replaces *section 177A*, to clarify the rules around serious hardship relief for tax debt.

Clause 156 amends *section 177B*, as part of clarifying the rules around serious hardship relief for tax debt.

Clause 157 amends *section 177C*, as part of clarifying the rules around serious hardship relief for tax debt.

Clause 158 inserts *new Part 11B*, to implement FATCA, the proposed IGA, and the foreign account information-sharing agreements rules. *New section 185E* gives the purpose of the Part. *New section 185F* provides rules for making choices under foreign account information-sharing agreements. *New section 185G* imposes registration obligations. *New section 185H* imposes due diligence obligations. *New sections 185I and 185J* impose obligations to provide information. *New section 185K* prescribes the form for providing information. *New section 185L* provides an anti-avoidance rule for the foreign account information-sharing agreements rules. *New section 185M* gives timeframes for providing information.

Clause 159 inserts a *new section 225D*, to allow the making of regulations in relation to the grant of a tax exemption to certain community housing providers, including the making of retrospective regulations.

Goods and Services Tax Act 1985

Clause 160 gives the clauses that affect the *Goods and Services Tax Act 1985*.

Clause 161 amends *section 2*. *Subclause (1)* consequentially amends a cross-reference in the definition of *commercial dwelling*. *Subclause (2)* inserts a new subparagraph in the definition of *dwelling* to clarify when a residential unit in a retirement village or rest home is a dwelling that is not a commercial dwelling. *Subclause (3)* amends the definition of *resident* to ensure that, for GST purposes, the day count residence rules under section YD 1 of the Income Tax Act 2007 do not apply to a natural person.

Clause 162 amends *section 3* to update a cross-reference.

Clause 163 amends *section 5* to extend the scope of the provision to all subsequent supplies of land in relation to which input tax has been claimed. The amendment requires the supplier to charge output tax and perform the wash-up calculation on disposal of the land.

Clause 164 amends *section 6* to clarify that fees paid to a director or other person when the fees are reimbursed to the person's employer, the supply of the service is treated as made by the employer to the person making the payment.

Clause 165 amends *section 11* to clarify that assignments and surrenders of interests in land are land transactions for the purposes of the zero-rating rules. The amendment also clarifies that commercial leases for which no contemporaneous or advance payment has been made may be excluded from the zero-rating requirements.

Clause 166 amends *section 11A* to allow a natural person to remain within the ambit of the term *outside New Zealand* despite a minor presence in New Zealand that is unconnected with a supply of services.

Clause 167 amends *section 20* to ensure that the apportionment rules do not prevent non-profit bodies from claiming input tax on goods and services used to make non-taxable supplies. The amendment also enables purchasers already registered for GST when they incorrectly zero-rated a transaction to be able to claim an input tax credit.

Clause 168 inserts *new section 21FB* as part of the apportionment rules when a person who uses their goods or services in making mixed taxable and non-taxable supplies, subsequently changes to total taxable or total non-taxable use. The amendment creates a wash-up rule for the permanent change of use.

Clause 169 amends *section 21HB* for the transitional rule on the earlier change of the definitions of *dwelling* and *commercial dwelling*. If the change means a person must value a dwelling as a commercial dwelling and the total value of their supplies exceeds the threshold because of that treatment, the person is given the option to exclude the supply from the calculation. Persons affected by the change will also be prevented from claiming input tax credits on supplies of accommodation acquired prior to 1 October 1986.

Clause 170 amends *section 46* to clarify that the non-resident person must be a registered person.

Clause 171 amends *section 54C* to clarify when the period ends and who the person is who may apply for registration.

Income Tax Act 2004

Clause 172 gives the clauses that affect the *Income Tax Act 2004*.

Clause 173 amends *section CD 29*, as a rewrite remedial, to reproduce the effect of *section CF 2(8)(b) of the Income Tax Act 1994* in relation to the amendment of assessments of the company and the shareholder when the Commissioner is notified of the recovery of a dividend from a shareholder.

Clause 174 amends *section DB 44*, as a remedial matter.

Clause 175 amends *section EE 7*, to remedy a cross-reference error.

Clause 176 amends *section EG 1* to clarify the income years to which the election applies.

Clause 177 amends *section EX 5* as a rewrite remedial to clarify the nature of the rights related to direct control interests.

Clause 178 amends *section EX 9* as a rewrite remedial to clarify the nature of the rights related to direct income interests.

Clause 179 amends *section EX 44* as a rewrite remedial to include a reference to expenditure incurred on behalf of the owner of the FIF interest.

Clause 180 amends *section OB 1*, the definition of *hire purchase agreement*, to change the scope of the agreement, explicitly incorporating a contract under which a person has an option to purchase to be exercised at a later date.

Child Support Act 1991

Clause 181 gives the clauses that affect the *Child Support Act 1991*, as it will be on 1 April 2014 when amendments made by the *Child Support Amendment Act 2013* come into force. In this analysis, references to sections are references to sections of the *Child Support Act 1991*. References to new sections and amended sections are references to sections of that Act that are new or amended as a result of changes to be made by the *Child Support Amendment Act 2013*.

Clause 182 amends *section 2* to delete the definition of *election period* from the interpretation section. That term is now defined in new section 40AA.

Clause 183 amends *new section 9* to ensure that beneficiaries only have to apply for a formula assessment of child support if they are not already a receiving carer.

Clause 184 amends *new section 40(1)* to clarify that notices of election cannot be given after the end of the child support year to which the election relates.

Clause 185 replaces *new section 44(2)*, which is about the end-of-year reconciliation following an election. The amendment rearranges the provision to properly reflect the policy intention.

Clause 186 amends *section 65*, which provides that a formula assessment can be applied for even if a voluntary agreement is in force. The policy underlying that section is not changed, but the wording is adjusted to reflect the new way of making a formula assessment provided under the *Child Support Amendment Act 2013*.

Clause 187 makes a minor consequential amendment to the heading of *section 81*.

Clause 188 repeals *new section 92(3A)*. The new subsection is unnecessary.

Clause 189 replaces *section 98(2)*, which is about how a court allocates the payment of the minimum annual amount of child support between different receiving carers. The amendment aligns the

method with the method used under *new section 32*, which is the section used in the vast majority of cases.

Clause 190 makes minor consequential amendments to *section 142*.

Clause 191 amends *new section 179A*, which describes when a person can waive their entitlement to receive child support payments from a liable parent. The right to waive this entitlement does not apply to persons in receipt of an unsupported child benefit. To achieve the intended policy, this needs to also refer to persons in receipt of a sole parent support benefit.

Hon Todd McClay

Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Bill

Government Bill

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act **2013**.

2 Commencement

5

(1) This Act comes into force on the day on which it receives the Royal assent, except as provided in this section.

(2) **Sections 135, 136, 137, 138, 140, 142, 143, and 144** are treated as coming into force on 1 October 1996.

(3) **Section 162** is treated as coming into force on 1 April 2002.

10

(4) **Section 139** is treated as coming into force on 26 March 2003.

(5) **Section 145** is treated as coming into force on 16 November 2004.

(6) **Sections 173, 175, 176, 177, 178, 179, and 180** are treated as coming into force on 1 April 2005.

15

- (7) **Section 174** is treated as coming into force on 1 October 2005.
- (8) **Section 141** is treated as coming into force on 1 April 2007.
- (9) **Sections 10, 43(1) and (3), 53(2) and (3), 57, 65(4), 67, 68, 69, 77, 79, 82, 86, 99, 100, 101, 102, 103, 109, 111, 112, 120, 123(16), (17), (19), and (42), and 146** are treated as coming into force on 1 April 2008. 5
- (10) **Sections 43(2) and (4), 70(1), (2), (4), and (5), 71, 73, 74(1) to (6) and (8) to (11), and 81** are treated as coming into force on 30 June 2009. 10
- (11) **Sections 72 and 74(7)** are treated as coming into force on 1 July 2009.
- (12) **Section 149** is treated as coming into force on 6 October 2009.
- (13) **Sections 33, and 123(4), (18), (36), (38), and (47)** are treated as coming into force on 4 September 2010. 15
- (14) **Section 123(37)** is treated as coming into force at 2 am on 29 November 2010.
- (15) **Section 34** is treated as coming into force on 1 January 2011.
- (16) **Sections 60, 61, 62, 63, 64, 65(1), (2), (3), (5), and (6), 66, 114, 123(2), (21), (29), (39), and (43), 147, 148, 161(1), (2), and (4), 165(1) and (3), 167, and 169(2) and (4)** are treated as coming into force on 1 April 2011. 20
- (17) **Section 35** is treated as coming into force on 6 December 2012. 25
- (18) **Section 47, 48, 49, 50, and 125** are treated as coming into force on 1 April 2013.
- (19) **Sections 23, 24, and 123(26)** are treated as come into force on 1 July 2013.
- (20) **Sections 7, 14, and 15(2) and (3)** are treated as coming into force on the day on which the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Bill is introduced. 30
- (21) **Sections 16, 39, 41, 42, 44, 54, 55, 75, 76, 78, 80, 115, 124, 170, 171, 182, 183, 184, 185, 186, 187, 188, 190, and 191** come into force on 1 April 2014. 35

- (22) **Sections 19, 27, 28, 29(1), 104, 107, 108, 110, 123(6), (7), (8), (28), and (44), and 159** come into force on 14 April 2014.
- (23) **Sections 5, 6, 37, 123(15), 128(1), (2), and (5), 129, 150, 151, 152, and 158** come into force on 1 July 2014. 5
- (24) **Section 30** comes into force on 1 January 2015.
- (25) **Sections 8, 9, 11, 12, 13, 20, 21, 22, 31, 32, 38, 40, 45, 46, 51, 52, 53(1), 56, 58, 59, 84, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 105, 116, 117, 118, 123(3), (5), (9), (10), (11), (12), (13), (23), (24), (25), (30), (31), (32), (33), (34), (40), (41), (45), and (46), 126, and 134** come into force on 1 April 2015. 10
- (26) **Section 132** comes into force on 1 April 2016 or on an earlier date set by Order in Council.
- (27) **Section 29(2)** comes into force on the earlier of— 15
- (a) the date appointed by the Governor-General by Order in Council to bring into force new Part 9 of the Housing Restructuring and Tenancy Matters Act 1992, as described in the Social Housing Reform (Housing Restructuring and Tenancy Matters Amendment) Bill; and 20
- (b) 14 April 2016.

Part 1

Annual rates of income tax

- 3 **Annual rates of income tax for 2014–15 tax year** 25
Income tax imposed by section BB 1 of the Income Tax Act 2007 must, for the 2014–15 tax year, be paid at the basic rates specified in schedule 1 of that Act.

Part 2

Amendments to Income Tax Act 2007

- 4 **Income Tax Act 2007 amended** 30
This Part amends the Income Tax Act 2007.
- 5 **Section BB 3 amended (Overriding effect of certain matters)**
Replace section BB 3(2), other than the heading, with:

“(2) Subpart BH (Double tax agreements) provides for the effect of a double tax agreement.”

6 Section BH 1 amended (Double tax agreements)

(1) In section BH 1(4), replace “(5)” with “(5) or **(5B)**”.

(2) After section BH 1(5), insert: 5

“Foreign account information-sharing agreements

“(5B) A foreign account information-sharing agreement is subject to **Part 11B** of the Tax Administration Act 1994.”

7 New section CB 15B inserted (When land acquired)

After section CB 15, insert: 10

“CB 15B When land acquired

“General rule

“(1) For the purposes of subpart CB, a person acquires land on the date that begins a period in which the person has an estate or interest in the land, alone or jointly or in common with another person. 15

“Relationship with subparts FB and FC

“(2) **Subsection (1)** is overridden by a provision in subpart FB (Transfers of relationship property) or FC (Distribution, transmission, and gifts of property) providing for the timing of a transaction to which the provision applies. 20

“Defined in this Act: estate, interest, land”.

8 Section CC 1 amended (Land)

After section CC 1(2B), insert:

“Exception for amount from grant of easement 25

“(2C) An amount is not income of the owner of a fee simple estate in land if derived as consideration for the grant, for the duration of the estate, of an easement over the land.”

9 Section CC 1B replaced (Consideration for agreement to grant, renew, extend, or transfer leasehold estate or licence) 30

(1) Replace section CC 1B with:

“CC 1B Consideration relating to grant, renewal, extension, or transfer of leasehold estate or licence

“When this section applies

“(1) This section applies when a person (the **payee**) derives an amount, in relation to a right (the **land right**) that is a leasehold estate, or a licence to use land, as consideration for— 5

“(a) the agreement by the payee to the grant, renewal, extension, or transfer of the land right:

“(b) the transfer of the land right from the holder of the land right to another person. 10

“Income

“(2) The amount is income of the payee.

“Exception for payment as consideration for transfer of land right

“(3) The amount is not income of the payee if— 15

“(a) the payee is the holder of the land right; and

“(b) the amount is consideration for the transfer of the land right to the person paying the amount; and

“(c) the amount is not sourced directly or indirectly from funds provided by the owner of the estate in land from which the land right is granted; and 20

“(d) each of the payee and the person paying the amount is not associated with the owner of the estate in land from which the land right is granted.

“Exception for tenant or licensee of residential premises 25

“(4) The amount is not income of the payee if the payee—

“(a) is a natural person and derives the amount as a tenant or licensee of residential premises whose expenditure on the residential premises does not meet the requirements of the general permission; and 30

“(b) is not associated with the owner of the estate in land from which the land right is granted.

“Exception for payment of capital contribution

“(5) The amount is not income of the payee if the amount is derived as a capital contribution. 35

“Defined in this Act: amount, associated, capital contribution, estate, general permission, income, land, leasehold estate, own, pay”.

- (2) **Subsection (1)** applies to an amount derived on or after 1 April 2015.

10 Section CD 40 amended (Adjustment if dividend recovered by company)

- (1) Replace section CD 40(2), other than the heading, with: 5
“(2) Section 113B of the Tax Administration Act 1994 requires the Commissioner, if given notice of the recovery of the dividend from a shareholder, to amend an assessment of the company or the shareholder in relation to income tax or under the imputation rules, the NRWT rules, the RWT rules, the FDP rules, or under subpart LP (Tax credits for supplementary dividends), as applicable.” 10
- (2) In section CD 40(3), replace “If the Commissioner is given notice of the recovery,” with “If the Commissioner has been notified of the recovery and has amended an assessment as described in **subsection (2)**,”. 15
- (3) In section CD 40(5), replace “A credit or debit,” with “If the Commissioner has been notified of the recovery and has amended an assessment as described in **subsection (2)**, a credit or debit”. 20
- (4) In section CD 40, insert in the list of defined terms, “FDP rules”, “imputation rules”, “NRWT rules”, and “RWT rules”.
- (5) **Subsections (1) to (4)** apply for the 2008–09 and later income years.

11 Section CE 1 amended (Amounts derived in connection with employment) 25

- (1) After section CE 1(1)(b), insert:
“(bb) the market value of board or lodging that the person receives in connection with their employment or service.”. 30
- (2) Repeal section CE 1(1B) and (2).
- (3) In section CE 1, in the list of defined terms, delete “accommodation”, and insert “employment”.

12 New sections CE 1B to CE 1D inserted

After section CE 1, insert: 35

“**CE 1B General rule: accommodation provided by employers**

“*Value of accommodation*

- “(1) The value of accommodation provided to a person is income of the person when it is provided in relation to their employment or service. The value is an amount equal to the market rental value of the accommodation. 5

“*Value of accommodation allowances*

- “(2) The value of an accommodation allowance provided to a person is income of the person when it is provided in relation to their employment or service. The value is equal to the amount of the allowance paid to the person. 10

“*Payments and reimbursements*

- “(3) An amount paid for or towards the provision of accommodation for a person, whether as expenditure on account of an employee or as a reimbursement, is income of the person when it is paid in relation to their employment or service. 15

“*Adjustments to values*

- “(4) The value under **subsection (1)** may be adjusted as follows:
- “(a) when more than 1 person referred to in that subsection shares in the accommodation provided, the amount is apportioned equally between them: 20
 - “(b) when the person to whom the accommodation is provided contributes towards the amount that is, or would be, incurred by the employer in consideration of the employee’s occupation of the accommodation, the amount is reduced by the amount contributed: 25
 - “(c) when the person to whom the accommodation is provided uses part of the accommodation exclusively for work purposes related to their employment or service, the amount is apportioned between that business use and private use. 30

“*Exceptions*

- “(5) **Sections CE 1C and CE 1D** override this section.

“Relationship with section CW 25B

“(6) The adjustment referred to in **subsection (4)(c)** does not apply to a person to whom **section CW 25B** (Accommodation provided to ministers of religion) applies.

“Defined in this Act: accommodation, amount, business, employer, employment, expenditure on account of an employee, income, pay 5

“CE 1C Exception to general rule: overseas accommodation

“Relevant local rental

“(1) Despite **section CE 1B**, if accommodation is provided at or near a work location that is overseas, the value of the accommodation is an amount equal to the relevant market rental value of accommodation in New Zealand. The relevant market rental value is determined taking into account— 10

“(a) the location where the person would be likely to work for their employer in New Zealand: 15

“(b) the kind of accommodation in New Zealand that the person would be likely to occupy:

“(c) the average or median market rental value in the vicinity of the location referred to in **paragraph (a)**.

“When overseas rental is less than New Zealand equivalent 20

“(2) For the purposes of **subsection (1)**, if the value of the accommodation in the overseas location is less than the New Zealand equivalent market rental value, the value that must be used is the value in the overseas location.

“When location in New Zealand is uncertain 25

“(3) For the purposes of **subsection (1)(a)**, if the location where the person would be likely to work for their employer in New Zealand is uncertain, the relevant market rental value is taken as the average or median market rental value for the whole of New Zealand. 30

“Defined in this Act: accommodation, amount, New Zealand

“CE 1D Exception to general rule: accommodation provided by Defence Force

“When this section applies

“(1) This section applies for the purposes of **section CE 1B(1)** 35 when accommodation is provided to a person who is a member

of the Defence Force by the Navy, Army, or Air Force, as those terms are defined in the Defence Act 1990.

“Market rent less discount

- “(2) The market rental value of the accommodation is an amount equal to the lesser of the market rental value for the accommodation, and market rent payable for the national New Zealand Defence Force benchmark property for the type of accommodation provided to the person less the discount applying to the type of accommodation. 5

“National benchmark properties and discounts 10

- “(3) For the purposes of this section, the Commissioner and the Chief of the Defence Force, in consultation with a registered valuer, must determine—
- “(a) the number and location of national benchmark properties: 15
 - “(b) the types of accommodation represented by the benchmark properties:
 - “(c) a market rental value for each type of accommodation in the benchmark properties:
 - “(d) a discount applying to each type of accommodation in the benchmark properties. 20

“Three-yearly review

- “(4) A determination under **subsection (3)(c) and (d)** must be reviewed every 3 years. Either the Commissioner or the Chief of the Defence Force may instigate the review. 25
- “Defined in this Act: accommodation, amount, Commissioner, pay”.

13 Section CE 5 amended (Meaning of expenditure on account of an employee)

- (1) Replace section CE 5(3)(b) and (bb) with:
- “(b) an amount paid under— 30
 - “(i) **sections CW 16B to CW 16F** (which relate to accommodation expenditure):
 - “(ii) section CW 17B (Relocation payments):
 - “(iii) section CW 17C (Payments for overtime meals and certain other allowances): 35
 - “(iv) **section CW 17CB** (Payments for certain work-related meals):

- “(v) **section CW 17CC** (Payments for distinctive work clothing):
- “(vi) section CW 18 (Allowance for additional transport costs):”.
- (2) Replace section CE 5(3)(c) with: 5
- “(c) expenditure, other than an amount to which paragraph (a) applies, that an employee pays in connection with their employment or service to the extent to which—
- “(i) the amount of the expenditure is incurred by or on behalf of their employer; and 10
- “(ii) the employee pays the amount on their employer’s behalf.”.
- (3) In section CE 5, in the list of defined terms, insert “amount” and “employment”.
- 14 Section CG 2 amended (Remitted amounts)** 15
- After section CG 2(4), insert:
- “*Relationship with sections CG 2B to CG 2D*
- “(5) **Sections CG 2B to CG 2D** override this section.”
- 15 New sections CG 2B to CG 2D inserted**
- (1) After section CG 2, insert: 20
- “**CG 2B Remitted amounts on discharge from bankruptcy**
- “*When this section applies*
- “(1) This section applies when a person to whom section CG 2(1) applies is discharged from bankruptcy.
- “*Income* 25
- “(2) An amount to which the remission or cancellation applies is income of the person, but only to the extent of the lesser of—
- “(a) the total of the amounts to which the remission or cancellation applies; and
- “(b) either— 30
- “(i) the amount of the person’s loss balance at the end of the tax year corresponding to the income year immediately before the income year in which the discharge occurs (the **preceding tax year loss balance**), if the Commissioner has not claimed a 35

provable debt referred to in section 231(1) of the Insolvency Act 2006 in relation to the person; or
 “(ii) the amount calculated using the following formula, if the Commissioner has claimed a provable debt referred to in section 231(1) of the Insolvency Act 2006 in relation to the person: 5

$$\text{loss balance} \quad - \quad \text{debt adjustment.}$$

“Definition of items in formula

“(3) In the formula,—

“(a) **loss balance** is the amount of the person’s preceding tax year loss balance: 10

“(b) **debt adjustment** is the amount of the adjustment made by the Commissioner to the person’s loss balance under section 177C of the Tax Administration Act 1994.

“Timing of income

“(4) The income is treated as derived on the first day of the income year in which the person is discharged from bankruptcy. 15

“Relationship with section CG 2

“(5) This section overrides section CG 2.

“Defined in this Act: amount, Commissioner, deduction, income, income year, loss balance, tax loss component, tax year”. 20

(2) Before section CG 3, insert:

“CG 2C Remitted and other amounts: companies in liquidation

“When this section applies

“(1) This section applies when—

“(a) a company that is part of a group of companies (**company A**) is allowed a deduction for an amount that it is liable to pay; and 25

“(b) company A’s liability for the amount is later remitted or cancelled, wholly or partly; and

“(c) company A includes some or all of the amount of the deduction in the calculation of a net loss for a tax year; and 30

“(d) the net loss is a tax loss component included in a tax loss of company A for a tax year under section IA 2(2) or (3) (Tax losses); and 35

- “(e) after the inclusion of the amount of the deduction in its net loss, company A makes some or all of the tax loss available to another company in the group (**company B**) to subtract from its net income for a tax year; and
- “(f) after making the tax loss available to company B, and at a time when company A and company B are in the same group of companies, company A is liquidated, struck off, or otherwise removed from the register of companies. 5
- “*Income of profit company* 10
- “(2) An amount equal to the amount remitted or cancelled is income of company B.
- “*Timing of income*
- “(3) Company B is treated as deriving the income on the date on which company A is liquidated, struck off, or otherwise removed from the register of companies. 15
- “*No application to financial arrangements*
- “(4) This section does not apply to a liability that is a financial arrangement, whether or not the liability has been remitted or cancelled. 20
- “*Relationship with section CG 2*
- “(5) This section overrides section CG 2.
- “Defined in this Act: amount, company, deduction, financial arrangement, group of companies, income, liquidation, net income, net loss, pay, tax loss, tax loss component, tax year 25
- “**CG 2D Remitted and other amounts: companies leaving groups**
- “*When this section applies*
- “(1) This section applies when— 30
 - “(a) a company that is part of a group of companies (**company C**) is allowed a deduction for an amount that it is liable to pay; and
 - “(b) company C includes some or all of the amount of the deduction in the calculation of a net loss for a tax year; and 35

- “(c) the net loss is a tax loss component included in a tax loss of company C for the tax year under section IA 2(2) or (3) (Tax losses); and
- “(d) after the inclusion of the amount of the deduction in the calculation of its net loss, company C makes some or all of the tax loss available to another company in the group (**company D**) to subtract from its net income for a tax year; and 5
- “(e) after the tax loss is made available to company D,—
- “(i) either company C or company D, or both, leave the group; and 10
- “(ii) at the date of the departure, company C is in liquidation, receivership, or does not satisfy the solvency test set out in section 4 of the Companies Act 1993; and 15
- “(f) the liability referred to in **paragraph (a)** remains unpaid at the date on which either company C or company D, or both, leaves the group.
- “Income of profit company*
- “(2) An amount equal to the amount of the unpaid liability referred to in **subsection (1)(f)** is income of company D. 20
- “Timing of income*
- “(3) Company D is treated as deriving the income immediately before the date on which either company C or company D, or both, leaves the group. 25
- “When subsection (5) applies*
- “(4) **Subsection (5)** applies for the purposes of **subsection (1)(e)(ii)** when—
- “(a) a transaction or arrangement results in an amount being received by a creditor of company C within a period of 2 years before either company C or company D, or both, leaves the group; and 30
- “(b) the payment of the amount reduces, in whole or in part, the liability of company C so that company C satisfies the solvency test set out in section 4 of the Companies Act 1993. 35

- “Commissioner’s discretion*
- “(5) The Commissioner may treat company C as not satisfying the solvency test set out in section 4 of the Companies Act 1993 if the Commissioner considers—
- “(a) the amount is paid when company C is insolvent; and 5
 - “(b) the payment has allowed the creditor to receive more towards the satisfaction of a debt than they would otherwise have received in a liquidation, as if company C were placed in liquidation on the day on which company C or company D, or both, leaves the group. 10
- “No application to financial arrangements*
- “(6) This section does not apply to a liability that is a financial arrangement, whether or not the liability has been remitted or cancelled.
- “Relationship with section CG 2 15*
- “(7) This section overrides section CG 2.
- “Defined in this Act: amount, arrangement, Commissioner, company, deduction, financial arrangement, group of companies, income, liquidation, net income, net loss, pay, tax loss, tax loss component, tax year”.
- (3) **Subsection (2)** applies when an event, listed in the following paragraphs, occurs after the date of introduction for the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Bill: 20
- (a) company A is removed from the register of companies:
 - (b) company C is insolvent and leaves the group of companies: 25
 - (c) company D leaves the group of companies.
- 16 New section CG 7B inserted (Disposals or applications after earlier deductions)**
- (1) After section CG 7, insert: 30
- “CG 7B Disposals or applications after earlier deductions**
- “When this section applies*
- “(1) This section applies when a person—
- “(a) incurs expenditure for the purpose of applying for the grant of a patent, a resource consent, or plant variety rights; and 35

- “(b) does not lodge the application, withdraws the application, or is refused the grant; and
- “(c) has a deduction under section DB 19, DB 37, or **DB 40BA** (which relate to expenditure on abortive or failed applications) for the expenditure; and 5
- “(d) acquires property (the **application property**) as a result of the expenditure; and
- “(e) disposes of the application property for consideration or uses the application property in the lodging of a patent application with a complete specification or in obtaining the grant of a resource consent or plant variety rights. 10

“Income

- “(2) The person has income of the amount described in—
 - “(a) **subsection (3)**, if the application property is disposed of for consideration; or 15
 - “(b) **subsection (4)**, if the application property is used in the lodging of a patent application with a complete specification or in obtaining the grant of a resource consent or plant variety rights.

“Lesser of total deductions and consideration from disposal 20

- “(3) The amount is—
 - “(a) the amount of the consideration derived for the disposal that is not income under another provision of this Act, if that amount is less than the total amount of deductions referred to in **subsection (1)(c)**; or 25
 - “(b) the total amount of deductions referred to in **subsection (1)(c)**, if **paragraph (a)** does not apply.

“Total deductions

- “(4) The amount is the total amount of deductions referred to in **subsection (1)(c)**. 30

“Defined in this Act: deduction, dispose, income, plant variety rights”.

- (2) **Subsection (1)** applies for the 2014–15 and later income years.

17 Section CT 1 amended (Disposal of exploratory material or petroleum mining asset) 35

After section CT 1(3), insert:

- “*Relationship with section CZ 32*”
- “(4) **Section CZ 32** (Treatment of certain petroleum storage facilities) overrides subsection (2).”
- 18 Section CT 7 amended (Meaning of petroleum mining asset)** 5
- Replace section CT 7(2), other than the heading, with:
- “(2) **Petroleum mining asset** does not include—
- “(a) land:
- “(b) an underground gas storage facility as that term is defined in section 2 of the Crown Minerals Act 1991.” 10
- 19 New section CV 17 inserted (Ceased charities: taxation of tax-exempt accumulation)**
- After section CV 16, insert:
- “**CV 17 Ceased charities: taxation of tax-exempt accumulation** 15
- An amount of income of a person under **section HR 12** (Ceased charities: taxation of tax-exempt accumulation) is income of the person for the income year that contains the day 1 year after the relevant end date under that section.
- “Defined in this Act: person, income, income year, year”.
- 20 New sections CW 16B to CW 16F inserted** 20
- (1) After section CW 16, insert:
- “**CW 16B Accommodation expenditure: out-of-town secondments and projects**
- “*When this section applies*”
- “(1) This section applies when— 25
- “(a) the employment duties of an employee require them to work at a distant workplace on an out-of town secondment or a project of limited duration; and
- “(b) the period of the employee’s employment or service at the distant workplace is a period of continuous work; 30
- and
- “(c) the employer—
- “(i) provides accommodation for the employee for a period that falls within a time limit described in **section CW 16C:** 35

- “(ii) incurs expenditure on the employee’s accommodation at the distant workplace for a period that falls within a time limit described in **section CW 16C**:
 - “(iii) incurs expenditure on the employee’s accommodation for necessary travel to and from the distant workplace in connection with the performance of their duties. 5
- Exclusions*
- “(2) This section does not apply— 10
 - “(a) to an amount that is the value provided or expenditure incurred by the employer when, under the terms of the their employment, the employee would be entitled to a greater amount of employment income, should the employee choose, or have chosen, not to receive the benefit of the amount: 15
 - “(b) in relation to an out-of-town secondment, to a new employee of the employer.
- Exempt income*
- “(3) The amount that is the value provided or expenditure incurred by the employer is exempt income of the employee. 20
- Definitions for this section*
- “(4) In this section and **sections CW 16C to CW 16F, CW 17CB, CZ 29, and CZ 30** (which relate to accommodation expenditure), as applicable,— 25
 - “**distant workplace**, for an employee, means a new workplace that is not within reasonable daily travelling distance of their residence
 - “**employer**, other than in **section CW 17CB**, includes a company that is part of the same group of companies as the employer 30
 - “**out-of-town secondment** means the placement of an employee at a distant workplace—
 - “(a) because the employment duties of the employee require them to work at the distant workplace for the performance of those duties; and 35
 - “(b) for a period that, in the expectation of their employer, will last for no more than 2 years

“period of continuous work—

- “(a) means a period when an employee has ongoing duties of employment that must be performed to a significant extent at a distant workplace, requiring the employee to stay at the distant location for 1 or more nights; and 5
- “(b) includes the employee’s time away on leave or other breaks for personal reasons, weekend breaks, required rest periods, and other similar periods

“project of limited duration means a particular work project—

- “(a) whose principal purpose is to create, build, develop, restore, replace, or demolish a capital asset; and 10
- “(b) which is carried out under a contract between an employer and 1 or more persons who are not associated with the employer; and 15
- “(c) in relation to which the engagement of an employee of the employer at the distant workplace—
- “(i) has, at the outset, clear start and end dates; and
- “(ii) involves work that, apart from incidental activities, is undertaken solely for the purposes of the 20 project; and
- “(iii) in the expectation of their employer, will last for a period of no more than 3 years

“workplace means a particular place or base—

- “(a) at which an employee performs their employment duties; or 25
- “(b) from which an employee’s duties are allocated.

“Defined in this Act: accommodation, amount, associated person, company, distant workplace, employee, employer, employment, employment income, exempt income, group of companies, out-of-town secondment, pay, period of continuous work, project of limited duration, workplace 30

“CW 16C Time periods for certain accommodation expenditure

“Time limits: out-of-town secondments

- “(1) **Section CW 16B** applies for an employee on an out-of-town secondment to the value provided or expenditure incurred for 35 a period that starts on the date on which the employee begins to work at a distant workplace, and ends at the earliest of the following dates:

- “(a) the date that is 2 years from the date on which they began work at the distant workplace:
 - “(b) the date on which the out-of-town secondment ends:
 - “(c) the date on which the employee receives a relocation payment under section CW 17B in relation to the costs associated with settling the purchase of a new home: 5
 - “(d) the date on which the employer’s expectation regarding the length of the period changes, and the total period is expected to be more than 2 years.
- “*Time limits: projects of limited duration* 10
- “(2) **Section CW 16B** applies for an employee on a project of limited duration to the value provided or expenditure incurred for a period that starts on the date on which the employee starts work at a distant workplace, and ends at the earliest of the following dates: 15
- “(a) the date that is 3 years from the date on which the employee began work on the project at the distant workplace:
 - “(b) the date on which the employee’s participation in the project at the distant workplace ends: 20
 - “(c) the date on which the employee receives a relocation payment under section CW 17B in relation to the costs associated with settling the purchase of a new home:
 - “(d) the date on which the employer’s expectation regarding the employee’s involvement in the project changes, and the total period of their involvement in the project is expected to be more than 3 years. 25
- “*Time limits in exceptional circumstances*
- “(3) A time limit does not apply if exceptional circumstances arise beyond the control of the employer and employee that require the employee to remain at the distant workplace after the period expires. Examples are a natural disaster or medical emergency. However, an extension of time must be limited to the period for which the employee is unable, because of the exceptional circumstances, to leave the distant workplace. 30 35
- “*Avoidance provision*
- “(4) For the purposes of determining whether a time limit under this section applies, a break in a period of continuous work at

a distant workplace is ignored if a reason, that is more than incidental, for the cessation of the employment or service is to allow a further period of exemption under **section CW 16B or CZ 29** (Accommodation expenditure: Canterbury earthquake relief).

5

“Defined in this Act: accommodation, amount, distant workplace, employee, employer, employment, out-of-town secondment, pay, period of continuous work, project of limited duration, workplace

“**CW 16D Accommodation expenditure: conferences and overnight stays**

10

“*When this section applies*

“(1) This section applies when—

“(a) the employment duties of an employee require them to attend a work-related meeting, conference, or training course that entails an overnight stay; and

15

“(b) the period for which the employee’s attendance is required is a period of continuous work; and

“(c) their employer—

“(i) provides accommodation for the employee for the period of their attendance:

20

“(ii) incurs expenditure on the employee’s accommodation for the period of their attendance:

“(iii) incurs expenditure on the employee’s accommodation for necessary travel in connection with the performance of their duties for the period of their attendance.

25

“*Exclusions*

“(2) This section does not apply to an amount that is the value provided or expenditure incurred by the employer when, under the terms of the their employment, the employee would be entitled to a greater amount of employment income, should the employee choose, or have chosen, not to receive the benefit of the amount.

30

“*Exempt income*

“(3) The amount that is the value provided or expenditure incurred by the employer is exempt income of the employee.

35

“Defined in this Act: accommodation, amount, employee, employer, employment, employment income, exempt income, period of continuous work

“CW 16E Accommodation expenditure: new employees

Despite **section CW 16B(2)(b)**, **section CW 16B** applies to a new employee in the following circumstances:

- “(a) when the employer intends, at the time of employing the new employee, that the new employee would work permanently at a workplace of the employer that is not a distant workplace, but instead requires the employee to work temporarily at another of their workplaces that is a distant workplace: 5
- “(b) the new employee is on an out-of-town secondment to work— 10
 - “(i) for a person with whom the employer has a continuing commercial affiliation or working relationship, and for the purposes of **section CW 16B**, the person is treated as the employer; 15 and
 - “(ii) for a period that is expected to be no more than 2 years; and
 - “(iii) at a distant workplace that is the person’s workplace. 20

“Defined in this Act: distant workplace, employee, employer, out-of-town secondment, workplace

“CW 16F Accommodation expenditure: multiple workplaces

“When this section applies

- “(1) This section applies when— 25
 - “(a) the employment duties of an employee require them to work on an ongoing basis at more than 1 workplace; and
 - “(b) 1 or more of those workplaces is a distant workplace; and
 - “(c) in connection with the employee’s employment or service, their employer provides accommodation or pays an amount for the employee’s accommodation at the distant workplace. 30

“Exclusions

- “(2) This section does not apply— 35
 - “(a) to an amount that is the value provided or the payment by the employer when, under the terms of their employment, the employee would be entitled to a greater

- amount of employment income, should the employee choose, or have chosen, not to receive the benefit of the amount:
- “(b) when the employee has 2 workplaces and 1 of those workplaces is a home office. 5
- “*Exempt income*
- “(3) The amount that is the value provided or the payment by the employer is exempt income of the employee. 10
- “Defined in this Act: accommodation, amount, distant workplace, employee, employer, employment, employment income, exempt income, pay, workplace”.
- (2) **Subsection (1)** applies for the 2015–16 and later income years.
- 21 Section CW 17 amended (Expenditure on account, and reimbursement, of employees) 15**
- (1) After section CW 17(2), insert:
- “*Requirements for expenditure connected to employment or service*
- “(2B) For the purposes of subsections (1) and (2), expenditure is treated as incurred, or an amount paid, in connection with an employee’s employment or service only if— 20
- “(a) the expenditure is incurred or the amount is paid because the employee is performing an obligation required by their employment or service; and
- “(b) the employee derives employment income through the performance of the obligation; and 25
- “(c) the expenditure is necessary in the performance of the obligation.”
- “*When subsection (2D) applies*
- “(2C) **Subsection (2D)** applies for the purposes of subsections (2) and (3) to an amount that an employer pays to or on behalf of an employee in connection with their employment or service when— 30
- “(a) the payment— 35
- “(i) is made to, or on behalf of, a wide group or class of employees; and

- “(ii) is provided mainly to reimburse an expense incurred by an employee in deriving their employment income; and
- “(b) the amount paid is not an amount incurred by the employer when, under the terms of their employment, the employee would be entitled to a greater amount of employment income, should the employee choose, or have chosen, not to receive the benefit of the amount; and 5
- “(c) the Commissioner considers that the average private or capital benefit that the employee as a member of the group or class is likely to receive from the payment is hard to measure. 10
- “*Determinations*
- “(2D) The Commissioner may make a determination under **section 91AAT** of the Tax Administration Act 1994 as to whether, or the extent to which, tax must be paid on some or all of the amount.” 15
- (2) In section CW 17(5),—
- (a) replace the heading with “*Relationship with certain employment expenses provisions*”: 20
- (b) replace “section CW 17B (Relocation payments) or CW 17C (Payments for overtime meals and certain other allowances)” with “**section CW 16B to CW 16F**, CW 17B, CW 17C, **CW 17CB**, **CW 17CC**, or CW 18 (which relate to certain amounts of employment expenditure)”. 25
- (3) In section CW 17, in the list of defined terms, insert “Commissioner”, “employment”, “employment income”, and “tax”.
- 22 New section CW 17CB inserted (Payments for certain work-related meals)** 30
- After section CW 17C, insert:
- “**CW 17CB Payments for certain work-related meals**
- “*Exempt income*
- “(1) When the employment duties of an employee require them to work away from their employer’s workplace, expenditure that the employer incurs for or on behalf of the employee for a meal for the employee is exempt income of the employee. 35

- “Inclusions: work-related events*
- “(2) For the purposes of **subsection (1)**, a meal includes—
- “(a) food and drink that the employee consumes as part of a working meal arranged as an alternative to a formal meeting for business discussions: 5
 - “(b) food and drink that the employee consumes at a conference or training course:
 - “(c) light refreshments in the form of tea, coffee, water, or similar refreshments, provided for the employee, but only if— 10
 - “(i) the employee normally works a minimum of 7 hours a day; and
 - “(ii) their employment duties require them to be away from their employment base for most of the day; and 15
 - “(iii) the employer would normally provide the refreshments to the employee on the day; and
 - “(iv) it is not practicable for the employer to provide the refreshments on the day. 20
- “Inclusions: meals when travelling on business* 20
- “(3) For the purposes of **subsection (1)**, a meal also includes food and drink that the employee consumes when their employment duties require them to travel in the performance of those duties.
- “Exclusion: salary sacrifice*
- “(4) **Subsection (1)** does not apply if expenditure is incurred by the employer when, under the terms of their employment, the employee would be entitled to a greater amount of employment income, should the employee choose, or have chosen, not to receive the benefit of the expenditure. 25
- “Time limit* 30
- “(5) The maximum period applying to expenditure incurred under **subsection (1)** other than expenditure on a meal described in **subsection (2)**, is 3 months—
- “(a) commencing on— 35
 - “(i) on the date on which the employee starts to work away from their employer’s workplace; or

- “(ii) for an employee who does not have a fixed workplace, on the date on which they arrive at their accommodation base:
- “(b) ending on the earlier of—
 - “(i) the date on which the 3 month period expires; or 5
 - “(ii) the date on which the employee returns to their employer’s workplace to undertake their employment duties for their employer, or the date on which the employee moves to a new accommodation base, as applicable. 10
- “*Measuring period*
- “(6) In the measurement of the maximum period in **subsection (5)**, the period includes the employee’s time away on leave or other breaks for personal reasons, weekend breaks, required rest periods, and other similar periods. 15
- “Defined in this Act: accommodation, amount, business, employee, employer, employment, employment income, exempt income, pay, workplace”.
- 23 New section CW 17CC inserted (Payments for distinctive work clothing)**
- After section CW 17C, insert: 20
- “**CW 17CC Payments for distinctive work clothing**
- “*Exempt income*
- “(1) An amount that an employer pays to or on behalf of an employee for distinctive work clothing for the employee is exempt income of the employee. 25
- “*Distinctive work clothing*
- “(2) For the purposes of this section, **distinctive work clothing** has the meaning set out in section CX 30 (Distinctive work clothing).
- “*Certain plain clothes included* 30
- “(3) Despite **subsection (2)**, for the purposes of **subsection (4)**, the wearing of distinctive work clothing by an employee includes the wearing of plain clothes that would normally be worn for private purposes if—
- “(a) their employer provides a uniform to employees; and 35

- “(b) despite the provision of a uniform, the employer requires the employee to wear plain clothes in the performance of their employment duties; and
- “(c) as at 1 July 2013, the employer’s general terms and conditions of employment or service provided for— 5
 - “(i) an allowance for the plain clothes to be paid to the employee; and
 - “(ii) a part of the allowance (the **exempt portion**) to be treated as exempt income of the employee; and 10
- “(d) the terms and conditions referred to in **paragraph (c)** continue to provide for both the payment of the allowance and the same treatment of the same exempt portion.
- “*Exempt amount* 15
- “(4) The exempt portion that the employer pays to or on behalf of the employee as an allowance for the plain clothes is exempt income of the employee.
 - “Defined in this Act: amount, distinctive work clothing, employee, employer, employment, exempt income, pay”. 20
- 24 New section CW 25B inserted (Accommodation provided to ministers of religion)**
- After section CW 25, insert:
- “**CW 25B Accommodation provided to ministers of religion**
- “*Exempt income* 25
- “(1) The value of accommodation, to the extent described in **subsection (2)**, that is provided to a person who is a minister of religion is exempt income of the person when the property in which the accommodation is provided is supplied by the religious society or organisation of which they are a minister. 30
- “*Limited amount*
- “(2) For the purposes of **subsection (1)**, the amount of exempt income for an income year is calculated using the formula—
 - rental value – (remuneration × (1 – adjustment)).
- “*Definition of items in formula*
- “(3) In the formula,— 35

- “(a) **rental value** is the lesser of—
- “(i) the market rental value for the income year of the accommodation provided; and
- “(ii) the market rental value for the income year of the accommodation that is reasonably commensurate with the duties of the person as a minister and for the location in which they perform their duties: 5
- “(b) **remuneration** is the amount that equals 10% of the remuneration that the person receives for the income year for the performance of their duties as a minister from the religious society or organisation of which they are a minister: 10
- “(c) **adjustment** is the adjustment referred to in **subsection (4)(a)**, and is the part of the amount that is the value of the accommodation for the income year apportioned to work-related use, expressed as a decimal fraction of the total value of the accommodation. 15
- “*Adjustments to values*
- “(4) For the purposes of this section, the following adjustments may be made: 20
- “(a) an adjustment referred to in **subsection (3)(c)** may be made when the person to whom the accommodation is provided uses part of the accommodation exclusively for work purposes related to their duties as a minister: 25
- “(b) if an adjustment is made under **section CE 1B(4)(a)** (General rule: accommodation provided by employers), the result of the formula in **subsection (2)** is divided by the number of persons sharing in the accommodation provided: 30
- “(c) if accommodation is provided for part of an income year, the references in **subsections (2) and (3)** to an income year are read as references to the relevant part of the income year. 35
- “*Maximum amount*
- “(5) For the purposes of this section, the exempt amount must be no more than the amount described in **subsection (3)(a)**, after

taking into account any adjustments of the person under **section CE 1B(4)(a) and (b)**.

“Meaning of minister of religion

- “(6) For the purposes of this section, **minister of religion**—
- “(a) means a person—
- “(i) holding an office or position as a minister of a religious denomination that meets the charitable purpose of the advancement of religion; and
- “(ii) whose accommodation forms an integral part of their work:
- “(b) does not include a member of a religious society or order referred to in section CW 25.

“Application of item rental value in formula

- “(7) **Subsection (3)(a)(ii)** applies to accommodation supplied on or after 1 April 2015. Before that date, the item **rental value** is the market rental value of the accommodation.

“Defined in this Act: accommodation, amount, exempt income, minister of religion”.

25 Section CW 38 amended (Public authorities)

In section CW 38(3), replace “as a trustee” with “as a trustee, other than an amount distributed as beneficiary income to a beneficiary who derives the amount as exempt income”.

26 Section CW 39 amended (Local authorities)

In section CW 39(3), replace “as a trustee” with “as a trustee, other than an amount distributed as beneficiary income to a beneficiary who derives the amount as exempt income”.

27 Section CW 41 amended (Charities: non-business income)

- (1) Before section CW 41(1)(a), insert:

“(aa) an amount of income derived by a person who is removed from the register of charitable entities (the **register**) under the Charities Act 2005, if it is derived in the period starting with the day they are registered on the register and ending with the earlier of the following days:

- “(i) the day on which the person fails to act in accordance with the relevant constitutional documents or other information supplied to the Charities Commissioner or Board at the time of applying for charitable status: 5
- “(ii) the day of final decision.”
- (2) In section CW 41(5)(c), replace “unavailable.” with “unavailable.”, and insert:
 “(d) a person, described in **subsection (6)**, in the period described in that subsection.” 10
- (3) After section CW 41(5), insert:
“Further definition: grace period for ceased charities
- “(6) A person who is removed from the register of charitable entities under the Charities Act 2005 is a **tax charity** in the period starting on the day they are registered on the register and ending on the earlier of the following days: 15
- “(a) the day on which the person fails to act in accordance with the relevant constitutional documents or other information supplied to the Charities Commission or Board at the time of applying for charitable status: 20
- “(b) the day of final decision.”
- (4) In section CW 41, in the list of defined terms, insert “day of final decision”.
- (5) **Subsections (1), (2), (3), and (4)** apply for a person for the first income year and subsequent income years for which they file a return of income on the basis that these subsections apply for the relevant income year. 25
- 28 Section CW 42 amended (Charities: business income)**
- (1) In section CW 42(5), replace “subsection (1)(c)” with “subsection (1)(c) and **section CW 42B(2)(c) and (3)**”. 30
- (2) In section CW 42(6), replace “subsection (5)” with “subsection (5) and **section CW 42B(2)(c) and (3)**”.
- (3) In section CW 42(7), replace “subsection (1)(c)” with “subsection (1)(c) and **section CW 42B(2)(c) and (4)**”.
- (4) In section CW 42(8), replace “subsection (1)(c)” with “subsection (1)(c) and **section CW 42B(2)(c) and (5)**”. 35

29 New section CW 42B inserted (Community housing trusts and companies)

(1) After section CW 42, insert:

“CW 42B Community housing trusts and companies

“Exempt income” 5

“(1) An amount of income derived by a community housing entity from a business of providing new houses (the **business**) is exempt income if the only beneficiaries of the trust or only clients of the company, as the case may be, are—

“(a) community housing entities that derive exempt income under this section: 10

“(b) persons, or classes of persons, described in regulations made under **section 225D** of the Tax Administration Act 1994.

“Definition” 15

“(2) In this section and **section LD 3** (Meaning of charitable or other public benefit gift), **community housing entity** means a trust and its trustees, or a company, that carries on the business, and—

“(a) the business is not carried on for the private pecuniary profit of any individual; and 20

“(b) all profit of the business is reinvested into the business; and

“(c) no person with some control over the business is able to direct or divert, to their own benefit or advantage, an amount derived from the business. 25

“Control over business”

“(3) For the purposes of **subsection (2)(c)**, for an income year, a person is treated as having some control over the business, and as being able to direct or divert amounts from the business to their own benefit or advantage if, in the tax year, they are described in section CW 42(5)(a) and (b) and (6). 30

“No control”

“(4) For the purposes of **subsection (2)(c)**, a person described in section CW 42(7)(a) and (b) is not treated as having some control merely because of the factors in section CW 42(7)(a) and (b). 35

“Benefit or advantage

“(5) For the purposes of **subsection (2)(c)**, a benefit or advantage to a person includes a benefit or advantage included under section CW 42(8).

“Defined in this Act: amount, business, community housing entity, exempt income, income, income year”.

(2) Before **section CW 42B(2)(a)**, insert:

“(aa) the trust and its trustee or the company, as the case may be, are a registered community housing provider under the Housing Restructuring and Tenancy Matters Act 1992; and”.

30 Section CW 57 amended (Non-resident company involved in exploration and development activities)

(1) Replace section CW 57(1)(a) and (b) with:

“(a) starts on 1 January 2015; and
“(b) ends on 31 December 2019.”

(2) In section CW 57(2), replace the definition of **exploration and development activities** with:

“exploration and development activities—

“(a) means the following activities undertaken for the purposes of identifying and developing exploitable petroleum deposits or occurrences in an offshore permit area:
“(i) operating a ship to provide seismic survey readings;
“(ii) drilling an exploratory well or other well; but
“(b) does not include using a drilling rig of modular construction that is installed on an existing offshore platform.”

31 Section CX 19 amended (Benefits provided instead of allowances)

In section CX 19(1)(c), replace “section CW 17B (Relocation payments)” with “**sections CW 16B to CW 16F**, CW 17B, and **CW 17CC** (which relate to certain expenditure of an employer on an employee’s accommodation, relocation, and clothing)”.

- 32 Section CX 28 amended (Accommodation)**
 In section CX 28, replace “accommodation” with “board or lodging, or accommodation”.
- 33 New section CZ 29 inserted (Accommodation expenditure: Canterbury earthquake relief)** 5
- (1) Before Part D, insert:
“CZ 29 Accommodation expenditure: Canterbury earthquake relief
“When this section applies
- “(1) This section applies for the purposes of **section CW 16B** (Accommodation expenditure: out-of-town secondments and projects) when— 10
- “(a) the employment duties of an employee require them to work on a project of limited duration for rebuilding or recovery, including the repair and reconstruction of land, infrastructure, and other property in greater Christchurch as a result of the Canterbury earthquakes; and 15
- “(b) the distant workplace is a workplace in greater Christchurch. 20
- “Exempt income*
- “(2) The value provided or expenditure incurred by the employer of the employee for or in relation to the accommodation is exempt income of the employee.
- “(3) Despite **paragraph (c)(iii)** of the definition of **project of limited duration** and **section CW 16C(2)(d)** (Time periods for certain accommodation expenditure), for the purposes of this section, the 3-year limit is ignored and is replaced by the following: 25
- “(a) 5 years, if the employee starts work at the distant workplace in the period commencing on 4 September 2010 and ending on 31 March 2015: 30
- “(b) 4 years, if the employee starts work at the distant workplace in the period commencing on 1 April 2015 and ending on 31 March 2016: 35

- “(c) 3 years, if the employee starts work at the distant workplace in the period commencing on 1 April 2016 and ending on 31 March 2017:
- “(d) 3 years, if the employee starts work at the distant workplace in the period commencing on 1 April 2017 and ending on 31 March 2018: 5
- “(e) 3 years, if the employee starts work at the distant workplace in the period commencing on 1 April 2018 and ending on 31 March 2019.
- “*Project periods: basis of time limits* 10
- “(4) For the purposes of this section and **section CW 16C**,—
- “(a) in **subsection (3)(a)**, the time limit is determined by whether the actual period of continuous work of the employee at the distant workplace is for a period of no more than 5 years: 15
- “(b) in **subsection (3)(b) to (e)**, the time limits apply based on the employer’s expectation of the employee’s involvement in the project.
- “*Definitions for this section*
- “(5) In this section, **Canterbury earthquakes**, **greater Christchurch**, **rebuilding**, and **recovery** have the meanings given in section 4 of the Canterbury Earthquake Recovery Act 2011. 20
- “*Related provisions*
- “(6) For the purposes of this section, the commencement and application provisions in **sections 2 and 20** of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act **2013** are treated as— 25
- “(a) commencing on 4 September 2010:
- “(b) applying for the person’s income year that includes 4 September 2010 and for all later income years. 30
- “Defined in this Act: accommodation, amount, Canterbury earthquakes, distant workplace, employee, employer, exempt income, greater Christchurch, land, pay, period of continuous work, project of limited duration, rebuilding, recovery”. 35
- (2) **Subsection (1)** applies for a person’s income year that includes 4 September 2010 and for all later income years.

34 New section CZ 30 inserted (Transitional provision: application of certain accommodation provisions)

(1) After **section CZ 29**, insert:

“CZ30 Transitional provision: application of certain accommodation provisions 5

“When this section applies

“(1) This section applies for the purposes of **sections CE 1B and CW 16B to CW 16F** (which relate to accommodation expenditure) when an employer provides accommodation or incurs expenditure that meets the requirements of those provisions in the period that starts on 1 January 2011 and ends on 31 March 2015. 10

“Transitional period

“(2) Despite the commencement and application provisions in the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act **2013** relating to the provisions, the employer may choose to apply the provisions to the expenditure incurred in the period, but only if they have not, before 6 December 2012, taken a tax position that the accommodation expenditure is taxable. 15
20

“Basis of time limits for and after transitional period

“(3) For the purposes of this section and **section CW 16C**, and for the period referred to in **subsection (1)**, a time limit may be either—

“(a) the actual period of continuous work of the employee at the distant workplace; or 25

“(b) a time limit based on the employer’s expectation of the employee’s involvement in an out-of-town secondment or project of limited duration.

“Related provisions 30

“(4) For the purposes of this section, the commencement and application provisions in **sections 2, 12, and 20** of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act **2013** are treated as—

“(a) commencing on 1 January 2011: 35

- “(b) applying for the person’s income year that includes 1 January 2011 and for all later income years.
 “Defined in this Act: accommodation, distant workplace, employee, employer, out-of-town secondment, period of continuous work, project of limited duration, tax”. 5
- (2) **Subsection (1)** applies for a person’s income year that includes 1 January 2011 and for later income years.
- 35 New section CZ 31 (Accommodation expenditure: New Zealand Defence Force)**
 After **section CZ 30**, insert: 10
“CZ31 Accommodation expenditure: New Zealand Defence Force
“When this section applies
 “(1) This section applies for the period that starts on 6 December 2012 and ends on 31 March 2015 for the purposes of **section CE 1(1B)** (Amounts derived in connection with employment) when— 15
 “(a) accommodation is provided to a person who is a member of the Defence Force by the Navy, Army, or Air Force, as those terms are defined in the Defence Act 1990; and 20
 “(b) the accommodation is provided in relation to the employment or service of the person.
“Market value
 “(2) The value is an amount equal to the rent paid by the person for the accommodation. 25
 “Defined in this Act: accommodation, amount, employment”.
- 36 New section CZ 32 inserted (Treatment of certain petroleum storage facilities)**
 After **section CZ 31**, insert: 30
“CZ32 Treatment of certain petroleum storage facilities
“When this section applies
 “(1) This section applies for an income year when a petroleum miner disposes of an underground gas storage facility in relation to which they have been allowed a deduction under section DT 5 (Petroleum development expenditure) for expend- 35

iture incurred before the date of enactment of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act **2013**.

“Income

“(2) Despite section CT 1(2) (Disposal of exploratory material or petroleum mining asset), the miner has an amount of income from the disposal of the storage facility for the income year calculated using the formula—

$$\frac{\text{past expenditure}}{\text{total expenditure}} \times \text{amount on disposal.}$$

“Definition of items in formula

“(3) In the formula,— 10

“(a) **past expenditure** is the total amount of expenditure that the miner incurs in relation to the storage facility for which they have been allowed a deduction under section DT 5:

“(b) **total expenditure** is the sum of— 15

“(i) the amount of expenditure that the miner incurs in relation to the storage facility after the date of enactment of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act **2013** for which a deduction is allowed; and 20

“(ii) the amount of past expenditure referred to in **paragraph (a)**:

“(c) **amount on disposal** is the total amount that the miner derives on the disposal of the storage facility.

“Transitional provision for certain facilities 25

“(4) Despite section CT 7(2) (Meaning of petroleum mining asset), an underground gas storage facility covered by petroleum mining permit number 52278 is a petroleum mining asset to the extent to which the expenditure incurred by the permit holder relates to activities specified in the work programme set out in schedule 3 of the permit. Permit number 52278 includes a replacement or supplementary permit to the extent to which it covers activities specified in the work programme in schedule 3 of permit 52278. 30

“Defined in this Act: amount, deduction, income year, petroleum miner, petroleum mining asset, petroleum mining permit” 35

37 Section DB 1 amended (Taxes, other than GST, and penalties)

After section DB 1(1)(b), insert:

“(bb) an amount withheld under section 1471 or 1472 of the Internal Revenue Code of 1986 (USA), as amended from time to time:”.

38 Section DB 10 amended (Interest or expenditure connected to profit-related or substituting debentures)

(1) In the heading to section DB 10, delete “**or substituting**”.

(2) In section DB 10(2), replace “either a profit-related debenture or a substituting debenture” with “a profit-related debenture”.

(3) In section DB 10, in the list of defined terms, delete “substituting debenture”.

(4) **Subsections (1), (2), and (3)** apply for the 2015–16 and later income years.

39 Section DB 19 amended (Expenses of failed or withdrawn application for resource consent)

(1) Replace the heading to section DB 19 with “**Expenses in application for resource consent**”.

(2) Replace section DB 19(1), other than the heading, with:

“(1) A person who incurs expenditure for the purpose of applying for the grant of a resource consent under the Resource Management Act 1991 and does not obtain the grant because the application is not lodged or is withdrawn, or because the grant is refused, is allowed a deduction for the expenditure—

“(a) that the person incurs in relation to the application or intended application; and

“(b) that would have been part of the cost of depreciable property, or otherwise a deduction, if the application or intended application had been granted; and

“(c) for which the person is not allowed a deduction under another provision.”

(3) Replace section DB 19(2), other than the heading, with:

“(2) The deduction is allocated to the income year in which the person decides not to lodge the application, withdraws the application, or is refused the grant.”

- (4) **Subsections (2) and (3)** apply for the 2014–15 and later income years.

40 Section DB 25 amended (Cancellation of shares held as revenue account property)

- (1) In section DB 25, in the list of defined terms, delete “profit-related debenture” and “substituting debenture”. 5
- (2) **Subsection (1)** applies for the 2015–16 and later income years.

41 Section DB 37 amended (Expenses of failed or withdrawn patent application)

- (1) Replace the heading to section DB 37 with “**Expenses in application for patent**”. 10
- (2) Replace section DB 37(1), other than the heading, with:
- “(1) A person who incurs expenditure for the purpose of applying for the grant of a patent and does not obtain the grant because the application is not lodged or is withdrawn, or because the grant is refused, is allowed a deduction for the expenditure— 15
- “(a) that the person incurs in relation to the application or intended application; and
- “(b) that would have been part of the cost of fixed life intangible property, or otherwise a deduction, if the application or intended application had been granted; and 20
- “(c) for which the person is not allowed a deduction under another provision.”
- (3) Replace section DB 37(2), other than the heading, with: 25
- “(2) The deduction is allocated to the income year in which the person decides not to lodge the application, withdraws the application, or is refused the grant.”
- (4) **Subsections (2) and (3)** apply for the 2014–15 and later income years. 30

42 New section DB 40BA inserted (Expenses in application for plant variety rights)

- (1) After section DB 40, insert:

“DB 40BA Expenses in application for plant variety rights

“Deduction

“(1) A person who incurs expenditure for the purpose of applying for the grant of plant variety rights and does not obtain the grant because the application is not lodged or is withdrawn, 5
or because the grant is refused, is allowed a deduction for the expenditure—

“(a) that the person incurs in relation to the application or intended application; and

“(b) that would have been part of the cost of fixed life intangible property, or otherwise a deduction, if the application or intended application had been granted; and 10

“(c) for which the person is not allowed a deduction under another provision.

“Timing of deduction

15

“(2) The deduction is allocated to the income year in which the person decides not to lodge the application, withdraws the application, or is refused the grant of plant variety rights.

“Link with subpart DA

“(3) This section overrides the capital limitation. The general permission must still be satisfied and the other general limitations still apply. 20

“Defined in this Act: capital limitation, deduction, fixed life intangible property, general limitation, general permission, income year, plant variety rights”.

(2) **Subsection (1)** applies for the 2014–15 and later income years. 25

43 Section DB 55 amended and repealed (Expenditure incurred in deriving exempt dividend)

(1) Replace section DB 55(3), other than the heading, with:

“(3) This section supplements the general permission and overrides the exempt income limitation. The other general limitations still apply.” 30

(2) Repeal section DB 55.

(3) **Subsection (1)** applies for the 2008–09 and later income years. 35

- (4) **Subsection (2)** applies for income years beginning on or after 1 July 2009, except for a tax position that is—
- (a) inconsistent with **subsection (2)**; and
 - (b) taken by the person in a tax return filed before the date of introduction of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Bill. 5

44 New heading and sections DB 63 to DB 63C inserted

- (1) After section DB 62, insert:

“Miscellaneous company administration costs

“DB 63 Expenses in paying dividends 10

“Deduction

- “(1) A company is allowed a deduction for expenditure incurred in—

“(a) authorising, allocating, or processing, the payment of a dividend: 15

“(b) resolving a dispute concerning a matter referred to in **paragraph (a)**.

“Link with subpart DA

- “(2) This section supplements the general permission and overrides the capital limitation. The other general limitations still apply. 20

“Defined in this Act: capital limitation, company, deduction, dividend, general limitation, general permission

“DB 63B Periodic company registration fees

“Deduction

- “(1) A listed company is allowed a deduction for expenditure incurred as periodic fees of a recognised exchange for maintaining the registration of the company on the exchange. 25

“Link with subpart DA

- “(2) This section supplements the general permission and overrides the capital limitation. The other general limitations still apply. 30

“Defined in this Act: capital limitation, company, deduction, general limitation, general permission, listed company, recognised exchange

“DB 63C Meetings of shareholders

“Deduction

- “(1) A company is allowed a deduction for expenditure incurred in holding an annual meeting of the shareholders of the company to consider the affairs of the company. 5

“No deduction

- “(2) A company is denied a deduction for expenditure incurred in holding a special or extraordinary meeting of the shareholders of the company.

“Link with subpart DA

- “(3) **Subsection (1)** supplements the general permission and overrides the capital limitation. **Subsection (2)** overrides the general permission. The other general limitations still apply. 10

“Defined in this Act: capital limitation, company, deduction, general limitation, general permission, shareholder”. 15

- (2) **Subsection (1)** applies for the 2014–15 and later income years.

45 Section DD 4 amended (Employment-related activities)

In section DD 4(3)(a), replace “CW 17B and CW 17C (which relate to relocation expenses, expenditure on overtime meals, and sustenance allowances)” with “CW 17B, CW 17C, and **CW 17CB** (which relate to relocation expenses and expenditure on meals)”. 20

46 Section DD 10 amended (Interpretation: reimbursement and apportionment)

In section DD 10(a), replace “CW 17B and CW 17C” with “CW 17B, CW 17C, and **CW 17CB**”. 25

47 Section DG 6 amended (Associated persons: company rule modified)

- (1) In section DG 6, replace “YB 3(1)” with “YB 3(1) (Company and person other than company)” 30
- (2) Repeal section DG 6(a).
- (3) In section DG 6, in the list of defined terms, delete “voting interest”.

- (4) **Subsection (2)** applies for the 2013–14 and later income years.

48 Section DZ 21 amended (Expenditure on certain assets before 31 March 2013)

- (1) Replace the heading to section DZ 21 with “**Transfer in 2013–14 income year of assets to which subpart DG applies**”. 5
- (2) Replace section DZ 21(2) with:
 - “*Disposal by transferor*
 - “(2) For the purposes of section CG 1, (Amount of depreciation recovery income) and subpart EE (Depreciation),—
 - “(a) the company is treated as disposing of the asset for an amount equal to the adjusted tax value of the asset on the day of the transfer; and
 - “(b) the shareholder is treated as having— 15
 - “(i) acquired the asset on the date on which the company acquired it for an amount equal to the amount the company paid to acquire it; and
 - “(ii) used the asset for the purposes for which the company used it; and 20
 - “(iii) used the depreciation method used by the company in relation to the asset; and
 - “(iv) been allowed a deduction for an amount of depreciation loss that the company has been allowed since the company’s acquisition of the asset. 25
 - “*Allocation to shareholders*
 - “(3) For the purposes of **subsection (2)**, if more than 1 shareholder referred to in subsection (1)(b) acquires the asset, their share of the cost of the asset and the amount of depreciation loss is based on the proportion of their voting interests in the company.” 30
- (3) In section DZ 21, in the list of defined terms, insert “deduction”, “depreciation loss”, “pay”, and “voting interest”.
- (4) **Subsections (1) and (2)** apply for the 2013–14 and later income years. However, **subsections (1) and (2)** do not apply 35 in relation to an asset when a shareholder who acquires the asset disposes of it before the date of introduction of the Taxation

(Annual Rates, Employee Allowances, and Remedial Matters) Bill.

- 49 Amendments to examples in subparts DG and DZ**
The examples provided in subparts DG and DZ are amended as indicated in the **schedule**. 5
- 50 Section DO 5 amended (Expenditure on land: planting of listed horticultural plants)**
- (1) In section DO 5(4), replace the formula with:
rate × diminished value.
- (2) **Subsection (1)** applies for listed horticultural plants that are planted on land on or after the first day of the 2013–14 income year. 10
- 51 Section DP 8 amended (Forestry business on land bought from the Crown, Maori owners, or holding company: no deduction)**
- (1) Replace section DP 8(3) with: 15
“Relationship with section FA 2B
- “(3) Section FA 2B (Stapled debt securities) does not apply to a qualifying debenture.”
- (2) In section DP 8, in the list of defined terms, delete “substituting debenture”. 20
- (3) **Subsections (1) and (2)** apply for the 2015–16 and later income years.
- 52 Section EA 3 amended (Prepayments)**
In section EA 3(7), replace “CW 17, CW 17B, CW 17C, and CW 18” with “**CW 16B to CW 16F**, CW 17, CW 17B, CW 17C, **CW 17CB, CW 17CC**, and CW 18”. 25
- 53 Section EE 7 amended (What is not depreciable property?)**
- (1) After section EE 7(a), insert:
“(ab) a lease of land with a perpetual right of renewal.”. 30

- (2) In section EE 7(c), replace “subpart EB (Valuation of trading stock (including dealer’s livestock))” with “subpart EC (Valuation of livestock)”.
- (3) **Subsection (2)** applies for the 2008–09 and later income years. 5
- 54 Section EE 25 amended (Depreciation loss for plant variety rights application granted in 2005–06 or later income year)**
- (1) Replace section EE 25(3)(a) with:
- “(a) **cost** is the cost to the person of the plant variety rights application, including an amount incurred for the purpose of lodging an earlier application and giving rise under **section CG 7B** (Disposals or applications after earlier deductions) to a corresponding amount of income relating to the plant variety rights application.”. 10 15
- (2) **Subsection (1)** applies for the 2014–15 and later income years.
- 55 Section EE 57 amended (Base value in section EE 56 when none of sections EE 58, EE 59, and EZ 22(1) applies)**
- (1) After section EE 57(3)(c), insert: 20
- “(cb) expenditure is included in it if the item is a patent application, a patent, plant variety rights, or a resource consent under the Resource Management Act 1991 and the expenditure has given rise under **section CG 7B** (Disposals or applications after earlier deductions) to a corresponding amount of income relating to the item; and”. 25
- (2) **Subsection (1)** applies for the 2014–15 and later income years.
- 56 Section EE 67 amended (Other definitions)**
- (1) In section EE 67, definition of **legal life**, paragraph (a), replace “paragraphs (b) and (c)” with “paragraphs (b) to (d)”. 30
- (2) In section EE 67, definition of **legal life**, paragraph (c)(ii), replace “granted” with “granted.”.
- (3) In section EE 67, after the definition of **legal life**, paragraph (c), insert: 35

- “(d) for a person and a right (a **land right**) that is a leasehold estate, or a licence to use land, means the number of years, months, and days for which the person or an associated person has an owner’s interest in the land right, or in a consecutive or successive land right, under the contract or statute that creates the owner’s interest, determined— 5
- “(i) when the person acquires the owner’s interest; and
- “(ii) assuming that the person or associated person exercises rights of renewal, extension, or further grant that are either essentially unconditional or conditional on the payment of predetermined fees”. 10
- 57 Section EG 1 amended (Election to use balance date used in foreign country) 15**
- (1) In section EG 1(6), replace “A person who has made an election is treated as making the same election for all later income years” with “An election made by a person under subsection (2) applies for the income year referred to in subsection (1)(c) and all later income years”. 20
- (2) **Subsection (1)** applies for the 2008–09 and later income years.
- 58 Section EI 7 amended (Leases: income derived in anticipation) 25**
- (1) Replace section EI 7(2), other than the heading, with:
- “(2) The person may choose to—
- “(a) divide the income into 6 equal portions; and
- “(b) allocate a portion to the income year in which they derive the amount; and 30
- “(c) similarly allocate a portion to each of the next 5 income years.”
- (2) In section EI 7(3)(a), replace “give a notice to the Commissioner requesting the Commissioner to make the allocation” with “notify the Commissioner of their election”. 35
- (3) After section EI 7(4), insert:

- “Transitional provision: 2015–16 and later income years*
- “(5) Despite **subsection (2)**, when a person has derived an amount of income to which this section applies before the 2015–16 income year, and all or part of that amount remains unallocated at the start of that income year, the person must— 5
- “(a) if the period of 5 income years after the income year of derivation has expired by the start of the 2015–16 income year, allocate the remaining amount to the 2015–16 income year; or
- “(b) if the period of 5 income years after the income year of derivation has not expired before the start of the 2015–16 income year, divide the remaining amount into equal portions based on the number of income years left in the period, and allocate a portion to each of those income years falling after the end of the 2014–15 income year.” 10 15
- (4) In section EI 7, in the list of defined terms, insert “amount”.
- (5) **Subsections (1) to (4)** apply for the 2015–16 and later income years.
- 59 Section EI 8 amended (Disposal of land to the Crown) 20**
- (1) Replace section EI 8(2), other than the heading, with:
- “(2) The person may choose to—
- “(a) divide the income into 4 equal portions; and
- “(b) allocate a portion to the income year in which they derive the amount; and 25
- “(c) similarly allocate a portion to each of the next 3 income years.”
- (2) After section EI 8(5), insert:
- “Transitional provision: 2015–16 and later income years*
- “(6) Despite **subsection (2)**, when a person has derived an amount of income to which this section applies before the 2015–16 income year, and all or part of that amount remains unallocated at the start of that income year, the person must— 30
- “(a) if the period of 3 income years after the income year of derivation has expired before the start of the 2015–16 income year, allocate the remaining amount to the 2015–16 income year; or 35

- “(b) if the period of 3 income years after the income year of derivation has not expired before the start of the 2015–16 income year, divide the remaining amount into equal portions based on the number of income years left in the period, and allocate a portion to each of those income years falling after the end of the 2014–15 income year.” 5
- (3) **Subsections (1) and (2)** apply for the 2015–16 and later income years.
- 60 Section EW 15D amended (IFRS financial reporting method) 10**
- (1) After section EW 15D(2)(ab), insert:
 “(ad) if the financial arrangement is a foreign ASAP, or is an IFRS designated FX hedge for a foreign ASAP, **sections EW 32 and EW 33B** apply to value, for IFRS rules, the relevant property or service. **Section EW 33B** also provides rules for subsequently adjusting the treatment of the relevant hedge:” 15
- (2) Replace section EW 15D(2B)(b) with:
 “(b) the person uses for the other financial arrangement a method that is not the IFRS financial reporting method.” 20
- (3) In section EW 15D, in the list of defined terms, insert “foreign ASAP” and “FX hedge”.
- (4) **Subsections (1), (2), and (3)** apply for a financial arrangement entered into by a person— 25
- (a) in the 2014–15 income year and later income years, unless **paragraph (b)** applies:
- (b) in an income year (the **first income year**) and later income years, if the person files a return of income for the first income year on the basis that this section applies to a financial arrangement entered into in the first income year, and— 30
- (i) the first income year is the 2011–12, 2012–13, 2013–14, or 2014–15 income year; and
- (ii) the person uses IFRSs to prepare financial statements or to report for financial arrangements for the first income year. 35

61 Section EW 15F amended (Expected value method)

- (1) After section EW 15F(1)(b), insert:
“(bb) the financial arrangement is not a foreign ASAP; and”.
- (2) In section EW 15F, in the list of defined terms, insert “foreign ASAP”. 5
- (3) **Subsections (1) and (2)** apply for a financial arrangement entered into by a person—
- (a) in the 2014–15 income year and later income years, unless **paragraph (b)** applies:
- (b) in an income year (the **first income year**) and later income years, if the person files a return of income for the first income year on the basis that this section applies to a financial arrangement entered into in the first income year, and— 10
- (i) the first income year is the 2011–12, 2012–13, 2013–14, or 2014–15 income year; and 15
- (ii) the person uses IFRSs to prepare financial statements or to report for financial arrangements for the first income year.

62 Section EW 15G amended (Modified fair value method) 20

- (1) After section EW 15G(1)(b), insert:
“(bb) the financial arrangement is not a foreign ASAP; and”.
- (2) In section EW 15G, in the list of defined terms, insert “foreign ASAP”.
- (3) **Subsections (1) and (2)** apply for a financial arrangement entered into by a person— 25
- (a) in the 2014–15 income year and later income years, unless **paragraph (b)** applies:
- (b) in an income year (the **first income year**) and later income years, if the person files a return of income for the first income year on the basis that this section applies to a financial arrangement entered into in the first income year, and— 30
- (i) the first income year is the 2011–12, 2012–13, 2013–14, or 2014–15 income year; and 35

- (ii) the person uses IFRSs to prepare financial statements or to report for financial arrangements for the first income year.

- 63 Section EW 15H amended (Mandatory use of some determinations)** 5
- (1) Repeal section EW 15H(1)(d).
 - (2) **Subsection (1)** applies for a financial arrangement entered into by a person—
 - (a) in the 2014–15 income year and later income years, unless **paragraph (b)** applies: 10
 - (b) in an income year (the **first income year**) and later income years, if the person files a return of income for the first income year on the basis that this section applies to a financial arrangement entered into in the first income year, and— 15
 - (i) the first income year is the 2011–12, 2012–13, 2013–14, or 2014–15 income year; and
 - (ii) the person uses IFRSs to prepare financial statements or to report for financial arrangements for the first income year. 20
- 64 Section EW 15I amended (Mandatory use of yield to maturity method for some arrangements)**
- (1) In section EW 15I(1)(b)(iii), replace “property or services” with “property or services that is not a foreign ASAP”.
 - (2) In section EW 15I, in the list of defined terms, insert “foreign ASAP”. 25
 - (3) **Subsections (1) and (2)** apply for a financial arrangement entered into by a person—
 - (a) in the 2014–15 income year and later income years, unless **paragraph (b)** applies: 30
 - (b) in an income year (the **first income year**) and later income years, if the person files a return of income for the first income year on the basis that this section applies to a financial arrangement entered into in the first income year, and— 35
 - (i) the first income year is the 2011–12, 2012–13, 2013–14, or 2014–15 income year; and

- (ii) the person uses IFRSs to prepare financial statements or to report for financial arrangements for the first income year.

65 Section EW 32 amended (Consideration for agreement for sale and purchase of property or services, hire purchase agreement, specified option, or finance lease) 5

- (1) In the heading to section EW 32, replace “**and purchase**” with “**and purchase (ASAP)**”.
- (2) In section EW 32(2), replace “applying subsections (3)” with “applying, as modified by **sections EW 33B, EW 33C**, and EW 34 (which relate to certain agreements), **subsections (2B)**”.
- (3) After section EW 32(2), insert:
“IFRS foreign ASAPs
- “(2B) If the person uses IFRSs to prepare financial statements or to report for financial arrangements, and the relevant financial arrangement is a foreign ASAP, the value of the property or services is the value under IFRS rules, modified on account of FX hedges as provided by **section EW 33B**.
“Future or discounted value: foreign ASAPs subject to 12 month ASAP 20
- “(2C) If the relevant financial arrangement is a foreign ASAP that is a 12 month ASAP, the value of the property or services is the future value, or the discounted value, or a combination of both the future and discounted values, on the rights date, of the amounts paid or payable under the 12 month ASAP for the property or services. **Section EW 33B** may apply in relation to FX hedges, and **section EW 33C** applies if the consideration is in a foreign currency. 25
“Express value: foreign ASAPs not subject to 12 month ASAP 30
- “(2D) If the relevant financial arrangement is a foreign ASAP that is not a 12 month ASAP, the value of the property or services is the value expressly provided in the agreement as paid or payable for the property or services. **Section EW 33B** may apply in relation to FX hedges, and **section EW 33C** applies if the consideration is in a foreign currency.” 35
- (4) After section EW 32(7), insert:

“Relationship with subject matter

“(8) **Section EZ 70** (Consideration for property or services: IFRS foreign ASAPs before 2014–15 income year) overrides this section.”

(5) In section EW 32, in the list of defined terms, insert “12 month ASAP”, “foreign ASAP”, “FX hedge”, “IFRS”, and “rights date”.

(6) **Subsections (1), (2), (3), and (5)** apply for a financial arrangement entered into by a person—

(a) in the 2014–15 income year and later income years, unless **paragraph (b)** applies: 10

(b) in an income year (the **first income year**) and later income years, if the person files a return of income for the first income year on the basis that this section applies to a financial arrangement entered into in the first income year, and— 15

(i) the first income year is the 2011–12, 2012–13, 2013–14, or 2014–15 income year; and

(ii) the person uses IFRSs to prepare financial statements or to report for financial arrangements for the first income year. 20

66 New sections EW 33B and EW 33C inserted

(1) After section EW 33, insert:

“EW 33B Foreign ASAPs: designated FX hedges

“When this section applies 25

“(1) This section applies when, for a person’s financial arrangement, **section EW 32(2B)** applies, and—

“(a) the financial arrangement is a foreign ASAP that relates to:

“(i) property that is or will be depreciable property or revenue account property; or 30

“(ii) services, the sale or purchase of which, as relevant for the person, gives rise to assessable income or deductions under this Act outside of the financial arrangements rules; and 35

“(b) the person holds an IFRS designated FX hedge in relation to the financial arrangement

“When this section applies

- “(2) This section applies when, for a person’s financial arrangement, **section EW 32(2C) or (2D)** applies, and—
- “(a) the financial arrangement is a foreign ASAP that relates solely to property that is or will be depreciable property or trading stock; and 5
 - “(b) the person has made, at the time of filing a return of income for the income year in which they enter into the financial arrangement or at the time of filing a return of income for an earlier income year, a one-time-only irrevocable election in writing to apply this section to all financial arrangements for depreciable property or trading stock; and 10
 - “(c) the person holds a non-IFRS designated FX hedge in relation to the financial arrangement. 15

“Value: IFRS

- “(3) For a financial arrangement described in **subsection (1)** the value under **section EW 32** of the relevant property or services is modified by the amount attributed under IFRS rules to that value on account of the relevant IFRS designated FX hedge. 20

“Value: non-IFRS

- “(4) For a financial arrangement described in **subsection (2)** the value under **section EW 32** of the relevant property is modified by the amount that would be the base price adjustment for the relevant non-IFRS designated FX hedge in the absence of this section. 25

“FX hedge amounts attributed to value: No double-counting, no separate spreading or base price adjustment

- “(5) When applying a spreading method to, or calculating a base price adjustment for, amounts under an IFRS designated FX hedge or a non-IFRS designated FX hedge, to the extent to which an amount is attributed to the value of the property or services under this section, that amount is excluded from the spreading method or base price adjustment. 30 35

“Relationship with subject matter

“(6) **Section EZ 70** (Consideration for property or services: IFRS foreign ASAPs before 2014–15 income year) overrides this section.

“Defined in this Act: depreciable property, financial arrangement, foreign ASAP, IFRS, IFRS designated FX hedge, non-IFRS designated FX hedge, revenue account property, spreading method 5

“**EW 33C Consideration in foreign currency: some agreements for sale and purchase**

“When this section applies 10

“(1) This section applies when the consideration paid or payable under a financial arrangement to which **section EW 32(2C) or (2D)** applies is in a foreign currency.

“Spot rates

“(2) Spot rates are used to convert to New Zealand dollars for consideration in a foreign currency. 15

“(3) If no spot rate is available for an amount under the financial arrangement, because the amount is deferred into an income year after a person’s current income year and that deferral is for a day after the person is required to file a return of income for the current income year, then the person may use for the amount: 20

“(a) the spot rate at the end of the current income year; or

“(b) the spot rate at the time that the taxpayer files a return of income for the current income year. 25

“Defined in this Act: amount, consideration, financial arrangement, income year, New Zealand, person, return of income”.

(2) **Subsection (1)** applies for a financial arrangement entered into by a person—

(a) in the 2014–15 income year and later income years, unless **paragraph (b)** applies: 30

(b) in an income year (the **first income year**) and later income years, if the person files a return of income for the first income year on the basis that this section applies to a financial arrangement entered into in the first income year, and— 35

(i) the first income year is the 2011–12, 2012–13, 2013–14, or 2014–15 income year; and

- (ii) the person uses IFRSs to prepare financial statements or to report for financial arrangements for the first income year.

- 67 Section EW 35 amended (Value relevant for non-financial arrangements rule)** 5
- (1) In section EW 35(1), replace “property” with “property or services”.
 - (2) In section EW 35(2), replace “property” with “property or services”.
- 68 Section EX 5 amended (Direct control interests)** 10
- (1) Replace section EX 5(1)(c) with:
 - “(c) a right to—
 - “(i) receive any income of the company for the accounting period in which the time falls; or
 - “(ii) have the income of the company for the accounting period in which the time falls dealt with in their interest or on their behalf :”.
 - (2) Replace section EX 5(1)(d) with:
 - “(d) a right to—
 - “(i) receive any of the value of the net assets of the company, if they are distributed; or
 - “(ii) have the net value of the assets, if they are distributed, dealt with in their interest or on their behalf.”
 - (3) **Subsections (1) and (2)** apply for the 2008–09 and later income years. 25
- 69 Section EX 9 amended (Direct income interests)**
- (1) Replace section EX 9(1)(c) with:
 - “(c) a right to—
 - “(i) receive any income of the company for the accounting period in which the time falls; or
 - “(ii) have the income of the company for the accounting period in which the time falls dealt with in their interest or on their behalf :”.
 - (2) Replace section EX 9(1)(d) with: 35

- “(d) a right to—
- “(i) receive any of the value of the net assets of the company, if they are distributed; or
- “(ii) have the net value of the assets, if they are distributed, dealt with in their interest or on their behalf.” 5
- (3) **Subsections (1) and (2)** apply for the 2008–09 and later income years.
- 70 Section EX 20B amended (Attributable CFC amount)**
- (1) In section EX 20B(1), replace the formula with: 10
- gross + arrangement – apportioned funding income.
- (2) In section EX 20B(2), replace “subsections (3) and (4)” with “subsections (3) to **(4B)**”.
- (3) In section EX 20B(4)(a)(i), replace “EW 8 (Election to treat certain excepted financial arrangements as financial arrangements)” with “EW 8 (Some short-term agreements for sale and purchase acquired in business: election to treat as financial arrangement)” 15
- (4) After section EX 20B(4), insert:
- “Apportioned funding income*
- “(4B) **Apportioned funding income** is,— 20
- “(a) if the CFC is an entity carrying on a business of banking or insurance or is directly or indirectly controlled by such an entity, zero:
- “(b) if **paragraph (a)** does not apply, the amount calculated using the formula— 25
- funding income × funding fraction × (1 – asset fraction).
- “Definition of items in formula*
- “(4C) The items in the formula in **subsection (4B)(b)** are defined in **subsections (4D) to (4F)**.
- “Funding income*
- “(4D) **Funding income** is the total of the amounts in the accounting period that are included in the items gross and arrangement and relate to a financial arrangement— 30
- “(a) that provides funds for the CFC; and

- “(b) for which there is no reasonable expectation, when the CFC enters the financial arrangement or when the terms of the financial arrangement are changed, that the CFC will have from the financial arrangement amounts that would be income for the CFC exceeding in total the amounts that would be deductions for the CFC, during— 5
- “(i) the period in which the CFC is party to the financial arrangement:
- “(ii) a period predictable in advance during which the CFC is a party to the financial arrangement. 10
- “*Funding fraction*
- “(4E) **Funding fraction** is the amount given by section EX 20C(6) for the CFC.
- “*Asset fraction* 15
- “(4F) **Asset fraction** is the amount given by section EX 20C(8) for the CFC.”
- (5) **Subsections (1), (2), and (4)** apply for income years beginning on or after 1 July 2009.
- 71 Section EX 20C amended (Net attributable CFC income or loss) 20**
- (1) In section EX 20C(2), replace the formula with:
- attributable CFC – apportioned funding costs – other deductions.
- (2) Repeal section EX 20C(3)(b).
- (3) Replace section EX 20C(4), other than the heading, with:
- “(4) The items in the formula in subsection (3)(c) are defined in subsections (6), (10), and (11).” 25
- (4) Repeal section EX 20C(5).
- (5) **Subsections (1) to (4)** apply for income years beginning on or after 1 July 2009.
- 72 Section EX 21B amended (Non-attributing active CFCs) 30**
- In section EX 21B(4), after “if the person”, insert “, or a member of a wholly-owned group to which the person belongs,”.

- 73 Section EX 21D amended (Non-attributing active CFC: default test)**
- (1) Replace section EX 21D(1)(b) with:
- “(b) in each of which an income interest of more than 50% is held by— 5
- “(i) the interest holder:
- “(ii) companies that are all members of a wholly-owned group of companies that includes the interest holder; and”.
- (2) In section EX 21D, list of defined terms, insert “wholly-owned group of companies”. 10
- (3) **Subsections (1) and (2)** apply for income years beginning on or after 1 July 2009.
- 74 Section EX 21E amended (Non-attributing active CFC: test based on accounting standard)** 15
- (1) Replace section EX 21E(2)(c) with:
- “(c) an income interest of more than 50% is held in each company by—
- “(i) the interest holder:
- “(ii) companies that are all members of a wholly-owned group of companies that includes the interest holder; and”. 20
- (2) Repeal section EX 21E(3)(b).
- (3) In section EX 21E(4)(g)(ii), replace “standard.” with “standard; and”. 25
- (4) After section EX 21E(4)(g), insert:
- “(h) a numerator that is a negative number is treated as being zero.”
- (5) In section EX 21E(7)(f), before “income or loss”, insert “if **paragraph (fb)** does not apply.”. 30
- (6) After section EX 21E(7)(f), insert:
- “(fb) for a CFC for which income and losses from financial assets are not readily distinguishable by an interest holder from income and losses from financial liabilities, income or loss from a financial asset or financial liability other than a derivative as defined in NZIAS 39 or a
- 35

- share that is not revenue account property, in the form of—
- “(i) a change in the reported value of the asset or liability:
 - “(ii) a gain or loss on the derecognition, as defined in NZIAS 39, of the asset or liability: 5
 - “(iii) a foreign exchange gain or loss on the asset or liability:”.
- (7) In section EX 21E(9)(cb), replace “financial asset” with “financial asset or financial liability”. 10
- (8) In section EX 21E(10)(c), before “a gain or loss”, insert “if **paragraph (cb)** does not apply,”.
- (9) After section EX 21E(10)(c), insert:
- “(cb) for a CFC for which income and losses from financial assets are not readily distinguishable by an interest holder from income and losses from financial liabilities, income or loss from a financial asset or financial liability other than a derivative as defined in NZIAS 39 or a share that is not revenue account property, in the form of— 15
 - “(i) a change in the reported value of the asset or liability: 20
 - “(ii) a gain or loss on the derecognition, as defined in NZIAS 39, of the asset or liability:
 - “(iii) a foreign exchange gain or loss on the asset or liability:” 25
- (10) In section EX 21E, list of defined terms, insert “financial asset”, “financial liability”, and “wholly-owned group of companies”.
- (11) **Subsections (1) to (10)** apply for income years beginning on or after 1 July 2009. 30
- 75 Section EX 22 amended (Non-attributing Australian CFCs)**
- (1) In section EX 22(1)(b)(ii), replace “units.” with “units; and”.
 - (2) After section EX 22(1)(b), insert: 35

- “(c) the CFC is not a unit trust or is a unit trust subject under Australian law to income tax on its income in the same way as a company.”
- (3) **Subsection (1)** applies for the 2014–15 and later income years. 5
- 76 Section EX 35 amended (Exemption for interest in FIF resident in Australia)**
- (1) After section EX 35(c), insert:
 “(cb) the FIF is not a unit trust or is a unit trust subject under Australian law to income tax on its income in the same way as a company; and” 10
- (2) In section EX 35(b)(iii), replace “governments of other territories” with “governments of other countries or territories”.
- (3) **Subsection (1)** applies for the 2014–15 and later income years. 15
- 77 Section EX 46 amended (Limits on choice of calculation methods)**
 In section EX 46(11), replace “fair dividend rate” with “fair dividend rate method”.
- 78 Section EX 50 amended (Attributable FIF income method)** 20
- (1) In section EX 50(6), replace the words before the formula with “If the FIF has an income interest in a foreign company for the accounting period and, as a result, the person has an indirect income interest (an **indirect attributing interest**) in the foreign company that would be an attributing interest for the person if held as a direct income interest, the person has additional FIF income or loss calculated using the formula—”. 25
- (2) In section EX 50(7)(b), replace the words before the subparagraphs with “**FIF’s FIF income or loss** is the FIF’s FIF income or loss for the period from foreign companies in which the person has an indirect attributing interest, calculated under the rules in section EX 58(4) and (5) as if—”. 30
- (3) **Subsections (1) and (2)** apply for the 2014–15 and later income years. 35

79 Section EX 51 amended (Comparative value method)

- (1) Replace section EX 51(6)(a) with—
- “(a) all expenditure, if any, that—
- “**(i)** the person incurs in acquiring or increasing the interest: 5
- “**(ii)** another person incurs on behalf of the person referred to in **subparagraph (i)** in relation to the interest.”.
- (2) **Subsection (1)** applies for the 2008–09 and later income years. 10

80 Section EX 58 amended (Additional FIF income or loss if CFC owns FIF)

- (1) After section EX 58(1)(a), insert:
- “**(ab)** as a result of an income interest of the CFC in a FIF, the person has an indirect income interest (an **indirect attributing interest**) in the FIF that would be an attributing interest for the person if held as a direct income interest; and” 15
- (2) Replace section EX 58(3)(b) with:
- “**(b) CFC’s FIF income or loss** is the CFC’s FIF income or loss for the period, calculated under subsections (4) and (5), from FIFs in which the person has an indirect attributing interest.” 20
- (3) Replace section EX 58(4)(b) and (c) with:
- “**(b)** otherwise apply the calculation rules in section EX 44 to EX 61 to the CFC and the CFC’s attributing interest in the FIF; and 25
- “**(c)** apply the FIF loss ring-fencing rules in section DN 8 (Ring-fencing cap on deduction: attributable FIF income method) to the CFC and the CFC’s attributing interest in the FIF.” 30
- (4) In section EX 58, in the list of defined terms, insert “direct income interest”.
- (5) **Subsections (1) to (3)** apply for the 2014–15 and later income years. 35

81 Section EZ 32D amended (Value of asset fraction: CFC with excessive debt funding and loan entered before 21 June 2012)

- (1) In section EZ 32D(2), replace “section EX 20C(3)(b)(ii)” with “**section EX 20B(4B)(b)**” in each place where it occurs. 5
- (2) In section EZ 32D(3),—
 - (a) in the heading, replace “*section EX 20C*” with “*section EX 20B*”;
 - (b) replace “section EX 20C(3)(b)(ii)” with “**section EX 20B(4B)(b)**”. 10
- (3) **Subsections (1) and (2)** apply for income years beginning on or after 1 July 2009.

82 New sections EZ 70 and EZ 71 inserted

Before Part F, insert:

“EZ 70 Consideration for property or services: IFRS foreign ASAPs before 2014–15 income year 15

“When this section applies

- “(1) This section applies when a person uses IFRSs to prepare financial statements and to report for financial arrangements, and— 20
 - “(a) the person has a financial arrangement that is a foreign ASAP (the **financial arrangement**) for which **section EW 32** (Consideration for agreement for sale and purchase of property or services, hire purchase agreement, specified option, or finance lease) applies to value the relevant property or services; and 25
 - “(b) the person enters into the financial arrangement before the end of the 2013–14 income year; and
 - “(c) for the financial arrangement, the person has filed returns of income in accordance with this section for the 2013–14 income year and every earlier income year. 30

“Treatment

- “(2) The person, applying **sections 66 and 67** of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act **2013** as if in force may treat 1 of the following paragraphs: 35
 - “(a) treat **sections EW 32 and EW 33B** (Foreign ASAPs: designated FX hedges) as applying to the financial ar-

rangement for the 2013–14 income year and every earlier income year; or

- “(b) treat **section EW 32** as applying, but excluding **section EW 33B**. The value of the relevant property or services under IFRS rules is modified by excluding an amount attributed under IFRS rules from the value on account of FX hedges. 5

“Treatment: modification for spot rate revaluation

- “(3) Despite **subsection (2)**, a treatment under that subsection may be modified to allow the addition and subtraction, from the value of the property or services, of amounts arising from spot rate revaluation of payments already made at the time the property or services are recognised under IFRS rules. 10

“Defined in this Act: amount, financial arrangement, foreign ASAP, FX hedge, IFRS, income year 15

“EZ 71 Consideration for property or services: non-IFRS foreign ASAPs before 2014–15 income year

“When this section applies

- “(1) This section applies when a person does not use IFRSs to prepare financial statements and to report for financial arrangements, and— 20

- “(a) the person has a financial arrangement that is a foreign ASAP (the **financial arrangement**) for which section EW 32 applies to value the relevant property or services; and 25

- “(b) the person enters into the financial arrangement before the end of the 2013–14 income year; and

- “(c) for the financial arrangement, the person has filed returns of income in accordance with this section for the 2013–14 income year and every earlier income year. 30

“Treatment

- “(2) The person, applying **sections 65 and 66** of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act **2013** as if in force, may treat **sections EW 32 and EW 33C** (which relate to certain financial arrangements) as applying to the financial arrangement for the 2013–14 income 35

year and every earlier income year. **Section EW 33B** (Foreign ASAPs: designated FX hedges) is excluded.

“Defined in this Act: amount, financial arrangement, foreign ASAP, FX hedge, IFRS, income year”.

83 New section EZ 72 inserted (Substituting debentures repeal: transitional rules) 5

After **section EZ 71**, insert:

“EZ 72 Substituting debentures repeal: transitional rules

“When this section applies

“(1) This section applies when a person has, on the last day of the 2014–15 income year, a substituting debenture, and, on the first day of the 2015–16 income year, has a financial arrangement because of the application of **section 84** of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act **2013**. 15

“2014–15 income year

“(2) On the last day of the 2014–15 income year,—
 “(a) the substituting debenture is treated as cancelled; and
 “(b) an amount equal to the debenture’s outstanding principal is treated as paid, for the cancellation, by the debenture’s issuer. 20

“2015–16 income year

“(3) On the first day of the 2015–16 income year, the debenture’s issuer is treated as entering into the financial arrangement on the same terms and conditions as the debenture described in **subsection (2)(b)**, except that the amount of principal treated as advanced to the issuer is an amount equal to the amount described in **subsection (2)(b)**. 25

“Defined in this Act: consideration, financial arrangement, financial arrangements rules, income year, substituting debenture” 30

84 Section FA 2 amended (Recharacterisation of certain debentures)

- (1) In section FA 2(1), delete “or a substituting debenture”.
- (2) In section FA 2(2), replace “either a profit-related debenture or a substituting debenture is denied a deduction under section DB 10 (Interest or expenditure connected to profit-related 35

or substituting” with “a profit-related debenture is denied a deduction under section DB 10 (Interest or expenditure connected to profit-related”.

- (3) Delete section FA 2(5) and (7).
- (4) In section FA 2, in the list of defined terms, delete “substituting debenture”.
- (5) **Subsections (1), (2), (3), and (4)** apply for the 2015–16 and later income years.

85 Section FB 15 amended (Specified livestock valued under herd scheme) 10
 In section FB 15, replace “EC 4C” with “EC 4C (which relate to livestock)”.

86 Section FC 5 amended (Land transferred to close relatives)
 (1) Replace section FC 5(3)(b) with: 15
 “(b) all other expenditure incurred by the person, the deceased person, or the administrator or executor of the deceased person, as applicable, for which no deduction has been allowed.”
 (2) **Subsection (1)** applies for the 2008–09 and later income 20 years.

87 Section FE 1 amended (What this subpart does)
 (1) Replace section FE 1(1) with:
“Interest adjustment
 “(1) This subpart applies to adjust the effective level of interest deductions for a New Zealand taxpayer by treating the taxpayer as deriving income— 25
 “(a) if the taxpayer is not a foreign-owned bank and the level of interest expenditure incurred in New Zealand by the taxpayer’s New Zealand group (identified in *sections FE 3 or FE 25 to FE 30*) is disproportionately high, 30
 either by comparison with the total level of interest expenditure incurred worldwide by the taxpayer’s worldwide group (identified in *sections FE 31 to FE 32*) or, in some situations, by comparison with the level of interest 35

- expenditure incurred in New Zealand by the taxpayer arising from debt funding provided by third parties, and the taxpayer—
- “(i) is controlled by a single non-resident:
 - “(ii) is controlled by a non-resident owning body: 5
 - “(iii) is controlled by a group of entities, including non-residents and entities controlled by non-residents, that act together:
 - “(iv) is a person (an **outbound entity**) with an income interest in a CFC or with an interest in a FIF that satisfies the requirements of section EX 35 (Exemption for interest in FIF resident in Australia) or for which the person uses the attributable FIF income method: 10
 - “(v) is a New Zealand entity who controls an outbound entity; and 15
- “(b) if the taxpayer is a foreign-owned bank and the level of equity for the taxpayer’s New Zealand banking group (identified in *sections FE 33 to FE 37*) is less than the acceptable threshold level.” 20
- (2) In section FE 1, in the list of defined terms, insert “non-resident owning body”, “ownership interest”, and “trustee”.
- (3) **Subsection (1)** applies for the 2015–16 and later income years.
- 88 Section FE 2 amended (When this subpart applies) 25**
- (1) After section FE 2(1)(c), insert:
- “(cb) a company that is resident in New Zealand if the company has members who make up a non-resident owning body for the company—
 - “(i) holding total ownership interests in the company of 50% or more, determined as if the members in the non-resident owning body were associated persons: 30
 - “(ii) having control of the company by any other means: 35
 - “(cc) a company that is resident in New Zealand if 1 or more entities, including 1 or more trustees, who each meet the requirements of paragraphs (a) to **(cb), (d), and**

- (db)** and who act together as a group (the **controlling body**)—
- “(i) hold total ownership interests in the company of 50% or more, determined as if the members of the controlling body were a group of associated persons: 5
- “(ii) have control of the company by any other means.”.
- (2) Replace section FE 2(1)(d) with:
- “(d) the trustee of a trust if 50% or more of the value of settlements made on the trust is from settlements made by— 10
- “(i) a non-resident or associated person:
- “(ii) a person who is described in paragraphs (a) to **(cc)** or would be described by this paragraph or **paragraph (db)** if settlements made by the trustee and powers of appointment or removal held by the trustee were ignored: 15
- “(iii) a group of persons who act together as a group, each of whom is described in paragraphs (a) to **(cc)** or would be described by this paragraph or **paragraph (db)** if settlements made by the trustee and powers of appointment or removal held by the trustee were ignored: 20
- “(db) the trustee of a trust if a person described in paragraphs (a) to **(cc)**, or would be described by this paragraph or **paragraph (d)** if settlements made by the trustee and powers of appointment or removal held by the trustee were ignored, has the power to appoint or remove a trustee of the trust other than for the purpose of protecting a security interest.”. 25 30
- (3) After section FE 2(3), insert:
- “Treatment of groups of trustees*
- “(3B) For the purposes of this subpart, the members of a group of trustees in a controlling body referred to in **subsection (1)(cc)** are treated as being associated persons.” 35
- (4) Replace section FE 2(4), other than the heading, with:

- “(4) A resident of New Zealand and a relative who is a non-resident are not associated persons—
- “(a) in relation to a company for the purposes of subsection (1)(b)(ii), if the non-resident does not have a direct or indirect ownership interest in the company: 5
- “(b) in relation to a trust for the purposes of **subsection (1)(d)(i)**, if the non-resident has not made a settlement on the trust.”
- (5) In section FE 2, in the list of defined terms, insert “non-resident owning body” and “ownership interest”. 10
- (6) **Subsections (1) to (4)** apply for the 2015–16 and later income years.
- 89 Section FE 3 amended (Interest apportionment for individuals)**
- (1) In section FE 3(1)(a), replace the words before subparagraph (i) with “the New Zealand group of a natural person other than a trustee is made up of the person and all associated persons who—”. 15
- (2) Replace section FE 3(1)(b) and (c) with:
- “(b) the worldwide group of a natural person is made up of the person and— 20
- “(i) the person’s New Zealand group; and
- “(ii) all non-residents who are associated with the person or a member of the person’s New Zealand group: 25
- “(c) the amount of the total assets of a natural person is calculated excluding the person’s private and domestic assets:
- “(d) the New Zealand group of a trustee is made up of the trustee and all companies controlled by the trustee, other than a company with a New Zealand parent not determined under **section FE 26(4D)**: 30
- “(e) the worldwide group of a trustee is made up of the trustee’s New Zealand group:
- “(f) the New Zealand group of the members of a controlling body referred to in **section FE 2(1)(cc)** is made up of the members of the controlling body and all companies controlled by the members, other than a company with 35

- a New Zealand parent not determined under **section FE 26(4D)**:
- “(g) the worldwide group of the members of a group of trustees in a controlling body is made up of the members’ New Zealand group.” 5
- (3) In section FE 3, in the list of defined terms, insert “non-resident”.
- (4) **Subsections (1) and (2)** apply for the 2015–16 and later income years.
- 90 Section FE 4 amended (Some definitions)** 10
- (1) In section FE 4, insert, in appropriate alphabetical order:
- “**non-resident owning body**, for a company, means a group consisting of 2 or more non-resident members who each hold ownership interests in the company such that,—
- “(a) if the members of the group, or companies (the **subsidiaries**) in which the members have ownership interests, are owed money by the company,— 15
- “(i) the amount of the debt owed to each member is approximately in the same proportion to the member’s direct ownership interests, or ownership interests, in the company: 20
- “(ii) the total for each member of the amount of debt owed to the member and the amounts calculated for the member’s subsidiaries by multiplying the debt owed to each subsidiary by the member’s ownership interest in the subsidiary, is approximately in the same proportion to the member’s direct ownership interests, or ownership interests, in the company: 25
- “(b) the company is not a widely-held company and the company is funded under an arrangement between the members of the group: 30
- “(c) the members exercise their rights under the ownership interests in the way recommended by a person: 35
- “(d) a person acts on behalf of the members to exercise the members’ rights under the ownership interests as a group”.

- (2) In section FE 4, in the list of defined terms, insert “control interest”, “non-resident”, “non-resident owning body”, “ownership interest”, and “widely-held company”.
- (3) **Subsection (1)** applies for the 2015–16 and later income years. 5

91 Section FE 13 amended (Financial arrangements entered into with persons outside group)

- (1) Replace section FE 13(1), other than the heading, with:

- “(1) This section applies when—
- “(a) a person enters into a financial arrangement with another person (**person A**); and 10
- “(b) the person is a natural person, a member of a natural person’s New Zealand group, an excess debt entity, or a member of an entity’s New Zealand group or worldwide group; and 15
- “(c) in the absence of this section, the financial arrangement would be included in the calculation of the debt percentage of the natural person, excess debt entity, New Zealand group, or worldwide group; and
- “(d) the person— 20
- “(i) provides funds to person A under the financial arrangement:
- “(ii) is the trustee of a trust with no trust property other than financial arrangements and has a New Zealand group consisting of the person alone or 25
- the person and other trustees who are members of a controlling body.”

- (2) In section FE 13, in the list of defined terms, insert “trustee”.
- (3) **Subsection (1)** applies for the 2015–16 and later income years. 30

92 Section FE 14 amended (Consolidation of debts and assets)

- (1) After section FE 14(3), insert:

“When entity is part of more than 1 group

- “(3B) If an entity (the **common member**) is, under sections FE 3 and FE 26 to FE 29, a member or part of a member of different New 35

Zealand groups, the debts and assets of the common member are included under this subpart in the total group debt and total group assets of not more than 1 New Zealand group and in no worldwide group other than the worldwide group determined using that New Zealand group. 5

“Determining New Zealand group for common member’s debts and assets

“(3C) For the purposes of **subsection (3B)**, the debts and assets of the common member referred to in **subsection (3B)** are included with the debts and assets of the other members of the New Zealand group— 10

“(a) given by **section FE 26**, in the absence of **section FE 26(2)(bb) and (bc), (3)(d), (4D), and (6)**, for the common member; or

“(b) if **paragraph (a)** does not specify 1 New Zealand group, chosen by the excess debt entity to which the interest apportionment rules are being applied for the common member and the excess debt entity. 15

“Determining worldwide group for common member’s debts and assets 20

“(3D) For the purposes of **subsection (3B)**, the debts and assets of the common member referred to in **subsection (3B)** are included with the debts and assets of the other members of the worldwide group given by sections FE 31 to FE 36B for the common member and the common member’s New Zealand group under **subsection (3C)**.” 25

(2) **Subsection (1)** applies for the 2015–16 and later income years.

93 Section FE 16 amended (Total group assets)

(1) After section FE 16(1), insert: 30

“Investments to which subsection (1B) applies

“(1BA) Subsection (1B) applies to an investment—

“(a) of a person (the **relevant person**) who is—

“(i) the excess debt entity;

“(ii) another member of the New Zealand group; and 35

“(b) that is an investment—

- “(i) in a CFC in which the relevant person has an income interest:
- “(ii) in a FIF in which the relevant person has an interest meeting the requirements of section EX 35 (Exemption for interest for FIF resident in Australia) or for which the relevant person uses the attributable FIF income method: 5
- “(iii) of a trustee or natural person in a CFC through an income interest in the CFC of an associated person, if the associated person would be a member of the New Zealand group but for being an excess debt outbound company or being included in the New Zealand group of an excess debt outbound company: 10
- “(iv) of a trustee or natural person in a FIF, through an income interest of an associated person that meets the requirements of **subparagraph (ii)** for the FIF and the associated person as a relevant person, if the associated person would be a member of the New Zealand group but for being an excess debt outbound company or being included in the New Zealand group of an excess debt outbound company.” 15 20
- (2) In section FE 16(1B), replace the words before paragraph (a) with “The value of the total group assets calculated and measured under this section does not include the value of an investment described in **subsection (1BA)**, except—”. 25
- (3) After section FE 16(1C), insert:
“Changes in value excluded if arising from transfers between associated persons” 30
- “(1D) The value of the total group assets calculated and measured under this section does not include a change in the value of assets arising from a transfer of the assets between a member of the group and an associated person.
“Exception: change equivalent to revaluation or arising from transaction with non-associate” 35
- “(1E) The value of the total group assets may include a change referred to in **subsection (1D)** if—

- “(a) the change would have been permitted under generally accepted accounting practice in the absence of the transfer:
- “(b) the change arises for a company that, with other companies, is restructured on being purchased by a member of the group from a person other than an associated person and includes a change in value for the company’s assets in New Zealand that is a reasonable proportion of the change in value of the company’s total assets.” 5
- (4) In section FE 16, in the list of defined terms, insert “associated person”, “company”, “excess debt outbound company”, “ownership interest”, “total group assets”, and “trustee”. 10
- (5) **Subsections (1) to (3)** apply for the 2015–16 and later income years.

- 94 Section FE 18 amended (Measurement of debts and assets of worldwide group) 15**
- (1) Replace section FE 18(3) with:
“Measurement of amounts
- “(3) Despite subsection (1), an excess debt entity must measure the amount of total group debt by applying section FE 15 as if— 20
 - “(a) section FE 15(1)(a) excluded from the measurement a financial arrangement meeting the requirements of **subsection (3B)**; and
 - “(b) section FE 15(1)(a)(ii) required the financial arrangement to give rise to an amount that would be allowed as a deduction to the natural person or to the entity, or another group member, if the entity or group member were resident in New Zealand. 25
- “Financial arrangements removed from measurement of amounts 30*
- “(3B) A financial arrangement is removed from the measurement of total group debt for an excess debt entity that is not an excess debt outbound company if—
 - “(a) there is a person (the **owner**) who is not a member of the group and— 35
 - “(i) has an ownership interest in a member of the group:

- “(ii) is a settlor of a trust having a trustee who is a member of the group; and
- “(b) the owner, or an associated person other than a member of the group,—
- “(i) is a party to the financial arrangement: 5
- “(ii) guarantees, or provides security for, the performance of obligations under the financial arrangement:
- “(iii) provides, or undertakes to provide, funds for the use of a person who agrees to provide funds under the financial arrangement; and 10
- “(c) for an owner having direct ownership interests in members of the group that for each member do not exceed 10%, the financial arrangement is not traded on a recognised exchange.” 15
- (2) In section FE 18, in the list of defined terms, insert “associated person”, “deduction”, “excess debt outbound company”, “financial arrangement”, “ownership interest”, “recognised exchange”, “settlor”, and “trustee”.
- (3) **Subsection (1)** applies for the 2015–16 and later income 20 years.
- 95 Section FE 25 amended (New Zealand group for excess debt entity that is a company)**
- (1) In section FE 25, heading, insert “**or non-resident owning body**” after “**company**”. 25
- (2) In section FE 25(1), insert “or non-resident owning body” after “company”.
- (3) In section FE 25(2), heading, insert “*or non-resident owning body*” after “*company*”.
- (4) In section FE 25(2), replace the first sentence with “Sections FE 26 to FE 30 apply to an excess debt entity that is a company or a non-resident owning body.” 30
- (5) In section FE 25, in the list of defined terms, insert “ownership interest”.
- (6) **Subsections (2) and (4)** apply for the 2015–16 and later income 35 years.

96 Section FE 26 amended (Identifying New Zealand parent)

- (1) After section FE 26(2)(b), insert:
- “(bb) the entity is resident in New Zealand, and meets the requirements of none of the other paragraphs, and has a non-resident owning body that has a direct ownership interest of 50% or more in the entity and does not have a member (a **tax-return member**)—
- “(i) carrying on business in New Zealand through a fixed establishment in New Zealand:
- “(ii) deriving income, other than non-resident passive income, that has a source in New Zealand and for which relief from New Zealand tax is unavailable under all relevant double tax agreements; or
- “(bc) the entity is a non-resident owning body; or”.
- (2) Replace section FE 26(3)(c) and (d) with:
- “(c) if company A is a non-resident, a non-resident has a direct ownership in company A; and
- “(d) if company A is resident in New Zealand,—
- “(i) a non-resident has a direct ownership interest in company A and ownership interests of 50% or more in the entity and company A; or
- “(ii) the requirements of **subparagraph (i)** are not met and a group of non-residents is a non-resident owning body for the entity and for company A, and has ownership interests of 50% or more in the entity and company A, and no such non-resident owning body for the entity and for company A has a tax-return member; and”.
- (3) In section FE 26(4)(c), replace “a non-resident” with “a non-resident, or non-resident owning body,”.
- (4) After section FE 26(4B), insert:
- “Non-resident owning body*
- “(4C) If subsections (2) to (4B) do not apply and the entity is resident in New Zealand and has a non-resident owning body, the non-resident owning body is the entity’s New Zealand parent if the non-resident owning body has—
- “(a) a direct ownership interest of 50% or more in the entity; and

- “(b) a tax-return member.
- “*Controlling body*
- “(4D) If an excess debt entity meets the requirements of **section FE 2(1)(cc)** and the New Zealand parent of the entity cannot be determined in the absence of this subsection and subsection (6), the New Zealand parent of the entity is the members of the controlling body referred to in **section FE 2(1)(cc)**.” 5
- (5) In section FE 26(6), replace “subsection (3), (4), or (4B)” with “1 of subsections (3) to **(4D)**”.
- (6) Replace section FE 26(7) with: 10
 “*Determining ownership interests in subsections (3) to (4C)*
- “(7) In subsections (3) to **(4C)**, ownership interests are determined under sections FE 38 to FE 41, but for the purposes of identifying a New Zealand parent,—
- “(a) the ownership interests of an associated person are ignored, except under **paragraph (b)**: 15
- “(b) a group of trustees who act together as a group is treated as if it were a group of trustees who were associated persons.”
- (7) In section FE 26, in the list of defined terms, insert “income”, “ownership interest”, and “non-resident owning body”. 20
- (8) **Subsections (1) to (6)** apply for the 2015–16 and later income years.
- 97 New section FE 31D inserted (Worldwide group for entity with New Zealand parent determined by non-resident owning body)** 25
- (1) After section FE 31C, insert:
- “FE 31D Worldwide group for entity with New Zealand parent determined by non-resident owning body**
- A worldwide group for an entity that would not have a New Zealand parent under **section FE 26(2) and (3)** in the absence of **section FE 26(2)(bb), (3)(d)(ii), and (4C)**, and for a company in which such an entity has an ownership interest of more than 50%, is made up of— 30
- “(a) the entity; and 35
- “(b) the entity’s New Zealand group.
- “Defined in this Act: company, ownership interest”.

- (2) **Subsection (1)** applies for the 2015–16 and later income years.

98 New defined term inserted in lists for some sections in subpart FE

- (1) In the lists of defined terms in the sections referred to in **subsection (2)**, insert “ownership interest”. 5
- (2) The sections for the purposes of **subsection (1)** are sections FE 27, FE 28, FE 29, FE 30, FE 31, FE 31C, FE 32, FE 34, FE 38, FE 39, FE 40, and FE 41.

99 Section FM 5 amended (Liability when company leaves consolidated group) 10

- (1) In section FM 5(1), replace “In an income year in which a company leaves a consolidated group” with “If a company leaves a consolidated group”.
- (2) **Subsection (1)** applies for the 2008–09 and later income years. 15

100 Section GB 34 amended (ICA arrangements for carrying amounts forward)

- (1) In section GB 34(1),—
- (a) in paragraph (b), replace “section OB 41 (ICA debit for loss of shareholder continuity)” with “section OA 8(2), (7), and (8) (Shareholder continuity requirements for memorandum accounts)”; 20
- (b) in paragraph (c), replace “section OB 41” with “section OA 8(2), (7), and (8)”. 25
- (2) **Subsection (1)** applies for the 2008–09 and later income years.

101 Section HA 31 amended (Revocation of directors’ elections)

- (1) Replace section HA 31(2), other than the heading, with: 30
- “(2) The revocation of an election takes effect at the later of—
- “(a) the start of the income year that the board nominates in the notice of registration; or

- “(b) the start of the income year in which the notice of revocation is received by the Commissioner.”
- (2) **Subsection (1)** applies for the 2008–09 and later income years.
- 102 Section HC 27 amended (Who is a settlor?)** 5
In section HC 27(3B)(b), replace “section CE 1(d)” with “section CE 1(1)(d)”.
- 103 Section HC 30 amended (Treatment of foreign trusts when settlor becomes resident)**
In section HC 30(4)(a), replace “date of the election” with “election expiry date”. 10
- 104 Section HC 31 amended (When existing trusts come into tax base)**
- (1) Repeal HC 31(1)(b).
- (2) After section HC 31(1), insert: 15
“*When this section does not apply*”
- “(1B) This section does not apply if the relevant change in circumstances is a charitable trust losing its charitable status. Instead, see **sections HR 11 and HR 12** (which relate to ceased charities).” 20
- 105 Section HD 14 amended (Companies issuing debentures)**
- (1) In section HD 14(2)(a), delete “or substituting debenture”.
- (2) **Subsection (1)** applies for the 2015–16 and later income years.
- 106 Section HM 1 amended (Outline of subpart and relationship with other Parts)** 25
In section HM 1(2)(i), replace “DB 54 (Treatment of credits for investment fees)” with “DB 54 (No deductions for fees relating to interests in multi-rate PIEs)”.
- 107 New heading and section HR 11 inserted** 30
After section HR 10, insert:

“Ceased charities: cessation of tax-exempt status

“HR 11 Ceased charities: initial tax base

“When this section applies

- “(1) This section applies on and after the day that a person ceases to meet the requirements to derive exempt income under section CW 41 or CW 42 (which relate to charities’ income) (the **date of cessation**). 5

“Establishing cost of property

- “(2) For the purposes of this Act, for the person, the cost of premises, plant, equipment, and trading stock is the value that would be used at the date of cessation under this Act if section CW 41 or CW 42 never applied. 10

“Consideration for financial arrangements

- “(3) For the purposes of this Act, the consideration for a financial arrangement of the person is the value calculated using the following formula: 15

$$\text{consideration paid to person} + \text{expenditure} - \text{consideration paid by person} - \text{income.}$$

“Definition of items in formula

- “(4) In the formula,— 20
- “(a) **consideration paid to person** is the consideration that is paid to the person before the date of cessation: 20
 - “(b) **expenditure** is the expenditure that would have been incurred under the financial arrangements rules before the date of cessation:
 - “(c) **consideration paid by person** is the consideration that is paid by the person before the date of cessation: 25
 - “(d) **income** is the income that would have been derived under the financial arrangements rules before the date of cessation.

“Prepayments

- “(5) For the purposes of this Act, the person is treated as having the unexpired portion of expenditure under section EA 3 (Prepayments) and the unpaid amount under section EA 4 (Deferred payment of employment income) that the person would have 30

had if section CW 41 or CW 42 never applied. The unexpired portion is available for deduction under sections DB 50 and DB 51 (which relate to deductions) in the income year that contains the date of cessation.

“Defined in this Act: charitable purposes, consideration, financial arrangement, financial arrangements rules, income, tax charity, trading stock”.

108 New section HR 12 inserted (Ceased charities: taxation of tax-exempt accumulation)

(1) After **section HR 11**, insert:

“HR 12 Ceased charities: taxation of tax-exempt accumulation 10

“When this section applies

“(1) This section applies on and after the day (the **end date**) that a person is removed from the register of charitable entities under the Charities Act 2005.

“Taxation of tax-exempt accumulation 15

“(2) The person has an amount of income, derived on the day that is a year after the end date, equal to the greater of zero or the value of net assets that the person held on the end date, but ignoring:

“(a) assets distributed for charitable purposes in the year after the end date; and

“(b) assets, other than money, gifted or left to the person when the person was deriving exempt income under section CW 41 or CW 42.

“Meaning of net assets 25

“(3) In this section, **net assets** means the assets of the person held on the end date, less the liabilities of the person on the end date.

“Defined in this Act: exempt income, income, net assets”.

(2) **Subsection (1)** applies— 30

(a) on and after 1 April 2015, unless **paragraph (b)** applies:

(b) on and after 14 April 2014, if the person is removed from the register of charitable entities before 1 April 2015 because section 32(1)(f) of the Charities Act 2005 applies. 35

109 Section IW 1 amended (Shortfall penalties)

In section IW 1(3), replace “the penalty imposed on the company” with “the penalty imposed on the company or on another company in the group”.

110 Section LD 3 amended (Meaning of charitable or other public benefit gift) 5

(1) After section LD 3(2)(a), insert:

“(ab) an entity registered on the register of charitable entities under the Charities Act 2005:”.

(2) After **section LD 3(2)(ab)**, insert: 10

“(ac) a community housing entity, if the gift is made in a tax year that the entity derives exempt income under **section CW 42B** (Community housing trusts and companies):”.

(3) In section LD 3, in the list of defined terms, insert “community housing entity”. 15

(4) **Subsection (1)** applies for a person for the first income year and subsequent income years for which they file a return of income on the basis that **subsection (1)** applies for the relevant income year. 20

111 Section LJ 3 amended (Meaning of foreign income tax)

(1) In section LJ 3, replace “foreign country” with “foreign country or territory”.

(2) **Subsection (1)** applies for the 2008–09 and later income years. 25

112 Section LJ 5 amended (Calculation of New Zealand tax)

(1) In section LJ 5(3)(c), replace “section BD 4(1) to (3)” with “section BC 4(1) to (3)”.

(2) **Subsection (1)** applies for the 2008–09 and later income years. 30

113 Subpart LZ amended (Terminating provisions)

In subpart LZ, delete the cross-headings “*Underlying foreign tax credits*” and “*Credits for certain non-resident investment companies*”.

- 114 Section MB 1 amended (Adjustments for calculation of family scheme income)**
 In section MB 1(5C), replace “depreciation loss of a business that under section MB 4” with “depreciation loss of a business or investment activity that under section MB 3”. 5
- 115 Section MB 7B amended (Family scheme income from employment benefits: employees not controlling shareholders)**
 In section MB 7B(2),—
 (a) replace “a fringe benefit” with “a benefit”; and 10
 (b) replace “such fringe benefits” with “such benefits”.
- 116 Section MB 13 amended (Family scheme income from other payments)**
 (1) After section MB 13(2)(b), insert:
 “(bb) a repayment of a loan or of a mistaken or misdirected payment: 15
 “(bc) a refund of a payment, including a refund of overpaid tax, student loan payments, or child support payments:
 “(bd) a payment, other than a payment by a trustee, from the person’s ownership of an investment activity or business, and the payment— 20
 “(i) is received on capital account; and
 “(ii) is not a loan:
 “(be) a payment from a deceased’s estate:
 “(bf) money won from **gambling** or from a **New Zealand lottery**, as those terms are used in the Gambling Act 2003:”. 25
- (2) In section MB 13, in the list of defined terms, insert “trustee”.
 (3) **Subsection (1)** applies for the 2015–16 and later income years. 30
- 117 Section RD 5 amended (Salary or wages)**
 In section RD 5(8), replace “section CE 1(1B) (Amounts derived in connection with employment)” with “**section CE 1(1)(bb) or CE 1B** (which relate to accommodation provided in connection with employment)”. 35

118 Section RD 6 amended (Certain benefits and payments)

In section RD 6(1)(a), replace “an accommodation benefit treated as income under section CE 1(1B) (Amounts derived in connection with employment)” with “a benefit treated as income under **section CE 1(1)(bb) or CE 1B** (which relate to accommodation provided in connection with employment)”. 5

119 Section RE 2 amended (Resident passive income)

(1) In section RE 2(3)(h), replace “1994.” with “1994:”, and after section RE 2(3)(h), insert:

“(i) interest arising because section EI 2 (Interest from inflation-indexed instruments) applies to an inflation-indexed instrument.” 10

(2) In section RE 2, in the list of defined terms, insert “inflation-indexed instrument”.

120 Section RE 14 amended (Non-cash dividends other than certain share issues) 15

(1) Replace the formula in section RE 14(2) with:

$$\frac{\text{tax rate} \times \text{dividend paid}}{(1 - \text{tax rate})} - \text{tax paid or credit attached.}$$

(2) **Subsection (1)** applies for the 2008–09 and later income years.

121 New section RE 18B (Capital value increase under inflation-indexed instruments: RWT cap) 20

After section RE 18, insert:

“RE 18B Capital value increase under inflation-indexed instruments: RWT cap

“(1) For an interest payment under an inflation-indexed instrument, the payer is obliged, in addition to withholding under section RE 12, to withhold and pay to the Commissioner the lesser of the following amounts of tax: 25

“(a) the net amount of the interest payment (the **current coupon payment**) remaining after the withholding of RWT under section RE 12: 30

“(b) the amount given by the formula in **subsection (2)**.

“Formula for subsection (1)(b)

“(2) The formula for the purposes of **subsection (1)(b)** is:

CV increase × tax rate.

“Definition of items in formula in subsection (2)

“(3) In the formula in **subsection (2)**,—

“(a) **CV increase** is the amount calculated under the formula in **subsection (4)**, if it is positive: 5

“(b) **tax rate** is the basic rate set out in schedule 1, part D, clause 3 or 4 (Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits).

“Formula for subsection (3)(a)

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“(4) The formula for the purposes of **subsection (3)(a)** is:

CV current coupon payment – CV previous coupon payment.

“Definition of items in formula in subsection (4)

“(5) In the formula in **subsection (4)**,—

“(a) **CV current coupon payment** is an amount that is or will be payable for the money lent under the instrument, to the extent to which the amount has accrued at the time of the current coupon payment and the amount is determined by a fixed relationship to 1 or more indices of general price inflation in New Zealand: 15

“(b) **CV previous coupon payment** is— 20

“(i) an amount that is or will be payable for the money lent under the instrument, to the extent to which the amount has accrued at the time of the interest payment before the current coupon payment and the amount is determined by a fixed relationship to 1 or more indices of general price inflation in New Zealand; or 25

“(ii) the face value of the instrument, if there has been no interest payment before the current coupon payment. 30

“Defined in this Act: amount, inflation-indexed instrument, interest, money lent, pay”.

122 Section RF 2 amended (Non-resident passive income)

- (1) After section RF 2(1), insert:
“*Inclusion: Capital value increase under inflation-indexed instruments*”
“(1B) **Non-resident passive income** includes an amount, arising at 5
the time of a relevant coupon payment (the **current coupon payment**) equal to the amount given by the formula in **section RE 18B(4)** (Capital value increase under inflation-indexed instruments: RWT cap) in relation to the current coupon payment, if that current coupon payment is— 10
“(a) non-resident passive income under subsection (1); and
“(b) in relation to an inflation-indexed instrument.”
- (2) After section RF 2(2)(a), insert:
“(b) interest arising because section EI 2 (Interest from inflation-indexed instruments) applies to an inflation-indexed instrument.” 15
- (3) In section RF 2, in the list of defined terms, insert “inflation-indexed instrument”.

123 Section YA 1 amended (Definitions)

- (1) This section amends section YA 1. 20
- (2) Insert, in appropriate alphabetical order:
“**12 month ASAP** means an agreement for the sale and purchase of property or services for which:
“(a) an amount paid or payable for property or services is pre-paid (the **prepayment**) by reference to the rights 25
date, and the prepayment—
“(i) is paid 12 months or more before the rights date;
and
“(ii) is not a payment for progress made on either 30
making or constructing property, or providing services:
“(b) an amount paid or payable for property or services is delayed (the **deferral**) and the deferral is paid 12 months or more after the rights date”.
- (3) Replace the definition of **accommodation** with: 35
“**accommodation**, in **sections CE 1B, CW 16B to CW 16F, CW 17CB, CW 25B, CX 28, CZ 29, and CZ 30** (which relate

to accommodation provided in connection with employment) includes the use of a house or living premises, or the use of part of a house or living premises, whether permanent or temporary”.

- (4) Insert, in appropriate alphabetical order: 5
 “**Canterbury earthquakes** is defined in **section CZ 29(5)** (Accommodation expenditure: Canterbury earthquake relief for the purposes of that section”.
- (5) In the definition of **capital contribution**, in paragraph (a)(iii), replace “CC 1B” with “**CC 1B** (Consideration relating to grant, renewal, extension, or transfer of leasehold estate or licence)” 10
- (6) In the definition of **charitable organisation**, after paragraph (a), insert:
 “(ab) includes a person who has been removed from the register of charitable entities (the **register**) under the Charities Act 2005, but only for the period starting on the day the person is registered on the register and ending on the earlier of the last day of the following periods: 15
 “(i) the quarter, or income year if section RD 60 (Close company option) applies, in which the person fails to act in accordance with the relevant constitutional documents or other information supplied to the Commissioner or the Charities Commission or Board at the time of applying for charitable status: 20
 “(ii) the quarter, or income year if section RD 60 applies, in which the day of final decision falls; and” 25
- (7) Insert, in appropriate alphabetical order:
 “**community housing entity** is defined in **section CW 42B** (Community housing trusts and companies)” 30
- (8) Insert, in appropriate alphabetical order:
 “**day of final decision** means the later of—
 “(a) the day the relevant person is removed from the register of charitable entities under the Charities Act 2005: 35
 “(b) the day on which all reasonably contemplated administrative appeals and Court proceedings, including appeal

rights, are finalised or exhausted in relation to the person's charitable status".

- (9) Insert, in appropriate alphabetical order:
 “**distant workplace** is defined in **section CW 16B(4)** (Accommodation expenditure: out-of-town secondments and projects) for the purposes of that section, the definition of **distant workplace**, and **sections CW 16C, CW 16E, CW 16F, CW 17CB, and CZ 29** (which relate to time limits for accommodation expenditure and the application of the rules to new employees)”.
- (10) In the definition of **distinctive work clothing**, replace “that section” with “that section and **section CW 17CC** (Payment for distinctive work clothing)”.
- (11) In the definition of **employee**, in paragraph (b), replace “, CW 17B, CW 17C, and CW 18” with “and CW 17B to **CW 18B**”.
- (12) In the definition of **employer**, after paragraph (d), insert:
 “(db) is defined in **section CW 16B(4)** (Accommodation expenditure: out-of-town secondments and projects) for the purposes of that section and **sections CW 16C to CW 16F, CZ 29, and CZ 30** (which relate to accommodation expenditure):”.
- (13) In the definition of **excluded fixed rate security**, delete “substituting debenture or”.
- (14) Insert, in appropriate alphabetical order:
 “**financial liability** has the same meaning as in NZIAS 32”.
- (15) Insert, in appropriate alphabetical order:
 “**foreign account information-sharing agreement** means a double tax agreement that facilitates the exchange of information named *Agreement between the Government of the United States of America and the Government of New Zealand to Improve International Tax Compliance and to Implement FATCA*”.
- (16) Insert, in appropriate alphabetical order:
 “**foreign ASAP** means a financial arrangement that is an agreement for the sale and purchase of property or services and the consideration is in a foreign currency”.

- (17) Insert, in appropriate alphabetical order:
 “**FX hedge** means a financial arrangement that is a hedge of foreign exchange risk”.
- (18) Insert, in appropriate alphabetical order:
 “**greater Christchurch** is defined in **section CZ 29(5)** (Accommodation expenditure: Canterbury earthquake relief) for the purposes of that section”.
- (19) In the definition of **hire purchase agreement**, replace paragraph (a)(i) with:
 “(i) an agreement under which goods are let or hired with an option to purchase, however the agreement describes the payments:”.
- (20) In the definition of **hire purchase agreement**, in paragraph (d), replace “(a) or (b)” with “(a)(i) or (a)(ii)”.
- (21) Insert, in appropriate alphabetical order:
 “**IFRS designated FX hedge** means a FX hedge that is designated, under IFRS rules, as a hedge for a foreign ASAP for which **section EW 32(2B)** (Consideration for agreement for sale and purchase (ASAP) of property or services, hire purchase agreement, specified option, or finance lease) applies”.
- (22) Insert, in appropriate alphabetical order:
 “**inflation-indexed instrument** means an instrument under which a person lends money and an amount payable for the money lent is determined by a fixed relationship to 1 or more indices of general price inflation in New Zealand”.
- (23) In the definition of **land provisions**, after paragraph (b), insert:
 “(bba) **section CC 1B** (Consideration relating to grant, renewal, extension, or transfer of leasehold estate or licence):
 “(bbab) **section EE 67** (Other definitions):”.
- (24) In the definition of **lease**, in paragraph (d), replace subparagraph (v) with:
 “(v) includes an arrangement for the leasing of a personal property lease asset to the lessee or an associated person under 2 or more consecutive or successive leases, treated for this purpose as 1 lease, if the entitlement of the lessee or associated

- person to each consecutive or successive lease is, when the lessee enters the arrangement, essentially unconditional or conditional on the payment of predetermined fees; and”.
- (25) In the definition of **lease**, replace paragraph (f) with: 5
- “(f) in the financial arrangements rules, means—
- “*(i)* a lease as described in paragraph (d):
- “*(ii)* an arrangement relating to property that is land, livestock, or bloodstock and that would be a lease as described in paragraph (d) if the property were 10
- a personal property lease asset:
- “*(iii)* an occupation right agreement as defined in the Retirement Villages Act 2003”.
- (26) Insert, in appropriate alphabetical order:
- “**minister of religion** is defined in **section CW 25B(6)** (Accommodation provided to ministers of religion) for the purposes of that section” 15
- (27) In the definition of **net asset balance**, replace “DG 11(7)” with “DG 11(7) (Interest expenditure: close companies)”.
- (28) Insert, in appropriate alphabetical order: 20
- “**net assets** is defined in **section HR 12** (Ceased charities: taxation of tax-exempt accumulation) for the purposes of that section.”
- (29) Insert, in appropriate alphabetical order:
- “**non-IFRS designated FX hedge** means a forward contract 25
- for the sale or purchase of foreign currency—
- “*(a)* for which a person uses *Determination G14B: forward contracts for foreign exchange and commodities: and expected value approach* under the financial arrangements rules; and 30
- “*(b)* entered into by the person after the start of the first income year for which an election described in **section EW 33B(2)(b)** (Foreign ASAPs: designated FX hedges) applies; and
- “*(c)* entered into by the person for the sole purpose of hedging 35
- the foreign exchange risk of a foreign ASAP for which **section EW 32(2C) or (2D)** applies, and the person enters into the foreign ASAP after the start of

- the first income year for which an election described in **section EW 33B(2)(b)** applies”.
- (30) Insert, in appropriate alphabetical order:
 “**non-resident owning body** is defined in section FE 4 (Some definitions).” 5
- (31) Insert, in appropriate alphabetical order:
 “**out-of-town secondment** is defined in **section CW 16B(4)** (Accommodation expenditure: out-of-town secondments and projects) for the purposes of that section and **sections CW 16C, CW 16E, and CZ 29** (which relate to time limits for accommodation expenditure and the application of the rules to new employees)” 10
- (32) Replace the definition of **ownership interest** with:
 “**ownership interest**, in a company,—
 “(a) means— 15
 “(i) a voting interest in the company determined by applying section YC 4(2) (Look-through rule for corporate shareholders):
 “(ii) a market value interest in the company determined by applying section YC 4(5): 20
 “(b) for the purposes of subpart FE (Interest apportionment on thin capitalisation), is measured under sections FE 38 to FE 41 (which provide for the measurement of ownership interests in companies)”.
- (33) Insert, in appropriate alphabetical order: 25
 “**period of continuous work** is defined in **section CW 16B(4)** (Accommodation expenditure: out-of-town secondments and projects) for the purposes of that section and **sections CW 16C, CW 16D, and CZ 29** (which relate to certain employment and accommodation expenditure)” 30
- (34) Insert, in appropriate alphabetical order:
 “**project of limited duration** is defined in **section CW 16B(4)** (Accommodation expenditure: out-of-town secondments and projects) for the purposes of that section and **sections CW 16C and CZ 29** (which relate to certain accommodation expenditure and the time limits applying to that expenditure)” 35
- (35) Insert, in appropriate alphabetical order:

- “**real property** includes a permit as defined in the Crown Minerals Act 1991”.
- (36) Insert, in appropriate alphabetical order:
 “**rebuilding** is defined in **section CZ 29(5)** (Accommodation expenditure: Canterbury earthquake relief) for the purposes of that section” 5
- (37) Replace the definition of **recognised seasonal employment scheme** with:
 “**recognised seasonal employment scheme** means the recognised seasonal employer scheme described in immigration instructions certified under section 22(1) of the Immigration Act 2009” 10
- (38) Insert, in appropriate alphabetical order:
 “**recovery** is defined in **section CZ 29(5)** (Accommodation expenditure: Canterbury earthquake relief) for the purposes of that section” 15
- (39) Insert, in appropriate alphabetical order:
 “**rights date** means, for an agreement for the sale and purchase of property or services, the date on which the first right in the property is transferred or the services are provided” 20
- (40) Delete the definition of **substituting debenture**.
- (41) Insert, in appropriate alphabetical order:
 “**workplace** is defined in **section CW 16B(4)** (Accommodation expenditure: out-of-town secondments and projects) for the purposes of that section and **sections CW 16C to CW 16F, CW 17CB, and CZ 29** (which relate to certain accommodation and employment expenditure)” 25
- (42) **Subsection (19)** applies for the 2008–09 and later income years. However, **subsection (19)** does not apply to a person in relation to a tax position taken by them— 30
- (a) in the period from 1 April 2008 to the date of introduction of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Bill; and
 - (b) relating to the application of the Goods and Services Tax Act 1985 to hire purchase agreements; and 35
 - (c) relying on the provisions of the definition of **hire purchase agreement** as it was before the amendment made by **subsection (19)**.

- (43) **Subsections (2), (21), (29), and (39)** apply for a financial arrangement entered into by a person—
- (a) in the 2014–15 income year and later income years, unless **paragraph (b)** applies:
 - (b) in an income year (the **first income year**) and later income years, if the person files a return of income for the first income year on the basis that this section applies to a financial arrangement entered into in the first income year, and—
 - (i) the first income year is the 2011–12, 2012–13, 2013–14, or 2014–15 income year; and
 - (ii) the person uses IFRSs to prepare financial statements or to report for financial arrangements for the first income year.
- (44) **Subsections (6) and (8)** apply for a person for the first income year and subsequent income years for which they file a return of income on the basis that these subsections apply for the relevant income year.
- (45) **Subsection (25)** applies, for a person and an occupation right agreement, to an occupation right agreement entered by the person on or after 1 April 2015.
- (46) **Subsections (3), (10), (13), (30), (32), and (40)** apply for the 2015–16 and later income years.
- (47) **Subsections (4), (18), (36), and (38)** apply for a person’s income year that includes 4 September 2010 and for all later income years.

124 Schedule 14 amended (Depreciable intangible property)

- (1) Replace schedule 14, item 10, with:

- 10 a consent granted under the Resource Management Act 1991 to do something that otherwise would contravene sections 12 to 15B of that Act (other than a consent for a reclamation), being a consent granted in or after—
- (a) the 1996–97 tax year, if the consent relates to sections 12 to 15 of that Act; or
- (b) the 2014–15 income year, if the consent relates to sections 15A and 15B of that Act.
- (2) **Subsection (1)** applies for the 2014–15 and later income years.
- 125 Schedule 20 amended (Expenditure on farming, horticultural, aquacultural, and forestry improvements)**
- (1) In schedule 20, parts A to G, column 3,— 5
- (a) replace “6” with “5” in each place where it appears:
- (b) replace “12” with “10” in each place where it appears:
- (c) replace “24” with “20” in each place where it appears.
- (2) **Subsection (1)** applies for an improvement made on or after the first day of the 2013–14 income year. 10
- 126 Schedule 32 amended (Recipients of charitable or other public benefit gifts)**
- (1) In schedule 32, insert, in appropriate alphabetical order, “Everyhome Global Concern Incorporated” and “Namibian Charitable Trust”. 15
- (2) **Subsection (1)** applies for the 2015–16 and later income years.
- Part 3**
- Amendments to other enactments**
- Tax Administration Act 1994* 20
- 127 Tax Administration Act 1994 amended**
Sections 128 to 159 amend the Tax Administration Act 1994.

128 Section 3 amended (Interpretation)

- (1) In section 3(1), replace the definition of **competent authority** with:
 “**competent authority**—
 “(a) has the meaning provided in a double tax agreement or 5
 in a tax recovery agreement; and
 “(b) includes the Commissioner”.
- (2) In section 3(1), insert, in appropriate alphabetical order:
 “**foreign account information-sharing agreement** has the
 same meaning as in section YA 1 of the Income Tax Act 2007”. 10
- (3) In section 3(1), insert, in appropriate alphabetical order:
 “**inflation-indexed instrument** has the same meaning as in
 section YA 1 of the Income Tax Act 2007”.
- (4) In section 3(1), insert, in appropriate alphabetical order:
 “**relief company** means, in relation to a taxpayer, a company 15
 in which—
 “(a) the taxpayer owns 50% or more of the shares:
 “(b) the taxpayer and 1 other person jointly own 50% or
 more of the shares:
 “(c) the taxpayer is a shareholder-employee, and the com- 20
 pany satisfies paragraphs (a) and (c) of the definition of
close company in section YA 1 of the Income Tax Act
 2007”.
- (5) In section 3(1), replace the definition of **tax return** with:
 “**tax return**— 25
 “(a) means a form or document that a taxpayer is required
 to complete and return to the Commissioner, whether
 in electronic or written form and whether provided in
 relation to a period or not; and
 “(b) includes a tax form issued by another taxpayer that the 30
 taxpayer provides to the Commissioner; but
 “(c) does not include the prescribed form or electronic for-
 mat under **section 185K**”.

129 Section 22 amended (Keeping of business and other records) 35

After section 22(2)(lb), insert:

- “(lc) the person’s compliance with **Part 11B**; and”.

130 Section 25 amended (RWT withholding certificates)

In section 25(6)(d)(iii), replace “rate.” with “rate; and”, and after section 25(6)(d), insert:

- “(e) if, for an inflation-indexed instrument, the recipient derives an interest payment for which RWT is capped by the application of **section RE 18B(1)(a)** of the Income Tax Act 2007,—
 - “(i) a statement to that effect; and
 - “(ii) a statement that the recipient may be required to file a return of income.”

131 Section 33A amended (Annual returns of income not required)

After section 33A(2)(h), insert:

- “(i) for an inflation-indexed instrument, derives an interest payment for which RWT is capped by the application of **section RE 18B(1)(a)** of the Income Tax Act 2007.”

132 Section 33AA amended (Exceptions to requirement for return of income)

After section 33AA(1)(l), insert:

- “(lb) for an inflation-indexed instrument, derives no interest payment for which RWT is capped by the application of **section RE 18B(1)(a)** of the Income Tax Act 2007; and”.

133 Section 51 amended (RWT withholding reconciliation statements)

After section 51(2)(f), insert:

- “(g) if, for an inflation-indexed instrument, the recipient derives an interest payment for which RWT is capped by the application of **section RE 18B(1)(a)** of the Income Tax Act 2007, a statement to that effect; and”.

134 New heading and section 91AAT inserted

After section 91AAS, insert:

“Determinations relating to certain employment expenditure

“91AAT Determinations relating to certain employment expenditure

- “**(1)** The Commissioner may determine the extent to which, on average, an amount that an employer pays in connection with an employee’s employment or service as described in **section CW 17(2C) and (3)** of the Income Tax Act 2007 is exempt income of a member of the relevant group or class of employees to which the employee belongs. 5 10
- “**(2)** For the purposes of **subsection (1)**, the Commissioner may set a percentage that represents the extent to which the payment for a particular type of expense is taxable, and may do so by making a reasonable estimate of the amount that is taxable. This subsection does not apply to expenditure incurred under **sections CW 16B to CW 16F, CW 17B, CW 17C, CW 17CB, CW 17CC,** and CW 18 of that Act. 15
- “**(3)** The determination may set out the income year or income years for which it is to apply, but may not apply for income years before the 2014–15 income year. 20
- “**(4)** A determination made under this section is not binding on the employer or the employee.
- “**(5)** In making the determination, the Commissioner must have regard to the size of the group or class of employees and the generality of the issue. 25
- “**(6)** The determination may provide for the extension, limitation, variation, cancellation, or revocation of an earlier determination. The Commissioner must give at least 30 days notice of the implementation date of any change to the determination.
- “**(7)** Within 30 days of issuing or changing a determination under this section, the Commissioner must publish a notice in a publication chosen by the Commissioner that— 30
- “**(a)** gives notice that the determination has been issued or changed, as applicable; and
- “**(b)** states where copies of the determination can be obtained.” 35

- 135 Section 93 amended (Assessment of FBT)**
In section 93(2)(b), replace “sections 109, 111, and 113” with “sections 111 and 113”.
- 136 Section 94 amended (Assessment of qualifying company election tax and additional tax)** 5
(1) In section 94(2)(b), replace “sections 109, 111, and 113” with “sections 111 and 113”.
(2) In section 94(2)(c), replace “**income tax**” with “**amount assessed**”.
- 137 Section 95 amended (Assessment of withdrawal tax)** 10
In section 95(2)(b), replace “sections 109, 111, and 113” with “sections 111 and 113”.
- 138 Section 97 amended (Assessment of imputation penalty tax)**
In section 97(3)(a), replace “those sections” with “sections 111 and 113”. 15
- 139 Section 97B amended (Assessment of Maori authority distribution penalty tax)**
In section 97B(3)(a), replace “those sections” with “sections 111 and 113”. 20
- 140 Section 98 amended (Assessment of ESCT)**
In section 98(2)(a), replace “those sections” with “sections 111 and 113”.
- 141 Section 98B amended (Assessment of retirement scheme contribution withholding tax)** 25
In section 98B(3)(a), replace “those sections” with “sections 111 and 113”.
- 142 Section 99 amended (Assessment of RWT)**
(1) In section 99(2)(a), replace “**income tax for any year**” with “**amount assessed**”. 30

- (2) In section 99(2)(b), replace “sections 109, 111, and 113” with “sections 111 and 113”.

143 Section 100 amended (Assessment of NRWT)

- In section 100(3)(b), replace “sections 109, 111, and 113” with “sections 111 and 113”.

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144 Section 101 amended (Assessment of further income tax)

- In section 101(2)(a), replace “those sections” with “sections 111 and 113”.

145 Section 101B amended (Assessment of imputation additional tax)

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- In section 101B(2)(a), replace “those sections” with “sections 111 and 113”.

146 Section 141B amended (Unacceptable tax position)

- (1) In section 141B(2), replace “income tax” with “core income tax”.

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- (2) After section 141B(9), insert:

“(10) In this section **core income tax** means **income tax** as defined in section YA 1 of the Income Tax Act 2007, but ignoring the effect of section RA 2 of that Act.”

- (3) **Subsections (1) and (2)** apply for tax positions taken on or after 1 April 2008.

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147 Section 141EB amended (Promoter penalties)

- (1) In section 141EB(3),—

- (a) replace “shareholders of a loss-attributing qualifying company” with “owners of an effective look-through interest for a look-through company (the **LTC**)”; and
(b) replace “the loss-attributing qualifying company” with “the **LTC**”.

25

- (2) **Subsection (1)** applies for income years starting on or after 1 April 2011.

30

148 Section 141FD repealed (Shareholders of loss-attributing qualifying companies)

- (1) Repeal section 141FD.
- (2) **Subsection (1)** applies for income years starting on or after 1 April 2011.

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149 Section 142A amended (New due date for payment of tax that is not a penalty)

- (1) In section 142A(1), replace the words before paragraph (a) with “This section applies if the Commissioner makes for a taxpayer, other than by an assessment (an **electronic default assessment**) made in the absence of a return and to which section 106(2) applies,—”.
- (2) Replace section 142A(1)(a) with:
 - “(a) an assessment (the **new assessment**) of tax for the taxpayer, if the taxpayer has not been assessed earlier for the tax, except by an electronic default assessment:”.
- (3) Insert in section 142A(1)(b), before subparagraph (i),—
 - “(ia) to which **paragraph (a)** does not apply; and”.
- (4) Repeal section 142A(3)(ab).

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150 Section 143 amended (Absolute liability offences)

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- (1) After section 143(1)(a), insert:
 - “(ab) fails to register with a foreign government agency as required by **Part 11B**; or”.
- (2) After section 143(2), insert:
 - “(2B) No person may be convicted of an offence against **subsection (1)(ab)** if the relevant failure to register occurred through no fault of the person.”

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151 Section 143A amended (Knowledge offences)

After section 143A(1)(a), insert:

- “(ab) knowingly fails to register with a foreign government agency as required by **Part 11B**; or”.

30

152 Section 173B amended (Definitions)In section 173B, delete the definition of **competent authority**.

153 Section 176 amended (Recovery of tax by Commissioner)

After section 176(2), insert:

- “(3) Despite subsection (2)(b) the Commissioner may take steps preparatory to, or necessary to, bankrupt the taxpayer, including debt proceedings in the District Court or the High Court.” 5

154 Section 177 amended (Taxpayer may apply for financial relief)

- (1) In section 177(1)(a), replace “outstanding tax would place the taxpayer” with “the taxpayer’s outstanding tax or a relief company’s outstanding tax would place the taxpayer, being a natural person,”. 10

- (2) Replace section 177(1B) with:

- “(1B) For the purposes of this section, the Commissioner must consider the taxpayer’s financial position at the date on which the application for financial relief is made.” 15

155 Section 177A replaced (Definition of serious hardship)

Replace section 177A with:

“177A How to apply serious hardship provisions

- “(1) **Subsections (2), (3), and (4)** provide the rules for the Commissioner to decide (the **decision**) whether,— 20
- “(a) for the purposes of **section 176**, recovery of outstanding tax would place a taxpayer, being a natural person, in serious hardship:
- “(b) for the purposes of **section 177**, the Commissioner may accept the taxpayer’s request for financial relief on the basis of a claim that recovery of the taxpayer’s outstanding tax or a relief company’s outstanding tax would place the taxpayer, being a natural person, in serious hardship: 25
- “(c) for the purposes of **section 177B**, an instalment arrangement entered into by a taxpayer or a relief company would place the taxpayer, being a natural person, in serious hardship: 30
- “(d) for the purposes of **section 177C**, recovery of the outstanding tax would place the taxpayer, being a natural person, in serious hardship. 35

- “(2) The Commissioner makes a decision under this section by determining whether financial information, after allowing for payment of a relevant amount of outstanding tax, and subject to **subsections (3) and (4)**, shows that the taxpayer would, after the application under section 177 (the **application**), likely have significant financial difficulties because, after the application,—
- “(a) the taxpayer or their dependant has a serious illness:
- “(b) the taxpayer would likely be unable to meet—
- “(i) minimum living expenses estimated according to normal community standards of cost and quality:
- “(ii) the cost of medical treatment for an illness or injury of the taxpayer, or of their dependant:
- “(iii) the cost of education for their dependant:
- “(c) other factors that the Commissioner thinks relevant would likely arise.
- “(3) Compliance with, and non-compliance with, tax obligations must not be considered by the Commissioner when making a decision under this section.
- “(4) The Commissioner must use only financial information that the Commissioner has at the date on which the decision is made.”

156 Section 177B amended (Instalment arrangements)

In section 177B(1), replace “a taxpayer to the extent that the arrangement would place the taxpayer in serious hardship” with “a taxpayer or a relief company to the extent that the arrangement would place the taxpayer, being a natural person, in serious hardship”.

157 Section 177C amended (Write-off of tax by Commissioner)

- (1) After section 177C(1), insert:
- “(1BA) The Commissioner may use, as a ground for deciding whether or not to write off the outstanding tax of a taxpayer or of a relief company, the basis that recovery of the outstanding tax would place the taxpayer, being a natural person, in serious hardship. The Commissioner is not required to write off the outstanding tax if the ground exists.”

- (2) In section 177C(7)(a) replace “was written off” with “was written off is a natural person who”.
- (3) In section 177C(7)(b) replace “company” with “relief company”.

158 New Part 11B inserted (Foreign account information-sharing agreements) 5

After Part 11, insert:

**“Part 11B
Foreign account information-sharing agreements 10**

“185E Purpose

The purpose of this Part is to give effect to and implement foreign account information-sharing agreements.

“185F Permitted choices in relation to foreign account information-sharing agreements 15

“(1) This section applies for a person, as described in a foreign account information-sharing agreement (the **agreement**), if—

“(a) the agreement describes or contemplates a choice or a course of action or inaction (a **permitted choice**) in relation to them: 20

“(b) a choice made by the New Zealand government under the agreement allows, as described or contemplated in the agreement, the person a permitted choice.

“(2) The person is authorised to make, do, or not do, as described or contemplated by the agreement, the permitted choice, and to do or not do anything necessarily incidental to giving effect to the permitted choice. 25

“(3) The obligations in this Part are modified to the extent necessary to give effect to anything authorised by **subsection (2)** (for example: a permitted choice, authorised by **subsection (2)**, as to using 1 of 2 due diligence procedures contemplated by the agreement means that the chosen procedure would be part of the required due diligence procedures for the purposes of **section 185H**). 30

“(4) The Commissioner must publish an appropriate notice of a choice made or revoked by the New Zealand government 35

- under the agreement in a publication chosen by the Commissioner.
- “(5) A person’s permitted choice and a choice made by the New Zealand government under the agreement are treated as part of the agreement for the purposes of this Part and **section BH 1** 5 of the Income Tax Act 2007.
- “(6) **Subsections (2) to (5)** do not apply to a choice or course of action or inaction listed in **subsection (7)** (an **excluded choice**).
- “(7) For the purposes of **subsection (6)**, the following are excluded choices: 10
- “(a) an election under Annex 1.II.A of the foreign account information-sharing agreement:
 - “(b) an election under Annex 1.III.A of the foreign account information-sharing agreement: 15
 - “(c) an election under Annex 1.IV.A of the foreign account information-sharing agreement:
 - “(d) an election under Annex 1.V.A of the foreign account information-sharing agreement.
- “**185G Obligations related to foreign account information-sharing agreements: registration** 20
- A person, as described in a foreign account information-sharing agreement (the **agreement**), is required to comply with the relevant registration requirements described or contemplated in the agreement. 25
- “**185H Obligations related to foreign account information-sharing agreements: due diligence**
- A person, as described in a foreign account information-sharing agreement (the **agreement**), is required to apply the relevant due diligence procedures described or contemplated in the agreement. 30

“**185I Obligations related to foreign account**

information-sharing agreements: information for NZ competent authority

- “(1) A person, as described in a foreign account information-sharing agreement (the **agreement**), must obtain and provide information to the New Zealand competent authority if that information and its providing and obtaining is described or contemplated in the agreement in relation to the person, and including obtaining and providing— 5
- “(a) the information that the New Zealand competent authority is obliged to obtain and exchange with a foreign competent authority: 10
- “(b) other information that the person is authorised to obtain and provide to the New Zealand competent authority.
- “(2) Information described in **subsection (1)** must be obtained and provided in accordance with— 15
- “(a) the agreement; and
- “(b) regulations made by Order in Council by the Governor-General for the purposes of this Part under section 224.

“**185J Obligations related to foreign account**

information-sharing agreements: information for third parties

- “(1) A person, as described in a foreign account information-sharing agreement (the **agreement**), must obtain and provide information to a foreign competent authority if that information and its providing and obtaining is described or contemplated in the agreement in relation to the person, and it is validly requested from the person by the foreign competent authority. 25
- “(2) A person, as described in the agreement, must obtain and provide information to a third party if that information and its providing and obtaining is described or contemplated in the agreement in relation to the person, and the person is authorised to obtain and provide it to the third party (*for example*: an agreement may contemplate a choice to provide certain information to a third party. If the person chooses to provide that information, **section 185F** applies to authorise that choice. The person would then have to provide that information to the third party in accordance with their choice and the agreement). 30 35

- “(3) Information described in **subsections (1) and (2)** must be obtained and provided in accordance with—
- “(a) the agreement; and
 - “(b) regulations made by Order in Council by the Governor-General for the purposes of this Part under section 224. 5

“**185K Information provided in form prescribed by Commissioner**

The information in **section 185I(1)(a) and (b)** must be provided to the New Zealand competent authority in the prescribed form or electronic format. 10

“**185L Foreign account information-sharing agreements: anti-avoidance**

If a person enters into an arrangement, and a main purpose of the person in entering into the arrangement is to avoid an obligation under this Part, then the arrangement is treated as having no effect for the purposes of applying this Part. 15

“**185M Timeframes not specified**

- “(1) If an instrument described in **section 185I(2)(a) and (b)** does not specify, or is discretionary as to, the period to which the information in **section 185I(1)(a) and (b)** must relate, then the information must relate to a tax year. 20
- “(2) If an instrument described in **section 185I(2)(a) and (b)** does not specify, or is discretionary as to, a time when the information in **section 185I(1)(a) and (b)** must be provided, then the information must be provided within 2 months of the end of the period that the information relates to.” 25

159 New section 225D inserted (Regulations: community housing trusts and companies)

After section 225C, insert:

“**225D Regulations: community housing trusts and companies** 30

- “(1) The Governor-General may, from time to time, by Order in Council make regulations, on the combined recommendation of the Minister of Revenue and the Minister for Housing, specifying persons or classes of person, using all, some, or a com-

bination of all or some, of the factors listed in **subsection (2)**, that are allowed to be beneficiaries or clients, as the case may be, of community housing entities for the purposes of **section CW 42B(1)(b)** of the Income Tax Act 2007.

- “(2) The factors that may be used to specify persons or classes of persons for the purposes of **subsection (1)** are:
- “(a) geographic location of persons in New Zealand:
 - “(b) the composition of households persons live in:
 - “(c) the income of persons or households relative to a maximum set by taking into account the lower quartile of household income based on household economic survey data published by Statistics New Zealand (the **income maximum**) and adjusting the income maximum by any appropriate economic factor (*for example*: geographically isolated increases in living costs):
 - “(d) assets of persons relative to a maximum.
- “(3) Regulations made under this section are treated as coming into force on a day specified for that purpose in the Order in Council, but that day must not be earlier than 14 April 2014. ”

Goods and Services Tax Act 1985 20

160 Goods and Services Tax Act 1985 amended
Sections 161 to 171 amend the Goods and Services Tax Act 1985.

161 Section 2 amended (Interpretation)

- (1) In section 2(1), in the definition of **commercial dwelling**, replace paragraph (b)(ii) with:
- “(ii) a dwelling referred to in **paragraph (b)(iii)** of the definition of **dwelling**.”.
- (2) In section 2(1), in the definition of **dwelling**, in paragraph (b)(ii), replace “the premises; and” with “the premises:” and insert:
- “(iii) despite paragraph (a)(ii), a residential unit in a retirement village or rest home when the consideration paid or payable for the supply of accommodation in the unit is for the right to occupy the unit; and”.

- (3) In section 2(1), in the definition of **resident**, after paragraph (b), insert:
- “(c) the effect of the rules in section YD 1(4) and (6) of that Act are ignored in determining the residence or non-residence of a natural person, and residence is treated as—
- “(i) starting on the day immediately following the relevant day that triggers residence under section YD 1(3) of that Act; or
- “(ii) ending on the day immediately following the relevant day that triggers non-residence under section YD 1(5) of that Act”.
- (4) **Subsections (1) and (2)** apply for the 2011–12 and later income years. However, **subsections (1) and (2)** do not apply to a person in relation to a tax position taken by them—
- (a) in the period from 1 April 2011 to 31 March 2015; and
- (b) relating to tax treatment of a residential unit in a rest home or retirement village; and
- (c) relying on the definitions of **commercial dwelling** and **dwelling** as they were before the amendments made by **subsections (1) and (2)**.

162 Section 3 amended (Meaning of term financial services)

In section 3(2), in the definition of **life insurance contract**, replace “Schedule 1, Part 5 of the Accident Insurance Act 1998” with “Schedule 1, Part 4 of the Accident Compensation Act 2001”.

163 Section 5 amended (Meaning of term supply)

Replace section 5(16) with:

- “(16) When a registered person has a deduction under section 20(3) for the supply of land or a dwelling, a subsequent supply by the person of all or part of the land or dwelling, or appurtenances belonging to or used with the dwelling, is treated as a taxable supply. However, this subsection does not apply if the person has accounted for output tax on the subsequent supply. Subsections (18) and (19)(b) override this subsection.”

164 Section 6 amended (Meaning of term taxable activity)

- (1) In section 6(3)(b),—
 - (a) replace “director of a company:” with “director of a company, subject to **subsection (4)**; or”:
 - (b) repeal the proviso. 5
- (2) In section 6(3)(c)(iii), replace “other body” with “other body, subject to **subsection (4)**”.
- (3) After section 6(3), insert:
 - “(4) Despite subsection (3)(b) and (c)(iii), if a director, member, or other person referred to in those paragraphs is paid a fee or another amount in relation to their engagement, occupation, or employment in circumstances in which they are required to account for the payment to their employer, the payment is treated as consideration for a supply of services by the employer to the person who made the payment to the director, member, or other person. 10
 - “(5) For the purposes of subsection (3)(b), (c)(iii), and (4), if a person in carrying on a taxable activity, accepts an office, any services supplied by that person as holder of that office are deemed to be supplied in the course or furtherance of that taxable activity.” 15

165 Section 11 amended (Zero-rating of goods)

- (1) In section 11(8D),—
 - (a) in paragraph (a), replace “chargeable with tax at 0%” with “of land”: 25
 - (b) in the introductory words in paragraph (b), replace “chargeable with tax at 0%” with “of land”:
 - (c) in paragraph (b)(ii), replace “an amount is paid or payable under the agreement for the supply in advance of, or contemporaneously with, the supply being made, that” with “if an amount is paid or payable under the agreement for the supply in advance of, or contemporaneously with, the supply being made, the payment”. 30
- (2) In section 11(8D)(b)(ii)(C), replace “under the agreement.” with “under the agreement:”, and insert: 35
 - “(c) a supply of an interest in land by way of a procurement of a lease is a supply of land.”

(3) **Subsection (1)** applies to supplies made on or after 1 April 2011.

166 Section 11A amended (Zero-rating of services)

After section 11A(3), insert:

“(3B) For the purpose of subsection (1)(k), **outside New Zealand**, 5
for a natural person, includes a minor presence in New Zealand
that is not directly connected with the supply.”

167 Section 20 amended (Calculation of tax payable)

(1) In section 20(3K), replace “(3C),” with “(3C), and the defini- 10
tions of **percentage actual use and percentage intended use**
in section 21G(1),”.

(2) In section 20(4B), replace “who later becomes a registered per-
son under section 51” with “who is either a registered person
or later becomes a registered person”.

(3) **Subsections (1) and (2)** apply to supplies made on or after 15
1 April 2011.

**168 New section 21FB inserted (Treatment when use changes
to total taxable or total non-taxable use)**

After section 21F, insert:

“**21FB Treatment when use changes to total taxable or 20
non-taxable use**

“(1) This section applies when—

“(a) a person makes an adjustment under section 21A or
21B; and

“(b) the person’s use of the goods or services in making tax- 25
able supplies changes in an adjustment period to either
total taxable use or total non-taxable use; and

“(c) the total taxable use or non-taxable use remains un-
changed for an unbroken period that is—

“(i) the remainder of the adjustment period in which 30
the use was changed; and

“(ii) the adjustment period following the period in
which the use was changed.

“(2) If the use changes to total taxable use, the person’s adjustment
for the adjustment period following the period referred to in 35

subsection (1)(c)(ii) is an amount of input tax calculated using the formula—

full input tax deduction — actual deduction.

- “(3) In the formula,—
- “(a) **full input tax deduction** is the total amount of input tax on the supply, after taking into account any nominal GST component chargeable under section 20(3J)(a)(i): 5
- “(b) **actual deduction** is the amount of deduction already claimed, taking into account adjustments made up to the date on which the use was changed.
- “(4) If the use changes to total non-taxable use, the person’s adjustment for the adjustment period following the period referred to in **subsection (1)(c)(ii)** is an amount of output tax that is equal to the amount of the person’s actual deduction as described in **subsection (3)(b)**.” 10
- 169 Section 21HB amended (Transitional rule related to treatment of dwellings)** 15
- (1) In section 21HB(1), replace “acquired or produced before 1 April 2011” with “acquired or produced in the period between 1 October 1986 and 1 April 2011”.
- (2) After section 21HB(3), insert: 20
- “(4) **Subsection (5)** applies to a person who—
- “(a) is required to treat a dwelling as a commercial dwelling because of the amendments to the definitions of **commercial dwelling** and **dwelling** made by section 4(3) and (4) of the Taxation (GST and Remedial Matters) Act 2010; and 25
- “(b) is liable to become a registered person as a result of the amendments referred to in **paragraph (a)** because the total value of their supplies made in New Zealand exceeds the threshold set out in section 51(1)(a). 30
- “(5) The person may choose not to include a supply of a commercial dwelling to which subsection (1) applies when calculating the total value of their supplies for the purposes of section 51.”

- (3) **Subsection (1)** applies to a tax position taken by a person after the date of introduction of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Bill.
- (4) **Subsection (2)** applies to supplies made on or after 1 April 2011. 5
- 170 Section 46 amended (Commissioner’s right to withhold payments)**
In section 46(1B), replace “when a registered person is non-resident,” with “for a non-resident person who is registered under section 54B,”. 10
- 171 Section 54C amended (Non-residents: cancellation of registration)**
- (1) In section 54C(3)(a), replace “the first day of the third period” with “the last day of the second period”.
- (2) In section 54C(3)(b), replace “apply to become a registered person again” with “apply again for registration under section 54B”. 15

Income Tax Act 2004

- 172 Income Tax Act 2004 amended**
Sections 173 to 180 amend the Income Tax Act 2004. 20
- 173 Section CD 29 amended (Adjustment if dividend recovered by company)**
- (1) Replace section CD 29(2), other than the heading, with:
- “(2) Section 113B of the Tax Administration Act 1994 requires the Commissioner, if given notice of the recovery of the dividend from a shareholder, to amend an assessment of the company or the shareholder in relation to income tax or under the imputation rules, the NRWT rules, the RWT rules, the dividend withholding payment rules, or under section LE 2 (Credits in respect of dividends to non-resident investors), as applicable.” 25 30
- (2) In section CD 29(3), replace “If the Commissioner is given notice of the recovery,” with “If the Commissioner has been notified of the recovery and has amended an assessment as described in **subsection (2)**,”.

- (3) In section CD 29(5), replace “A credit or debit,” with “If the Commissioner has been notified of the recovery and has amended an assessment as described in **subsection (2)**, a credit or debit”.
- (4) In section CD 29, insert in the list of defined terms, “dividend withholding payment rules”, “ imputation rules”, “NRWT rules”, and “RWT rules”. 5
- (5) **Subsections (1) to (4)** apply for the 2005–06 and later income years.
- 174 Section DB 44 amended (Expenditure incurred in deriving exempt income)** 10
- (1) Replace section DB 44(3), other than the heading, with:
- “(3) This section supplements the general permission and overrides the exempt income limitation. The other general limitations still apply.” 15
- (2) **Subsection (1)** applies for expenditure incurred on and after 1 October 2005.
- 175 Section EE 7 amended (What is not depreciable property?)**
- (1) In section EE 7(c), replace “subpart EB (Valuation of trading stock (including dealer’s livestock))” with “subpart EC (Valuation of livestock)” 20
- (2) **Subsection (1)** applies for the 2005–06 and later income years.
- 176 Section EG 1 amended (Election to use balance date used in foreign country)** 25
- (1) In section EG 1(6), replace “A person who has made an election is treated as making the same election for all later income years” with “An election made by a person under subsection (2) applies for the income year referred to in subsection (1)(c) and all later income years” 30
- (2) **Subsection (1)** applies for the 2005–06 and later income years.

177 Section EX 5 amended (Direct control interests)

(1) Replace section EX 5(1)(c) with:

“(c) a right to—

“(i) receive any income of the company for the accounting period in which the time falls; or 5

“(ii) have the income of the company for the accounting period in which the time falls dealt with in their interest or on their behalf.”

(2) Replace section EX 5(1)(d) with:

“(d) a right to— 10

“(i) receive any of the value of the net assets of the company, if they are distributed; or

“(ii) have the net value of the assets, if they are distributed, dealt with in their interest or on their behalf.” 15

(3) **Subsections (1) and (2)** apply for the 2005–06 and later income years.

178 Section EX 9 amended (Direct income interests)

(1) Replace section EX 9(1)(c) with:

“(c) a right to— 20

“(i) receive any income of the company for the accounting period in which the time falls; or

“(ii) have the income of the company for the accounting period in which the time falls dealt with in their interest or on their behalf :”. 25

(2) Replace section EX 9(1)(d) with:

“(d) a right to—

“(i) receive any of the value of the net assets of the company, if they are distributed; or

“(ii) have the net value of the assets, if they are distributed, dealt with in their interest or on their behalf.” 30

(3) **Subsections (1) and (2)** apply for the 2005–06 and later income years.

179 Section EX 44 amended (Comparative value method) 35

(1) Replace section EX 44(6)(a) with:

- “(a) all expenditure, if any, that—
 - “(i) the person incurs in acquiring or increasing the interest:
 - “(ii) another person incurs on behalf of the person referred to in **subparagraph (i)** in relation to the interest.”. 5
 - (2) **Subsection (1)** applies for the 2005–06 and later income years.
- 180 Section OB 1 amended (Definitions)**
- (1) In section OB 1, in the definition of **hire purchase agreement**, 10
replace paragraph (a) with:
 - “(a) an agreement under which goods are let or hired with an option to purchase, however the agreement describes the payments; and”.
 - (2) **Subsection (1)** applies for the 2005–06 and later income 15
years. However, **subsection (1)** does not apply to a person in relation to a tax position taken by them—
 - (a) in the period from 1 April 2005 to the date of introduction of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Bill; and 20
 - (b) relating to the application of the Goods and Services Tax Act 1985 to hire purchase agreements; and
 - (c) relying on the definition of **hire purchase agreement** as it was before the amendment made by **subsection (1)**. 25

Child Support Act 1991

- 181 Child Support Act 1991 amended**
Sections 182 to 191 amend the Child Support Act 1991.
- 182 Section 2 amended (Interpretation)**
In section 2(1), repeal the definition of **election period**. 30
- 183 Section 9 amended (Social security beneficiaries must apply for formula assessment)**
In section 9(1)(c), replace “is not” with “is not already”.

184 Section 40 amended (Estimated taxable income)

- (1) In section 40(1), replace “notice to the Commissioner” with “notice to the Commissioner given before or during a child support year”.
- (2) In section 40(1), replace “election period” with “election period relating to that child support year”.

185 Section 44 amended (End-of-year reconciliation)

Replace section 44(2) with:

- “(2) The income amount to be used for the assessment is,—
- “(a) if the actual taxable income earned by the person during the year is equal to or less than the year-to-date income specified in the notice of election, the value of any adjustments made under section 41(1)(b); or
- “(b) if the actual taxable income earned by the person during the year is more than the year-to-date income specified in the notice of election, the lesser of the following:
- “(i) the person’s actual taxable income earned in the election period (which is the actual taxable income earned in the full year less the year-to-date income specified in a notice of election), annualised in accordance with the formula in subsection (3) (which gives the **annualised actual taxable income in the election period**), and adjusted in accordance with section 41(1)(b):
- “(ii) the person’s original adjusted taxable income.”

186 Section 65 amended (Child support voluntary agreement no bar to application for formula assessment)

- (1) In section 65(1) replace “any parent or carer” with “any party”.
- (2) Replace section 65(2) with:
- “(2) If a properly completed application for a formula assessment of child support in respect of the child to whom the agreement relates is completed, any person who, under the agreement, was a person to whom child support was payable is deemed—
- “(a) to have elected under section 64 that the liability of the other party to the agreement to pay child support in respect of the child under the agreement is to end with the

- day before the day on which the formula assessment is to first apply; and
“(b) to have met the requirements of section 64(2) and (3).”
- 187 Section 81 amended (Notification requirements of liable parent)** 5
In the heading to section 81, delete “liable”.
- 188 Section 92 amended (Requirements in relation to objections)**
Repeal section 92(3A).
- 189 Section 98 amended (Minimum liability in respect of child support)** 10
(1) Replace section 98(2) with:
“(2) **Subsection (2A)** applies when—
“(a) an order would, but for this section, operate in a child support year so as to reduce the annual rate of child support payable under a formula assessment below the minimum annual rate for that year under section 72(1)(a); and 15
“(b) the child support payable is payable under the formula assessment in respect of more than 1 receiving carer. 20
“(2A) When this subsection applies, the annual rate of child support payable in the child support year to each receiving carer is the minimum annual rate under section 72(1)(a) divided between the receiving carers on the basis of the number of qualifying children of the liable parent that each receiving carer provides 25
care for.”
(2) In section 98(3), replace “(2)” with “(2A)”.
- 190 Section 142 amended (Payment of formula assessment child support to custodians who are social security beneficiaries)** 30
In section 142, in each place in which it appears, replace “custodian” with “receiving carer”.

191 Section 179A amended (Waiver of right to payment)

- (1) In section 179A(1), replace “in receipt of” with “in receipt of a sole parent support benefit or”.
- (2) In section 179A(5), replace “begins to receive” with “begins to receive a sole parent support benefit or”.

5

Schedule
Amendments to examples in subparts DG and DZ

s 49

Section	Example
DG 11	Replace “charter boat whose cost is” with “charter boat whose adjusted tax value is”.
DG 16	Replace “\$15,000.” with “\$15,000. The income from associates is exempt under section CW 8B, and is ignored. David therefore has asset income of \$4,000 and deductions of \$15,000, giving rise to an excess of expenditure over income of \$11,000.”
DG 16	Replace “the excess expenditure of \$5,000” with “the excess expenditure of \$11,000”.
DG 17	Replace “expenditure of \$5,000” with “expenditure of \$11,000”.
DG 17	Replace “remaining \$3,000” with “remaining \$9,000”.
DG 18	Replace “(\$7,500 x 50%)” with “(\$7,000 x 50%)”.

DG 19	<p>Replace the example, other than the heading, with “In the following income year, Aircraft Ltd has calculated an outstanding profit balance of \$16,000. Section DG 19 does not apply to Parent Ltd or Hamish because they have no previously quarantined interest expenditure. However, the section does apply to Alisa because she has \$4,500 of quarantined interest expenditure from the previous year. Because Parent Ltd does not have any current year expenditure, Alisa’s share of the outstanding profit balance of Parent Ltd is \$8,000 (\$16,000 x 50%).</p> <p>Alisa’s current year apportioned interest expenditure is \$7,000, calculated under section DG 14. Alisa is allowed a deduction for all her current year expenditure and also a deduction for \$1,000 of previously quarantined expenditure (\$8,000 - \$7,000). Her remaining quarantined expenditure is \$3,500 (\$4,500 - \$1,000).”</p>
DZ 21	<p>Replace “Boat Co has a boat on 31 March 2013 which meets the various requirements set out in subpart DG.” with “On 31 March 2013, Boat Co has a boat with an acquisition cost of \$85,000. The boat meets the various requirements set out in subpart DG.”</p>
DZ 21	<p>Replace “and Michelle is treated as acquiring it for \$55,000” with “and Michelle is treated as acquiring it for \$85,000, and having been allowed a deduction of \$30,000 for depreciation loss in past income years”.</p>