

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

Government Bill

As reported from the committee of the whole  
House



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

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**Key to symbols used in reprinted bill**

**As reported from the committee of the whole  
House**

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*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**

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(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. 5
- (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(1) and (2), 100, 101, 102, 103, 109, 111, 112, 120, 123(16), (17), (19), and (42), (19), and (42), 128(3B), and 146** are treated as coming into force on 1 April 2008. 10
- (10) **Sections 43(2), (4), and (5), 70, 71, 71B, 73, 74(1) to (6) and (8) to (11), and 81** are treated as coming into force on 30 June 2009. 15
- (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. 20
- (12B) **Sections 123B is 29B and 123B** are treated as coming into force on 1 April 2010.
- (13) **Sections 32, 33, and 123(4), (18), (36), (38), and (47)(47), and 80B** are treated as coming into force on 4 September 2010. 25
- (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(1), (2), and (3), 169(3) and (6), and 169B** are treated as coming into force on 1 April 2011. 30
- (16B) **Section 59D(1), (2), (4), and (5)** are treated as coming into force on 27 September 2012. 35

- (17) **Section 35** is treated as coming into force on 6 December 2012.
- (17B) **Section 133B** is treated as coming into force on 27 February 2013.
- (18) **Sections 9B, 39B, 47, 47B, 47C, 47D, 48, 49, 50, 57B, and 125** are treated as coming into force on 1 April 2013. 5
- (19) **Sections 23, and 123(26)** are treated as come into force on 1 July 2013.
- (19B) **Section 59D(3) and (6)** are treated as coming into force on 17 July 2013. 10
- (20) **Sections 7, 14, 15(2) and (3), 99(1B), and 99B** are treated as coming into force on 22 November 2013.
- (21) **Sections 15(1) and (2B), 16, 19B, 39, 41, 42, 44, 51B, 51C, 54, 55, 59B, 59C, 75, 76, 78, 80, 115, 124, 167(1B), 170, and 171** are treated as coming into force on 1 April 2014. 15
- (22) **Sections 19, 27, 28, 29(1), 104, 107, 108, 110(2), 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. 20
- (23B) **Sections 123(16B), (30B), and (37B), 123C, and 131(1)** come into force on 1 October 2014.
- (24) **Section 30** comes into force on 1 January 2015.
- (25) **Sections 8, 9, 9C, 11, 12, 13, 20, 21, 22, 31, 38-38, 39BA, 40, 45, 46, 51, 52, 53(1), 56, 58, 59, 84, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 100B, 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, 134, 169(4) and (7), 182, 183, 184, 185, 186, 187, 188, 189, 190, and 191** come into force on 1 April 2015. 25 30
- (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—
- (a) the date appointed by the Governor-General by Order in Council to bring into force new Part 10 of the Housing Restructuring and Tenancy Matters Act 1992, as described in the Social Housing Reform (Housing 35

- Restructuring and Tenancy Matters Amendment) Act 2013; and  
 (b) 14 April 2016.

**Part 1**

**Annual rates of income tax**

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- 3 Annual rates of income tax for 2014–15 tax year**  
 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**

10

**Amendments to Income Tax Act 2007**

- 4 Income Tax Act 2007 amended**  
 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:  
 “*Foreign account information-sharing agreements*  
 “(5B) A foreign account information-sharing agreement is subject to **Part 11B** of the Tax Administration Act 1994.”

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

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- (1) After section CB 15, insert:  
 “**CB 15B When land acquired**  
 “*General rule*  
 “(1) For the purposes of this subpart, a person acquires an estate, interest, or option that is land (the **land**) on the date that begins a period in which the person has an estate or interest in, or an

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option to acquire, the land, alone or jointly or in common with another person.

*“First exception: acquisition of land by company to be formed*

- “(2) If a person, on behalf of a company to be formed, enters an agreement under which the company will have land, the company is treated, for the purposes of this subpart in relation to the land, as existing from when the person enters the agreement. 5

*“Second exception: further land from exercise of option*

- “(3) If a person who has an estate or interest in land has subsequently, as a consequence of the person’s exercise of an option, another estate or interest (the **other land interest**) in the same land, the person is treated for the purposes of this subpart as having the other land interest from the time of the exercise of the option. 10 15

*“Relationship with subparts FB and FC*

- “(4) **Subsections (1) to (3)** are overridden, for a transaction, by a provision in subpart FB or FC (which relate to transfers of property) providing for the timing of the transaction. 20

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

- (2) **Subsection (1)** applies for disposals of land occurring on or after 22 November 2013.

**7B Section CB 26 amended (Disposal of certain shares by portfolio investment entities)**

- (1) After section CB 26(1)(a), insert: 25

*“(ab) the share is not in a listed PIE; and”.*

- (2) In section CB 26, in the list of defined terms, insert “listed PIE”.

**8 Section CC 1 amended (Land)**

After section CC 1(2B), insert: 30

*“Exception for amount from grant of easement*

- “(2C) An amount is not income of the owner of a fee simple estate in land if the amount is derived as consideration for the grant, for the duration of the estate, of an easement over the land and is not a periodic payment.” 35

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

(1) Replace section CC 1B with:

**“CC 1B Consideration relating to grant, renewal, extension, or transfer of leasehold estate or licence 5**

*“When this section applies*

“(1) This section applies when a person (the **payee**) derives an amount—

“(a) in relation to a right (the **land right**) that is 10

“(i) a leasehold estate not including a perpetual right of renewal:

“(ii) a licence to use land; and

“(b) as consideration for—

“(i) the agreement by the payee to the grant, renewal, extension, or transfer of the land right; 15

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

*“Income*

“(2) The amount is income of the payee. 20

*“Exception for payment as consideration for transfer of land right*

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

“(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 25

“(c) the amount is not sourced from funds provided, by the owner of the estate in land from which the land right is granted, for purposes that include obtaining the surrender or termination of the land right; and 30

“(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*

“(4) The amount is not income of the payee if the payee— 35

“(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
- “(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
- “(5) The amount is not income of the payee if the amount is derived as a capital contribution.
- “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
- 9B Section CC 1C amended (Consideration for agreement to surrender leasehold estate or terminate licence)**
- (1) Replace section CC 1C(1), other than the heading, with:
- “(1) This section applies when— 15
- “(a) a person (the **payee**) is the owner of—
- “(i) an estate in land from which is granted ~~an estate or interest~~ a **right** (the **land right**) that is a leasehold estate not including a perpetual right of renewal, or is a licence to use land: 20
- “(ii) the land right; and
- “(b) derives an amount as consideration for the agreement by the payee to the surrender or termination of the land right.”
- (2) **Subsection (1)** applies to an amount derived on or after 1 April 2013. 25
- 9C Section CD 32 amended (Employee benefits)**
- In section CD 32(2), replace “section CE 1(1B) (Amounts derived in connection with employment)” with “**section CE 1B** (General rule: accommodation provided by employers)”. 30
- 10 Section CD 40 amended (Adjustment if dividend recovered by company)**
- (1) Replace section CD 40(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 35

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.” 5

- (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)**.”
- (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” 10
- (4) In section CD 40, insert in the list of defined terms, “FDP rules”, “imputation rules”, “NRWT rules”, and “RWT rules”. 15
- (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)**

- (1) After section CE 1(1)(b), insert: 20  
“(bb) the value of accommodation referred to in **sections CE 1B to CE 1E**.”
- (2) Repeal section CE 1(1B).
- (3) Replace section CE 1(2), other than the heading, with:  
“(2) For the purposes of this section, and sections **CE 1B to CE 1E, CW 16B to CW 16F, CW 17CB, CZ 23, CZ 29, and CZ 30** (which relate to accommodation provided in connection with employment), **accommodation**— 25  
“(a) includes— 30  
“(i) board or lodging:  
“(ii) the use of a house or living premises, or the use of part of a house or living premises, whether permanent or temporary:  
“(b) does not include— 35  
“(i) a berth, room, or other lodging provided on a mobile workplace, for example, a ship, a truck, an oil rig, or other similar workplace:

- “(ii) a station in Antarctica:
- “(iii) a room or lodging that is provided for a shift worker who is required in the performance of their employment duties periodically to sleep at their workplace when the accommodation is provided only for the duration of the performance of those duties, for example, fire-fighters, ambulance staff, care-givers, and other similar employees: 5
- “(iv) the use of a room or other dwelling provided at a remote location outside New Zealand when a person’s employment duties require them to work at the location for a period and also require them to be absent from the location for a period, for example, miners in Australia who regularly fly to and from a mining camp and other similar employees.” 10 15
- (4) After section CE 1(2), insert:
- “*Meaning of employer*
- “(3) **Employer**,— 20
- “(a) in this section, in sections **CE 1B, and CW 16B to CW 16F, CZ 29, and CZ 30** (which relate to accommodation provided in connection with employment) and in the definition of **employee**, paragraph (e), includes a person, whether resident or non-resident, who, in connection with the employment or service of an employee of the employer,— 25
- “(i) provides accommodation for the employee at a distant workplace; or
- “(ii) pays an amount for the employee’s accommodation at a distant workplace: 30
- “(b) in sections **CW 16B to CW 16F, CZ 29, and CZ 30**, includes a company that is part of the same group of companies as the employer.
- “*Amendment of exclusions by Order in Council* 35
- “(4) For the purposes of **subsection (2)**, the Governor-General may by Order in Council make regulations to add to the types of accommodation that are excluded by **paragraph (b)** of the



definition of **accommodation** from the rules relating to accommodation provided in connection with employment.

*“Application of Order in Council*

- “(5) An Order in Council under **subsection (4)** may—
- “(a) come into force on a date that is not earlier than 1 April 2015: 5
- “(b) apply for income years that do not precede the 2015–16 income year.”

**12 New sections CE 1B to CE 1E inserted**

After section CE 1, insert: 10

**“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. 15

*“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. 20

*“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. 25

*“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 may be— 30
    - “(i) apportioned equally among the number of persons referred to in that subsection who are sharing in the accommodation; or
    - “(ii) if the persons referred to in that subsection who are sharing in the accommodation agree with 35

the person providing the accommodation, apportioned on another reasonable basis:

“(b) when the person to whom the accommodation is provided contributes towards their occupation of the accommodation, the amount may be reduced by the amount contributed: 5

“(c) when the person to whom the accommodation is provided uses part of the accommodation wholly or mainly for work purposes related to their employment or service, the amount may be apportioned between business use and private use. 10

*“Adjustments: allowances and amounts paid*

“(5) **Subsection (4)(b) and (c)** may apply to adjust the value of an accommodation allowance or an amount paid for or towards the provision of accommodation under **subsections (2) and (3)**. 15

*“Exceptions*

“(6) **Sections CE 1C and CE 1E** override this section.

“Defined in this Act: accommodation, amount, business, employer, employment, expenditure on account of an employee, income, pay 20

**“CE 1C Exception: overseas accommodation**

*“Relevant local rental*

“(1) Despite **section CE 1B(1)**, 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— 25

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

“(b) the equivalent accommodation in New Zealand that the person would be likely to occupy; and 30

“(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*

“(2) For the purposes of **subsection (1)**, if the value of the accommodation in the overseas location is less than the New Zealand 35

equivalent market rental value, the value that must be used is the value in the overseas location.

*“When location in New Zealand is uncertain*

- “(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 either the average market rental value or the median market rental value, as applicable, for the whole of New Zealand. 5

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

**“CE 1D Exception: accommodation provided by Defence Force 10**

*“When this section applies*

- “(1) This section applies for the purposes of **section CE 1B(1)** 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. 15

*“Market rental value*

- “(2) The market rental value of the accommodation is an amount equal to the lesser of—
- “(a) the market rental value for the accommodation; and
  - “(b) the 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. 20

*“National benchmark properties and discounts*

- “(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;
  - “(b) the types of accommodation represented by the benchmark properties: 30
  - “(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. 35

*“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.

“Defined in this Act: accommodation, amount, Commissioner, pay 5

**“CE 1E Exception: accommodation provided to ministers of religion**

*“Income*

“(1) Despite **section CE 1B(1)** and to the extent described in **subsection (2)**, the value of accommodation that is provided to a person who is a minister of religion is 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. 10

*“Limited amount* 15

“(2) The amount of income for an income year is calculated using the formula—

$$\text{remuneration} \times (1 - \text{adjustment}) + \text{excess rental.}$$

*“Definition of items in formula*

“(3) In the formula,—

“(a) **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. 20

“(b) **adjustment** is the adjustment referred to in **subsection (4)**, 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: 25

“(c) **excess rental** is the amount that is not less than zero that is the difference between— 30

“(i) the market rental value for the income year of the accommodation provided; and

“(ii) the market rental value for the income year of accommodation that is reasonably commensurate 35

with the duties of the person as a minister and for the location in which they perform their duties.

*“Adjustments*

- “(4) An adjustment referred to in **subsection (3)(b)** is as follows:
  - “(a) if the person to whom the accommodation is provided uses part of the accommodation wholly or mainly for work purposes related to their duties as a minister, the amount is apportioned between that business use and private use: 5
  - “(b) if more than 1 person referred to in **subsection (1)** shares in the accommodation provided, the amount is apportioned equally between them: 10
  - “(c) if accommodation is provided for part of an income year, the reference to income year is read as a reference to the relevant part of the income year. 15

*“Part-year*

“(4B) For the purposes of this section, if accommodation is provided for part of an income year, the reference to income year is read as a reference to the relevant part of the income year.

*“Meaning of minister of religion*

- “(5) For the purposes of this section, **minister of religion**— 20
  - “(a) means a person—
    - “(i) who is ordained, commissioned, appointed, or otherwise holds an office or position, regardless of their title or designation, as a minister of a religious denomination or community that meets the charitable purpose of the advancement of religion; and 25
    - “(ii) whose duties are related mainly to the practice, study, teaching, or advancement of religious beliefs; and 30
    - “(iii) whose accommodation is used as an integral part of performing their duties:
  - “(b) does not include a member of a religious society or order referred to in section CW 25 (Value of board for religious society members). 35

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

**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—
- “(i) **sections CW 16B to CW 16F** (which relate to accommodation expenditure): 5
  - “(ii) section CW 17B (Relocation payments):
  - “(iii) section CW 17C (Payments for overtime meals and certain other allowances):
  - “(iv) **section CW 17CB** (Payments for certain work-related meals): 10
  - “(v) **section CW 17CC** (Payments for distinctive work clothing):
  - “(vi) section CW 18 (Allowance for additional transport costs):” 15
- (2) Replace section CE 5(3)(c) with:
- “(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 20
  - “(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”. 25

**14 Section CG 2 amended (Remitted amounts)**

After section CG 2(4), insert:

*“Relationship with sections CG 2B to CG 2E*

- “(5) **Sections CG 2B to CG 2E** override this section.”

**15 New sections CG 2B to CG 2E inserted** 30

- (1) After section CG 2, insert:

**“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. 35

*“Income*

- “(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 5
  - “(b) either—
    - “(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 provable debt referred to in section 231(1) of the Insolvency Act 2006 in relation to the person; or 10
    - “(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: 15
      - loss balance – 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: 20
  - “(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. 25

*“Relationship with section CG 2*

- “(5) This section overrides section CG 2. 30  
 “Defined in this Act: amount, Commissioner, deduction, income, income year, loss balance, tax loss component, tax year”.

- (2) Before section CG 3, insert:

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

*“When this section applies*

- “(1) This section applies when— 35

- “(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
- “(b) company A’s liability for the amount is later remitted or cancelled, wholly or partly; and 5
- “(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
- “(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 10
- “(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 15
- “(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. 20
- “Income of profit company*
- “(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. 25
- “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. 30
- “Relationship with other provisions*
- “(5) This section—
- “(a) overrides section CG 2:
- “(b) is modified by **section FM 5(4)** (Liability when company leaves consolidated group): 35
- “(c) does not apply to a company to which section FO 4 (Rights and obligations of amalgamating companies)



applies, except to the extent to which **paragraph (d)** applies in relation to the company:

- “(d) is modified by section FO 5 (Amalgamations and remitted liabilities) in relation to the treatment of liabilities assumed by an amalgamated company in an amalgamation: 5
- “(e) is overridden by sections IC 11 and IC 12 (which relate to the tax losses of certain group companies) but only to the extent to which sections IC 11 and IC 12 apply to reduce a tax loss component arising in an earlier tax year that would otherwise be subject to this section. 10

“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

“**CG2D Remitted and other amounts: companies leaving groups** 15

“*When this section applies*

- “(1) This section applies when—
- “(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 20
- “(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
- “(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 25
- “(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 30
- “(e) after the tax loss is made available to company D,—
- “(i) either company C or company D, or both, leave the group; and 35
- “(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
- “(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. 5
- “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.
- “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. 10
- “When subsection (5) applies*
- “(4) **Subsection (5)** applies for the purposes of **subsection (1)(e)(ii)** when— 15
- “(a) a transaction 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
- “(b) the payment of the amount reduces, in whole or in part, 20 the liability of company C so that company C satisfies the solvency test set out in section 4 of the Companies Act 1993.
- “Commissioner’s discretion*
- “(5) The Commissioner may treat company C as not satisfying the 25 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
- “(b) the payment has allowed the creditor to receive more 30 towards the satisfaction of a debt owed by company C than the creditor would receive or would be likely to receive if company C were placed in liquidation on the day on which company C or company D, or both, leaves the group.

*“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 other provisions*

5

- “(7) This section—

“(a) overrides section CG 2:

“(b) is modified by **section FM 5(4)** (Liability when company leaves consolidated group):

“(c) is overridden by sections IC 11 and IC 12 (which relate to the tax losses of certain group companies) but only to the extent to which sections IC 11 and IC 12 apply to reduce a tax loss component arising in an earlier tax year that would otherwise be subject to this section.

10

“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

15

**“CG 2E Remitted and other amounts: income apportionment**

*“When this section applies*

- “(1) This section applies when—

20

“(a) an amount of income is treated as having been derived by a company under **section CG 2C or CG 2D**; and

“(b) in relation to the income, some or all of a tax loss of a company that is part of a group of companies has been made available to more than 1 company in the group.

25

*“Apportionment*

- “(2) The company that is treated as deriving the income may choose to apportion the income among other companies in the group.

*“Limited amount*

30

- “(3) The amount of the income referred to in **subsection (2)** must be no more than the total tax loss referred to in **section CG 2C(1)(e) or CG 2D(1)(d)**, as applicable, for all previous tax years.

- “Default apportionment*
- “(4) If the company that is treated as deriving the income does not make an apportionment under **subsection (2)**, the income must be divided equally among the companies in the group.
- “Companies in group* 5
- “(5) For the purposes of **subsections (2) and (4)**,—
- “(a) the company that made the tax loss available is treated as excluded from the group:
- “(b) the company must be part of the group of companies at the date on which **section CG 2C(3) or CG 2D(3)** 10 applies.
- “Application to consolidated groups*
- “(6) This section does not apply to a company that is part of a consolidated group of companies, for which, *see* **section FM 5(3) to (5)** (Liability when company leaves consolidated group). 15
- “Defined in this Act: amount, company, consolidated group, group of companies, income, tax loss, tax year”.*
- (2B) **Subsection (1)** applies to discharges from bankruptcy on or after 1 April 2014.
- (3) **Subsection (2)** applies when an event, listed in the following paragraphs, occurs after 22 November 2013: 20
- (a) company A is removed from the register of companies:
- (b) company C is insolvent and leaves the group of companies:
- (c) company D leaves the group of companies. 25
- 16 New section CG 7B inserted (Disposals or applications after earlier deductions)**
- (1) After section CG 7, insert:
- “CG 7B Disposals or applications after earlier deductions**
- “When this section applies* 30
- “(1) This section applies when a person—
- “(a) has a deduction under section DB 19, DB 37, or **DB 40BA** (which relate to expenditure on abortive or failed applications) for expenditure; and
- “(b) acquires property (the **application property**) as a result 35 of the expenditure; and

- “(c) 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.
- “*Income: affecting cost in section EE 25, base value in section EE 57* 5
- “(2) The person has income of the amount described in—
- “(a) **subsection (3)**, if the application property is disposed of for consideration, in the income year of the disposal; or 10
- “(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, in the income year of the lodging or grant. 15
- “*Lesser of total deductions and consideration from disposal*
- “(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)(a)**; or 20
- “(b) the total amount of deductions referred to in **subsection (1)(a)**, if **paragraph (a)** does not apply.
- “*Deductions in acquiring property*
- “(4) The amount is the total amount of deductions referred to in **subsection (1)(a)** for expenditure incurred in acquiring the application property. 25
- “Defined in this Act: deduction, dispose, income, plant variety rights”.
- (2) **Subsection (1)** applies for the 2014–15 and later income years. 30
- 17 Section CT 1 amended (Disposal of exploratory material or petroleum mining asset)**  
After section CT 1(3), insert:
- “*Relationship with section CZ 32*
- “(4) **Section CZ 32** (Treatment of certain petroleum storage facilities) overrides subsection (2).” 35

- 18 Section CT 7 amended (Meaning of petroleum mining asset)**  
Replace section CT 7(2), other than the heading, with:
- “(2) **Petroleum mining asset** does not include—
- “(a) land: 5
  - “(b) an underground gas storage facility as that term is defined in section 2 of the Crown Minerals Act 1991.”
- 19 New section CV 17 inserted (Non-exempt charities: taxation of tax-exempt accumulation)**  
After section CV 16, insert: 10
- “**CV 17 Non-exempt charities: taxation of tax-exempt accumulation**  
An amount of income of a person under **section HR 12** (Non-exempt charities: taxation of tax-exempt accumulation) is income of the person for the income year that contains the day 15  
1 year after the day of final decision.  
“Defined in this Act: day of final decision, person, income, income year, year”.
- 19B Section CV 19 amended (Additional income for certain imputation credits)**
- (1) Replace section CV 19(2), other than the heading, with: 20
  - “(2) For the income year to which the LE 1(4B) income relates, the person derives an amount of income equal to the amount of the tax credit for the imputation credit under section LE 8B (Dividend from certain FIF interests) except if the LE 1(4B) income relates to FIF income or loss calculated under— 25
    - “(a) the comparative value method; or
    - “(b) the deemed rate of return method.”
  - (2) In section CV 19, in the list of defined terms, insert “comparative value method”, “deemed rate of return method”, “FIF income”, and “FIF loss”. 30
- 20 New sections CW 16B to CW 16F inserted**
- (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—

“(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 5

“(b) the period of the employee’s employment or service at the distant workplace is a period of continuous work; and 10

“(c) the employer—

“(i) provides accommodation for the employee for a period that falls within a time limit described in **section CW 16C**:

“(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**: 15

“(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. 20

*“Exclusions*

“(2) This section does not apply—

“(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: 25 30

“(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. 35

*“Estimated expenditure*

“(4) For the purposes of **subsection (1)(c)(ii)**,—

- “(a) an employer may make, for a relevant period, a reasonable estimate of the amount of expenditure likely to be incurred on an employee’s accommodation; and
- “(b) the amount estimated is treated as if it were the amount incurred during the period to which the estimate relates. 5

“*Definitions for this section*

- “(5) In this section and **sections CW 16C to CW 16F, CW 17CB, CZ 29, and CZ 30** (which relate to accommodation expenditure), as applicable,—

“**distant workplace**, for an employee, means a workplace that— 10

- “(a) is another workplace of the employee; and
- “(b) is not within reasonable daily travelling distance of their residence

“**out-of-town secondment** means the placement of an employee at a distant workplace— 15

- “(a) because the employment duties of the employee require them to work at the distant workplace for the performance of those duties; and
- “(b) for a period that, in their employer’s expectation at the start of the period of secondment, will last for no more than 2 years 20

“**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 25
- “(b) includes the employee’s time away on leave or other breaks for personal reasons, weekend breaks, required rest periods, and other similar periods 30

“**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
- “(b) which is carried out under a contract between an employer and 1 or more persons who are not associated with the employer; and 35



- “(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 project; and 5
  - “(iii) in their employer’s expectation at the start of the project, will last for a period of no more than 3 years

- “**workplace** means a particular place or base— 10
  - “(a) at which an employee performs their employment duties; or
  - “(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 15

“**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 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: 20
  - “(a) the date that is 2 years from the date on which they began work at the distant workplace: 25
  - “(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: 30
  - “(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*

- “(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 35

work at a distant workplace, and ends at the earliest of the following dates:

“(a) the date that is 3 years from the date on which the employee began work on the project at the distant workplace: 5

“(b) the date on which the employee’s participation in the project at the distant workplace 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: 10

“(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.

*“When subsection (4) applies: time limits when expectations change 15*

“(3) **Subsection (4)** applies for a placement of an employee at a distant workplace when—

“(a) the employment duties of the employee require them to work for a period of time at the distant workplace for the performance of those duties; and 20

“(b) the terms of the placement of the employee meet the requirements of an out-of-town secondment or project of limited duration, as applicable, other than the requirement related to the limitation on the length of the period for which the employee is to remain at the distant workplace; and 25

“(c) the expectation of their employer at the start of the period is that the duration of the secondment or project will exceed the applicable time limit; and 30

“(d) during the period, the employer revises their expectation of the period for the secondment or project, reducing its expected duration, and as a consequence, the requirements of an out-of-town secondment or project of limited duration, as applicable, are fully met. 35

*“Period of exemption*

“(4) **Section CW 16B** applies to the amount that is the value provided or expenditure incurred by the employer for the remain-

der of the period for which the employee is required to remain at the distant workplace under the out-of-town secondment or project of limited duration. For these purposes, the period starts on the date on which the employer revises their expectation, and ends at the earliest of the dates referred to in **subsection (1)(a) to (d) or (2)(a) to (d)**, as applicable. 5

*“Time limits in exceptional circumstances*

“(5) 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. 10

*“Avoidance provision*

“(6) 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). 15 20

“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 25

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

*“When this section applies*

“(1) This section applies when— 30  
“(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  
“(b) the period for which the employee’s attendance is required is a period of continuous work; and  
“(c) their employer— 35  
“(i) provides accommodation for the employee for the period of their attendance:

- “(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. 5

“*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. 10

“*Exempt income*

- “(3) The amount that is the value provided or expenditure incurred by the employer is exempt income of the employee. 15

“*Extended meaning of period of continuous work*

- “(4) For the purposes of this section, a **period of continuous work** may include a period in which an employee’s duties of employment require them to stay for 1 or more nights at a location that is not distant from their regular workplace. 20

“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: 25

- “(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: 30

- “(b) the new employee is on an out-of-town secondment to work—

- “(i) for a person with whom the employer has a continuing commercial affiliation or working relationship, and for the purposes of **section** 35

**CW 16B**, the person is treated as the employer; 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. 5

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

**“CW 16F Accommodation expenditure: multiple workplaces**

*“When this section applies”* 10

“(1) This section applies when—

“(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 15

“(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.

*“Exclusions”* 20

“(2) This section does not apply—

“(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: 25

“(b) when the employee has 2 workplaces and 1 of those workplaces is a home office.

*“Exempt income”* 30

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

“Defined in this Act: accommodation, amount, distant workplace, employee, employer, employment, employment income, exempt income, pay, workplace”. 35

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

**21 Section CW 17 amended (Expenditure on account, and reimbursement, of employees)**

(1) After section CW 17(2), insert:

*“Requirements for expenditure connected to employment or service*

5

“(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—

“(a) the expenditure is incurred or the amount is paid because the employee is performing an obligation required by their employment or service; and

10

“(b) the employee derives employment income through the performance of the obligation; and

“(c) the expenditure is necessary in the performance of the obligation.”

15

*“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—

20

“(a) the payment—

“(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

25

“(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

30

“(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.

35

*“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.”

- (2) In section CW 17(5),—
  - (a) replace the heading with “*Relationship with certain employment expenses provisions*”: 5
  - (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)”. 10
- (3) In section CW 17, in the list of defined terms, insert “Commissioner”, “employment”, “employment income”, and “tax”. 10

**22 New section CW 17CB inserted (Payments for certain work-related meals) 15**

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. For these purposes, expenditure includes a reimbursement payment or a meal allowance. 20

*“Inclusions: work-related events 25*

- “(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 part of or as an alternative to a formal meeting for business discussions: 30
  - “(b) food and drink that the employee consumes at a conference or training course: 30
  - “(c) light refreshments in the form of snack foods such as biscuits and fruit, or liquid refreshments such as tea, coffee, water, or similar refreshments, provided for the employee, but only if— 35

- “(i) their employment duties require them to be away from their employment base for most of the day; and
  - “(ii) the employer would normally provide the refreshments to the employee on the day; and 5
  - “(iii) it is not practicable for the employer to provide the refreshments on the day.
- “Inclusions: meals when travelling on business*
- “(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. 10
- “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. 15
- “Time limit*
- “(5) The maximum period applying to expenditure incurred under **subsection (1)** other than expenditure on a meal described in **subsection (2)**, is 3 months— 20
- “(a) commencing—
    - “(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: 25
  - “(b) ending on the earlier of—
    - “(i) the date on which the 3 month period expires; or
    - “(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. 30
- “Measuring period 35*
- “(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.

*“Time limits in exceptional circumstances*

- “(7) The time limit referred to in **subsection (5)** does not apply if exceptional circumstances arise beyond the control of the employer and employee that require the employee to continue to work away from their employer’s workplace after the period expires. However, an extension of time must be limited to the period for which the employee is unable, because of the exceptional circumstances to return to their employer’s workplace. 5 10

*“Relationship with FBT rules*

- “(8) To the extent to which the expenditure of an employer described in **subsection (1)** gives rise to a fringe benefit, the fringe benefit tax rules override this section.

“Defined in this Act: accommodation, amount, business, employee, employer, employment, employment income, exempt income, fringe benefit, fringe benefit tax rules, pay, workplace”. 15

**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— 35
- “(a) their employer provides a uniform to employees; and

- “(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 allowances for plain clothes to be paid to employees; and 5
  - “(d) historically, the plain clothes allowance was part of a larger amount paid at the time by the employer to employees in relation to the provision of plain clothes, the balance being a taxable amount that was at a later period classified as remuneration for employees then receiving the plain clothes allowance under the employer’s general terms and conditions; and 10
  - “(e) the terms and conditions referred to in **paragraph (c)** continue to provide for the payment of the plain clothes allowance. 15
- “*Exempt amount*
- “(4) The amount that the employer pays to or on behalf of the employee as an allowance for the plain clothes is exempt income of the employee. 20
- “Defined in this Act: amount, distinctive work clothing, employee, employer, employment, exempt income, pay”.
- 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”. 25
- 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”. 30
- 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 35

- 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 does not comply with the person’s rules contained in the register: 5
  - “(ii) the day of final decision.”
- (2) In section CW 41(5)(c), replace “unavailable.” with “unavailable:”, and insert:
- “(d) a person who is removed from the register, in the period starting with the day they are registered on the register and ending with the earlier of the following days: 10
  - “(i) the day on which the person does not comply with the person’s rules contained in the register:
  - “(ii) the day of final decision.”
- (4) In section CW 41, in the list of defined terms, insert “day of final decision”. 15
- (5) **Subsections (1), (2), and (4)** apply for a person—
- (a) for the 2014–15 and subsequent income years; and
  - (b) for an income year before the 2014–15 income year, but only for the first income year and subsequent income years for which the person files a return of income on the basis that these subsections apply for the relevant income year. 20
- 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)**”. 25
  - (2) In section CW 42(6), replace “subsection (5)” with “subsection (5) and **section CW 42B(2)(c) and (3)**”. 30
  - (3) In section CW 42(7), replace “subsection (1)(c)” with “subsection (1)(c) and **section CW 42B(2)(c) and (4)**”. 30
  - (4) In section CW 42(8), replace “subsection (1)(c)” with “subsection (1)(c) and **section CW 42B(2)(c) and (5)**”. 30
- 29 New section CW 42B inserted (Community housing trusts and companies)**
- (1) After section CW 42, insert: 35

“CW 42B Community housing trusts and companies

“Exempt income

- “(1) An amount of income derived by a community housing entity is exempt income if the only beneficiaries or clients of the entity are— 5
  - “(a) community housing entities that meet the requirements to derive exempt income under this section:
  - “(b) at the time of first becoming beneficiaries or clients, persons, or classes of persons, described in regulations made under **section 225D** of the Tax Administration Act 1994: 10
  - “(c) tax charities:
  - “(d) persons to whom distributions would be in accordance with charitable purposes:

“(1) An amount of income derived by a community housing entity is exempt income. 15

“Definition

- “(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~~ company (as applicable, the entity), whose activities are predominantly the provision of housing (the **activities**), and— 20
  - “(a) the activities are not carried on for the private pecuniary profit of any individual; and
  - “(b) all profit is retained by the entity, or distributed or applied to— 25
    - “(i) community housing entities that meet the requirements to derive exempt income under this section:
    - “(ii) ~~at the time of first becoming beneficiaries or clients, persons, or classes of persons, described in regulations made under **section 225D** of the Tax Administration Act 1994:~~ 30
    - “(ii) beneficiaries or clients of the entity:
    - “(iii) tax charities: 35
    - “(iv) persons to whom distributions would be in accordance with charitable purposes; and

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

“*Definition: exception*

“(2B) Despite **subsection (2), community housing entity** does not include a trust and its trustees, or a company (as applicable, the **entity**) if— 5

“(a) less than 85% of the beneficiaries or clients of the entity are, at the time of first becoming beneficiaries or clients, persons, or classes of persons, described in regulations made under **section 225D** of the Tax Administration Act 1994 (the **regulations**): 10

“(b) the provision of housing to beneficiaries or clients who, at the time of first becoming beneficiaries or clients, are persons, or classes of persons, described in the regulations (the **regulated people**) is substantially different from the provision of housing to beneficiaries and clients who, at the time of first becoming beneficiaries or clients, are not regulated people. 15

“*Control over activities* 20

“(3) For the purposes of **subsection (2)(c)**, for an income year, a person is treated as having some control over the activities, and as being able to direct or divert amounts from the activities to their own benefit or advantage if, in the tax year, they are described in section CW 42(5)(a) and (b) and (6) (Charities: business income). 25

“*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). 30

“*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). 35

“Defined in this Act: amount, charitable purpose, community housing entity, exempt income, income, income year, tax charity”.

(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”.

**29B Section CW 46 amended (Bodies promoting amateur games and sports)** 5

(1) In section CW 46, in the words before the paragraphs, replace “or association” with “association, or trustee or trustees of a trust (the promoter)”.

(2) In section CW 46(a), replace “club, society, or association” with “promoter”. 10

(3) In section CW 46(c),—

(a) replace “club, society, or association” with “promoter”; and

(b) replace “shareholder” with “shareholder, beneficiary”. 15

(4) In section CW 46, in the list of defined terms, insert “beneficiary” and “trustee”.

(5) **Subsections (1) to (4)** apply for the 2010–11 and later income years.

**30 Section CW 57 amended (Non-resident company involved in exploration and development activities)** 20

(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: 25

“**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: 30

“(i) operating a ship to provide seismic or electromagnetic 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”. 35

- 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, **CW 17CB**, and **CW 17CC** (which relate to certain expenditure of an employer on an employee’s accommodation, work-related meals, relocation, and clothing)”. 5
- 32 Section CZ 23 amended (Employee benefits for Canterbury earthquake relief: exempt income)**  
 (1) In section CZ 23(2), delete “as defined in section CE 1(2) (Amounts derived in connection with employment)”. 10  
 (2) In section CZ 23, in the list of defined terms, insert “accommodation”.
- 33 New section CZ 29 inserted (Accommodation expenditure: Canterbury earthquake relief)** 15  
 (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— 20  
 “(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; 25  
 and  
 “(b) the distant workplace is a workplace in greater Christchurch. 30  
*“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 35

for certain accommodation expenditure), for the purposes of this section, the 3-year limit is ignored and is replaced by the following:

- “(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: 5
- “(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:
- “(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: 10
- “(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: 15
- “(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*

- “(4) For the purposes of this section and **section CW 16C**,— 20
  - “(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:
  - “(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. 25

“*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. 30

“*Relationship with section CZ 30*

- “(6) **Section CZ 30** does not apply to modify the application of this section. 35

“*Related provisions*

- “(7) For the purposes of this section, the commencement and application provisions in **sections 2 and 20** of the Taxation (An-



nual Rates, Employee Allowances, and Remedial Matters) Act **2014** are treated as—

“(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. 5

“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”.

(2) **Subsection (1)** applies for a person’s income year that includes 4 September 2010 and for all later income years. 10

**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** 15

“*When this section applies*

“(1) This section applies for the purposes of **sections CE 1B, CW 16B to CW 16F, and CW 17CB** (which relate to expenditure on accommodation and work-related meals) when an employer provides accommodation or incurs expenditure that meets the requirements of those provisions in the period that starts on 1 January 2011 or 1 April 2011, as applicable, and ends on 31 March 2015. 20

“*Transitional period: accommodation* 25

“(2) Despite the commencement and application provisions in the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act **2014** relating to the accommodation provisions, the employer may choose to apply those 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. 30

“*Transitional period: work-related meals*

“(3) Despite the commencement and application provisions in the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act **2014** relating to the work-related meal provisions, the employer may choose to apply those provisions to 35

expenditure incurred in the period on work-related meals, but only if they have not already taken a tax position that the expenditure is taxable.

*“Basis of time limits for and after transitional period*

“(4) 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— 5

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

“(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. 10

*“Related provisions*

“(5) For the purposes of this section, the commencement and application provisions in **sections 2, 12, 20, and 22** of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act **2014** are treated as— 15

“(a) commencing on 1 January 2011 for the accommodation provisions, and 1 April 2011 for the work-related meal provisions: 20

“(b) applying for the person’s income year that includes 1 January 2011 or 1 April 2011, as applicable, 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”. 25

(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 inserted (Accommodation expenditure: New Zealand Defence Force) 30**

After **section CZ 30**, insert:

**“CZ 31 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** 35

**CE 1(1B)** (Amounts derived in connection with employment) when—

- “(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 5
- “(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. 10

“Defined in this Act: accommodation, amount, employment”.

**36 New section CZ 32 inserted (Treatment of certain petroleum storage facilities)**

After **section CZ 31**, insert: 15

**“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 expenditure incurred before the date of enactment of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act **2014**. 20

*“Income* 25

- “(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* 30

- “(3) In the formula,—
- “(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—
- “(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
- “(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*
- “(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.
- “Defined in this Act: amount, deduction, income year, petroleum miner, petroleum mining asset, petroleum mining permit”.
- 37 Section DB 1 amended (Taxes, other than GST, and penalties)** 25
- 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)** do not apply, for an income year, to a debenture that a person is party to, if—
  - (a) the debenture is issued under an arrangement entered into before 22 November 2013; and 5
  - (b) a binding ruling on the application of **section FA 2(5)** was issued to the person in relation to the arrangement; and
  - (c) the binding ruling would continue to apply but for the repeal of the substituting debenture rule by the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act **2014** (the **Act**); and 10
  - (d) for the whole of the income year, the total amount and the term of all debentures issued under the arrangement are not more than those disclosed in the application for the binding ruling; and 15
  - (e) the person makes an irrevocable election in writing, received by the Commissioner on or before 31 July 2014, that the repeal of the substituting debenture rule in the Act does not apply to their debenture. 20

**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**”. 25
- (2) Replace section DB 19(1) with:
  - “*When this section applies*
  - “(1) This section applies when a person who incurs expenditure for the purpose of applying for the grant of a resource consent under the Resource Management Act 1991— 30
    - “(a) does not obtain the grant because the application is not lodged or is withdrawn, or because the grant is refused:
    - “(b) obtains the grant but does not use the resource consent before it lapses or is surrendered.
  - “*Deduction* 35
  - “(1B) The person 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 or if the resource consent had been used; and 5
- “(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— 10
  - “(a) the person decides not to lodge the application, withdraws the application, or is refused the grant; or
  - “(b) the resource consent lapses or is surrendered.”
- (4) **Subsections (2) and (3)** apply for the 2014–15 and later income years. 15

**39BA Section DB 20B amended (Consideration for agreement to grant, renew, extend, or transfer leasehold estate or licence)**

- (1) In section DB 20B(1)(a), replace “a leasehold estate, or a licence” with “a leasehold estate not including a perpetual right of renewal, or is a licence”. 20
- (2) **Subsection (1)** applies to an amount incurred on or after 1 April 2015.

**39B Section DB 20C amended (Consideration for agreement to surrender leasehold estate or terminate licence)** 25

- (1) In section DB 20C(1)(a), replace “a leasehold estate or licence” with “a leasehold estate not including a perpetual right of renewal or is a licence”.
- (2) **Subsection (1)** applies to an amount incurred on or after 1 April 2013. 30

**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”.

- (2) **Subsection (1)** does not apply, for an income year, to a debenture that a person is party to, if—
- (a) the debenture is issued under an arrangement entered into before 22 November 2013; and
  - (b) a binding ruling on the application of **section FA 2(5)** was issued to the person in relation to the arrangement; and
  - (c) the binding ruling would continue to apply but for the repeal of the substituting debenture rule by the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act **2014** (the **Act**); and
  - (d) for the whole of the income year, the total amount and the term of all debentures issued under the arrangement are not more than those disclosed in the application for the binding ruling; and
  - (e) the person makes an irrevocable election in writing, received by the Commissioner on or before 31 July 2014, that the repeal of the substituting debenture rule in the Act does not apply to their debenture.
- 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**”.
  - (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—
      - “(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
      - “(c) for which the person is not allowed a deduction under another provision.”
  - (3) Replace section DB 37(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. 5

**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”* 10

“(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, 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.

*“Timing of deduction”*

“(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. 25

*“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. 30

“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.



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

- (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.” 5
- (2) Repeal section DB 55.
- (3) **Subsection (1)** applies for the 2008–09 and later income years.
- (4) **Subsection (2)** applies for a person and income years beginning on or after 1 July 2009, except if the person meets the requirements of **subsection (5)**. 10
- (5) **Subsection (2)** applies for a person and the 2015–16 and later income years if the person takes a tax position, for an income year beginning on or after 1 July 2009,— 15
  - (a) inconsistent with **subsection (2)**; and
  - (b) in a tax return filed before 22 November 2013.

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

- (1) After section DB 62, insert:
  - “*Miscellaneous company administration costs* 20

**“DB 63 Expenses in paying dividends**

*“Deduction*

- “(1) A company is allowed a deduction for expenditure incurred in—
  - “(a) authorising, allocating, or processing, the payment of a dividend: 25
  - “(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. 30
  - “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. 5

*“Link with subpart DA*

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

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

10

**“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. 15

*“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*

20

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

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

25

(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)”. 30

- 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**”.
- 47 Section DG 6 amended (Associated persons: company rule modified)** 5
- (1) In section DG 6, replace “YB 3(1)” with “YB 3(1) (Company and person other than company)”.
- (2) Repeal section DG 6(a).
- (3) In section DG 6, in the list of defined terms, delete “voting interest” 10
- (4) **Subsection (2)** applies for the 2013–14 and later income years.
- 47B Section DG 9 amended (Apportionment formula)**
- (1) In section DG 9(3)(a), delete “and that would be deductible in the absence of this subpart,” 15
- (1) Replace section DG 9(3)(a) with:
- “(a) **expenditure** is the total expenditure or loss that is incurred by the person for an income year in relation to the asset, other than expenditure that is related solely to— 20
- “(i) the income-earning use of the asset as described in section DG 7;
- “(ii) the private use of the asset;
- “(iii) the capital use of the asset.”
- (2) After section DG 9(3), insert: 25
- “*Calculation of item expenditure*
- “(3B) For the purposes of subsection (3)(a), in determining the amount that is the item **expenditure** in the formula, the person must calculate the amount as if the following did not exist:
- “(a) this subpart; and 30
- “(b) the capital limitation; and
- “(c) the private limitation.”
- (2) In section DG 9(3)(b), delete “under section CW 8B(3) (Certain amounts derived from use of assets)”.
- (3) In section DG 9, in the list of defined terms, insert “capital limitation” and “private limitation” 35

- (4) **Subsections (1), (2), and (3)–Subsections (1) and (2)** apply for the 2013–14 and later income years for an item of property referred to in section DG 3(2)(a)(i), and for the 2014–15 and later income years for an item of property referred to in section DG 3(2)(a)(ii) and (iii). 5

**47C Section DG 11 amended (Interest expenditure: close companies)**

- (1) Replace section DG 11(8)(a) with—:
  - “(a) for land, including an improvement to land, the amount given under **subsection (8B)**.”. 10
- (2) After section DG 11(8), insert:
  - “*Asset value for land, including improvements to land*”
  - “(8B) For the purposes of subsection (8)(a), the asset value is the following amount, as applicable:
    - “(a) the amount given by the later of either— 15
      - “(i) its most recent capital value or annual value as set by the relevant local authority; or
      - “(ii) its cost on acquisition or, if the transaction involves an associated person, its market value: 20
    - “(b) if the land or improvement to land is a leasehold estate in land, the market value of the leasehold estate which the person may establish by a valuation that is or has been made by a registered valuer no more than 3 years before the end of the income year: 25
    - “(c) if different activities are carried out on the land on a single certificate of title within the meaning of the Land Transfer Act 1952, the value applying under **paragraph (a) or (b)**, as applicable, adjusted as follows:
      - “(i) by multiplying the value by the percentage that the area of land that is the portion of the land 30 used in relation to the asset to which this subpart applies bears to the total land area described in the certificate of title:
      - “(ii) by a valuation that is or has been made by a registered valuer no more than 3 years before the end 35 of the income year, of the portion of land used in relation to the asset to which this subpart applies.”

- (3) **Subsections (1) and (2)** apply for the 2013–14 and later income years for an item of property referred to in section DG 3(2)(a)(i), and for the 2014–15 and later income years for an item of property referred to in section DG 3(2)(a)(ii) and (iii).

**47D Section DG 16 amended (Quarantined expenditure when asset activity negative)** 5

- (1) Replace section DG 16(1)(b)(i) with:

“(i) for land, including an improvement to land, the amount given under **subsection (1B)**.”

- (2) After section DG 16(1), insert: 10

*“Amount for land, including improvements to land*

- “(1B) For the purposes of **subsection (1)(b)(i)**, the amount is the following amount, as applicable:

“(a) the amount given by the later of either—

“(i) its most recent capital value or annual value as set by the relevant local authority; or

“(ii) its cost on acquisition or, if the transaction involves an associated person, its market value:

“(b) if the land or improvement to land is a leasehold estate in land, the market value of the leasehold estate which the person may establish by a valuation that is or has been made by a registered valuer no more than 3 years before the end of the income year: 20

“(c) if different activities are carried out on the land on a single certificate of title within the meaning of the Land Transfer Act 1952, the value applying under **paragraph (a) or (b)**, as applicable, adjusted as follows: 25

“(i) by multiplying the value by the percentage that the area of land that is the portion of the land used in relation to the asset to which this subpart applies bears to the total land area described in the certificate of title: 30

“(ii) by a valuation that is or has been made by a registered valuer no more than 3 years before the end of the income year, of the portion of land used in relation to the asset to which this subpart applies.” 35

- (3) **Subsections (1) and (2)** apply for the 2013–14 and later income years for an item of property referred to in section DG 3(2)(a)(i), and for the 2014–15 and later income years for an item of property referred to in section DG 3(2)(a)(ii) and (iii). 5

**47E Section DG 17 amended (Allocation of amounts quarantined under section DG 16)**

- (1) In section DG 17(3)(a), replace “total amount of income derived” with “total amount of income, other than an amount of exempt income, derived.” 10
- (2) **Subsection (1)** applies for the 2013–14 and later income years for an item of property referred to in section DG 3(2)(a)(i), and for the 2014–15 and later income years for an item of property referred to in section DG 3(2)(a)(ii) and (iii). 15

**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**”. 20
- (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 25  
“(b) the shareholder is treated as having—  
“(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 30  
“(ii) used the asset for the purposes for which the company used it; and  
“(iii) used the depreciation method used by the company in relation to the asset; and 35

“(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.

*“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.” 5
- (3) In section DZ 21, in the list of defined terms, insert “deduction”, “depreciation loss”, “pay”, and “voting interest”. 10
- (4) **Subsections (1) and (2)** apply for the 2013–14 and later income years. However, **subsections (1) and (2)** do not apply 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. 15
- 49 Amendments to examples in subparts DG and DZ**  
The examples provided in subparts DG and DZ are amended as indicated in the **schedule**. 20
- 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. 25
- 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: 30  
*“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”.
- (3) **Subsections (1) and (2)** do not apply, for an income year, to a debenture that a person is party to, if—
  - (a) the debenture is issued under an arrangement entered into before 22 November 2013; and 5
  - (b) a binding ruling on the application of **section FA 2(5)** was issued to the person in relation to the arrangement; and
  - (c) the binding ruling would continue to apply but for the repeal of the substituting debenture rule by the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act **2014** (the **Act**); and 10
  - (d) for the whole of the income year, the total amount and the term of all debentures issued under the arrangement are not more than those disclosed in the application for the binding ruling; and 15
  - (e) the person makes an irrevocable election in writing, received by the Commissioner on or before 31 July 2014, that the repeal of the substituting debenture rule in the Act does not apply to their debenture. 20

**51B Section DU 1 amended (Mining expenditure: prospecting and exploration expenditure)**

- (1) Replace section DU 1(2), other than the heading, with:
  - “(2) This section supplements the general permission and overrides the capital limitation. The other general limitations still apply.” 25
- (2) In section DU 1, in the list of defined terms, insert “capital limitation”.
- (3) **Subsection (1)** applies for the 2014–15 and later income years. 30

**51C Section DU 11 amended (Meaning of mining development expenditure: exclusion of operational expenditure)**

- (1) In section DU 11(4)(c), replace “create an asset” with “create, or contribute to the creation of, an asset”. 35



- (2) **Subsection (1)** applies for the 2014–15 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”.

**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.”
- (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.

**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.”
- (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:  
 “(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** (Dis-

- posals or applications after earlier deductions) to a corresponding amount of income relating to the item; and”.
- (2) **Subsection (1)** applies for the 2014–15 and later income years.
- 56 Section EE 67 amended (Other definitions) 5**
- (1) In section EE 67, definition of **legal life**, paragraph (a), replace “paragraphs (b) and (c)” with “paragraphs (b) to **(d)**”.
- (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: 10
- “(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— 15
- “(i) when the person acquires the owner’s interest; 20  
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”. 25
- 57 Section EG 1 amended (Election to use balance date used in foreign country)**
- (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 2008–09 and later income years.

**57B Section EI 4B amended (Consideration for agreement to grant, renew, extend, or transfer leasehold estate or licence)**

- (1) After section EI 4B(5), insert:  
*“Effect for deduction of early termination of leasehold estate or licence* 5
- “(5B) If an amount of a deduction would be allocated to a spreading period of a land right under subsection (3) for a person (the **affected person**) in the absence of this subsection, the amount is allocated to an income year (the **balance year**) ending before the end of the spreading period, if— 10
  - “(a) the affected person holds the estate in land from which the land right is granted; and
  - “(b) the land right is surrendered or terminated in the balance year.” 15
- (2) Replace section EI 4B(6), other than the heading, with:  
 “(6) Subsections (4), (5), and **(5B)** override subsection (3).”
- (3) **Subsections (1) and (2)** apply to an amount that is incurred or derived on or after 1 April 2013 in relation to a lease or licence entered, renewed, extended, or transferred on or after that date. 20

**58 Section EI 7 amended (Leases: income derived in anticipation)**

- (1) Replace section EI 7(2), other than the heading, with:
- “(2) The person may choose to— 25
  - “(a) divide the income into 6 equal portions; and
  - “(b) allocate a portion to the income year in which they derive the amount; and
  - “(c) similarly allocate a portion to each of the next 5 income years.” 30
- (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”.
- (3) After section EI 7(4), insert:  
*“Transitional provision: 2015–16 and later income years* 35
- “(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—

“(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 5

“(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

(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. 15

#### **59 Section EI 8 amended (Disposal of land to the Crown)**

(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 20

“(b) allocate a portion to the income year in which they derive the amount; and

“(c) similarly allocate a portion to each of the next 3 income years.”

(2) After section EI 8(5), insert: 25

*“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

“(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 35

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.”

- (3) **Subsections (1) and (2)** apply for the 2015–16 and later income years. 5

**59B Section EJ 20D amended (Measurement of assumed life of mine and application to rate)**

- (1) Replace section EJ 20D(3), other than the heading, with:

“(3) In the formula, **assumed life**, for an amount of expenditure and an income year, is the period that is the lesser of the following periods: 10

“(a) the period that—

“(i) the mineral miner uses for accounting purposes as the amortisation period for the mining permit area; or 15

“(ii) for a mineral miner that is not required to use an amortisation period for their accounts, the mineral miner estimates is a reasonable period for the commercial production of a listed industrial mineral from the mining permit area; and 20

“(b) the period that is not more than 25 years from the later of—

“(i) the date on which commercial production from the mining permit area starts; and 25

“(ii) the date on which the mineral miner incurs the expenditure relating to the mining permit area.”

- (2) In section EJ 20D(4), replace “the end of an income year” with “the end of each income year”.

- (3) **Subsections (1) and (2)** apply for the 2014–15 and later income years. 30

**59C Section EJ 20E amended (Certain mining expenditure spread on the basis of units of production)**

- (1) In section EJ 20E(4)(a), replace “the total mining development expenditure” with “the total amount of the mineral miner’s expenditure described in section DU 6(1)(a)”. 35

- (2) In section EJ 20E, in the list of defined terms, delete “mining development expenditure”.
- (3) **Subsection (1)** applies for the 2014–15 and later income years.

**59D Section EW 8 amended (Some short-term agreements for sale and purchase acquired in business: election to treat as financial arrangements)** 5

- (1) In section EW 8, replace the heading with “**Election to treat certain excepted financial arrangements as financial arrangements**”. 10
- (2) Replace **section EW 8(1) and (2)** with:  
“*Election*  
“(1) A person may choose to treat as financial arrangements all the excepted financial arrangements to which the person is a party that are described in any of section EW 5(21) to (25). 15  
“*Election for class of short-term agreements*  
“(2) A person may choose to treat a class of short-term agreements for sale and purchase as financial arrangements. The person must identify the class by—  
“(a) the currency that applies to the agreements; or 20  
“(b) the term of the agreements; or  
“(c) both the currency and the term.”
- (3) Replace **section EW 8(1) and (2)** with:  
“*Election*  
“(1) A person may choose to treat as financial arrangements all the excepted financial arrangements to which the person is a party that are described in any of section EW 5(21) to (25) if the expenditure under the agreements satisfies the general permission and is not denied by a general limitation as a deduction for the person. 25  
“*Election for class of short-term agreements*  
“(2) A person may choose to treat as financial arrangements a class of short-term agreements for sale and purchase if the expenditure under the agreements satisfies the general permission and is not denied by a general limitation as a deduction for the person. The person must identify the class by— 30  
“(a) the currency that applies to the agreements: 35

- “(b) the term of the agreements.”
- (4) In section EW 8(3), replace “acquired” with “chosen”.
- (5) **Subsections (2) and (4)** apply for a person and an excepted financial arrangement on and after 27 September 2012, except if the person— 5
- (a) takes a tax position for the excepted financial arrangement, relying on an election made under section EW 8 as amended by section 50 of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 and before its amendment by **subsections (2) and (4)**,— 10
- (i) in a return of income received by the Commissioner before ~~24~~14 April 2014;
- (ii) under a determination or binding ruling made by the Commissioner before ~~24~~14 April 2014; and 15
- (b) chooses after ~~24~~14 April 2014 to continue taking the tax position.
- (6) **Subsection (3)** applies for a person and an excepted financial arrangement on and after 17 July 2013, except if the person takes a tax position for the excepted financial arrangement referred to in **subsection (5)(a)** and chooses under **subsection (5)(b)** to continue taking the tax position. 20
- 60 Section EW 15D amended (IFRS financial reporting method)**
- (1) Before section EW 15D(2)(b), insert: 25
- “(ae) 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.” 30
- (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.”
- (3) In section EW 15D, in the list of defined terms, insert “foreign ASAP” and “FX hedge”. 35

- (4) **Subsections (1), (2), and (3)** 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.
  
- 61 Section EW 15F amended (Expected value method)** 15
  - (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”.
  - (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—
      - (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.
  
- 62 Section EW 15G amended (Modified fair value method)**
  - (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—
  - (a) in the 2014–15 income year and later income years, unless **paragraph (b)** applies: 5
  - (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
    - (ii) the person uses IFRSs to prepare financial statements or to report for financial arrangements for the first income year. 15

**63 Section EW 15H amended (Mandatory use of some determinations)**

- (1) Repeal section EW 15H(1)(d).
- (2) **Subsection (1)** applies for a financial arrangement entered into by a person— 20
  - (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— 25
    - (i) the first income year is the 2011–12, 2012–13, 2013–14, or 2014–15 income year; and 30
    - (ii) the person uses IFRSs to prepare financial statements or to report for financial arrangements for the first income year.

**64 Section EW 15I amended (Mandatory use of yield to maturity method for some arrangements)** 35

- (1) Replace section EW 15I(1)(b)(iii) with:

- “(iii) is an agreement for the sale and purchase of property or services—a foreign ASAP that is life financial reinsurance; or  
“(iiib) is an agreement for the sale and purchase of property or services that is not a foreign ASAP.” 5
- (2) In section EW 15I, in the list of defined terms, insert “foreign ASAP” and “life financial reinsurance”.
- (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: 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
- 65 Section EW 32 amended (Consideration for agreement for sale and purchase of property or services, hire purchase agreement, specified option, or finance lease)**
- (1) In the heading to section EW 32, replace “**and purchase**” with “**and purchase (ASAP)**”. 25
- (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)**”. 30
- (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**. 35

*“Future or discounted value: foreign ASAPs*

“(2C) If the relevant financial arrangement is a foreign ASAP, the value of the property or services is the value of the amounts paid or payable under the foreign ASAP for the property or services, but ignoring amounts that are expressly provided in the agreement as paid or payable on account of the future value, or the discounted value, or a combination of both the future and discounted values, on the rights date, of amounts paid or payable. **Section EW 33B** may apply in relation to FX hedges, and **section EW 33C** applies.

*“Future or discounted value: foreign ASAPs subject to 12 month ASAP*

“(2D) 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.

*“Express value: foreign ASAPs not subject to 12 month ASAP*

“(2E) 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.”

(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 ~~**Sections EZ 75 and EZ 76**~~ (which relate to some ASAPs before the 2014–15 income year) override 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:

- (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— 5
- (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. 10
- 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*
- “(1) This section applies when, for a person’s financial arrangement, **section EW 32(2B)** applies, and— 15
- “(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 20
- “(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
- “(b) the person holds an IFRS designated FX hedge in relation to the financial arrangement 25
- “When this section applies*
- “(2) This section applies when, for a person’s financial arrangement, **section EW 32(2C), (2D), or (2E)** applies, and—
- “(a) the financial arrangement is a foreign ASAP that relates to: 30
- “(i) property that is or will be depreciable property or revenue account property; or
- “(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 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, an irrevocable election in writing to apply this section to all financial arrangements for property and services described in **paragraph (a)(i) and (ii)**; and 5
- “(c) the person holds a non-IFRS designated FX hedge in relation to the financial arrangement.
- “*Value: IFRS* 10
- “(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. 15
- “*Value: non-IFRS*
- “(4) For a financial arrangement described in **subsection (2)** the value under **section EW 32** of the relevant property or services 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. 20
- “*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. 25
- “*Relationship with subject matter* 30
- “(6) **Section EZ 70** (Consideration for property or services: IFRS foreign ASAPs before 2014–15 income year) overrides ~~**Sections EZ 75 and EZ 76**~~ (which relate to some ASAPs before the 2014–15 income year) override this section. 35
- “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

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

“When this section applies

“(1) This section applies when the consideration paid or payable under a financial arrangement to which **section EW 32(2C), (2D), or (2E)** applies is in a foreign currency. 5

“Spot rates

“(2) The spot rate on the date an amount of consideration is paid or payable is used to convert to New Zealand dollars for consideration in a foreign currency. 10

“(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:— 15

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

“(b) the spot rate on the date an amount of consideration is paid or payable, if it is paid or payable within 93 days of the end of the current income year. 20

“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: 25

(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

**67 Section EW 35 amended (Value relevant for non-financial arrangements rule)**

- (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)**

- (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.

**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:
  - “(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. 5
- 70 Section EX 20B amended (Attributable CFC amount)**
- (1) In section EX 20B(1), replace the formula with:  
gross + arrangement – apportioned funding income.
- (2) In section EX 20B(2), replace “subsections (3) and (4)” with “subsections (3) to **(4B)**”.
- (3) Replace section EX 20B(3)(c) with: 10  
“(c) an amount that is a deductible foreign equity distribution or a distribution for fixed-rate equity and is not a distribution from an associated non-attributing active CFC.”
- (4) After section EX 20B(4), insert: 15  
“*Apportioned funding income*  
“(4B) **Apportioned funding income** is,—  
“(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: 20  
“(b) if **paragraph (a)** does not apply, the amount calculated using the formula—  
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)**. 25  
“*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—  
“(a) that provides funds for the CFC; and 30  
“(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—

“(i) the period in which the CFC is party to the financial arrangement: 5

“(ii) a period predictable in advance during which the CFC is a party to the financial arrangement.

“*Funding fraction*

“(4E) **Funding fraction** is the amount given by section EX 20C(6) for the CFC. 10

“*Asset fraction*

“(4F) **Asset fraction** is the amount given by section EX 20C(8) for the CFC.”

(5) **Subsections (1), (2), (3), and (4)** apply for income years beginning on or after 1 July 2009. 15

**71 Section EX 20C amended (Net attributable CFC income or loss)**

(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: 20

“(4) The items in the formula in subsection (3)(c) are defined in subsections (6), (10), and (11).”

(4) Repeal section EX 20C(5).

(5) Replace section EX 20C(7)(b) with:

“(b) **group funding** is the lesser of the item funding and the total of amounts, each of which is the outstanding balance for a financial arrangement, a fixed-rate foreign equity, or a share giving a right to a deductible foreign equity distribution,— 25

“(i) under which the CFC provides funds to another CFC associated with the CFC under section YB 2 (Two companies) or to a FIF for which the interest holder uses the attributable FIF income 30

- method and that is associated with the CFC under section YB 2; and
- “(ii) that produces for the CFC an amount that is included in the item arrangement under section EX 20B(4) or is a deductible foreign equity distribution or a distribution for fixed-rate foreign equity.” 5
- (6) **Subsections (1) to (5)** apply for income years beginning on or after 1 July 2009.
- 71B Section EX 20D amended (Adjustment of cost fraction for excessively debt funded CFC)** 10
- (1) Replace section EX 20D(7)(b) with:
- “(b) if the interest holder chooses to rely on this paragraph and the item **total CFC’s assets** is greater than the item **total CFC’s debts**, the lesser of the item **total CFC’s debts** and the total of amounts, each of which is the outstanding balance for a financial arrangement, a fixed-rate foreign equity, or a share giving a right to a deductible foreign equity distribution,— 15
- “(i) under which the CFC provides funds to another CFC associated with the CFC under section YB 2 (Two companies) or to a FIF for which the interest holder uses the attributable FIF income method and that is associated with the CFC under section YB 2; and 25
- “(ii) that produces for the CFC an amount that is included in the item arrangement under section EX 20B(4) or is a deductible foreign equity distribution or a distribution for fixed-rate foreign equity.” 30
- (2) **Subsection (1)** applies for income years beginning on or after 1 July 2009.
- 72 Section EX 21B amended (Non-attributing active CFCs)**
- In section EX 21B(4), after “if the person”, insert “, or a member of a wholly-owned group to which the person belongs,”. 35

- 73 Section EX 21D amended (Non-attributing active CFC: default test)**
- (1A) Replace section EX 21D(1)(a) with:
- “(a) each of which is subject to the laws of the same country or territory and—
    - “(i) has a taxed CFC connection with the country or territory:
      - “(ii) would be a non-attributing active CFC if not treated as part of a test group and would have a taxed CFC connection with the country or territory in the absence of paragraph (c) of the definition of **taxed CFC connection**; and”.
- (1) Replace section EX 21D(1)(b) with:
- “(b) in each of which an income interest of more than 50% is held by—
    - “(i) the interest holder:
    - “(ii) companies that are all members of a wholly-owned group of companies that includes the interest holder; and”.
- (1B) After section EX 21D(9)(c), insert:
- “(cb) income that is derived from a fixed establishment by a member of the test group and is not an attributable CFC amount, if the member is included in the test group under **subsection (1)(a)(ii)**.”.
- (2) In section EX 21D, list of defined terms, insert “fixed establishment”, and “wholly-owned group of companies”.
- (3) **Subsections (1A) to (1B)** 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)**
- (1A) Replace section EX 21E(2)(b) with:
- “(b) each company is subject to the laws of the same country or territory and—
    - “(i) has a taxed CFC connection with the country or territory:
      - “(ii) would be a non-attributing active CFC if not treated as part of a test group and would have

a taxed CFC connection with the country or territory in the absence of paragraph (c) of the definition of **taxed CFC connection**; and”.

- (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”.
- (2) Repeal section EX 21E(3)(b).
- (3) In section EX 21E(4)(g)(ii), replace “standard.” with “standard; and”.
- (4) After section EX 21E(4)(g), insert:
  - “(h) a numerator that is a negative number is treated as being zero.”
- (5) Repeal section EX 21E(7)(f)(iii).
- (6) After section EX 21E(7)(f), insert:
  - “(fb) a foreign exchange gain or loss on—
    - “(i) a financial asset other than a derivative as defined in NZIAS 39 or a share that is not revenue account property, if **subparagraph (ii)** does not apply; or
    - “(ii) a financial asset or financial liability other than a derivative as defined in NZIAS 39 or a share that is not revenue account property, for a CFC for which foreign exchange gains and losses from financial assets are not readily distinguishable by an interest holder from foreign exchange gains and losses from financial liabilities:”.
- (7) In section EX 21E(9)(cb), replace “financial asset” with “financial asset or financial liability”.
- (8) Repeal section EX 21E(10)(c)(iii).
- (9) After section EX 21E(10)(c), insert:
  - “(cb) a foreign exchange gain or loss on—
    - “(i) a financial asset other than a derivative as defined in NZIAS 39 or a share that is not revenue ac-

- count property, if **subparagraph (ii)** does not apply; or
- “(ii) a financial asset or financial liability other than a derivative as defined in NZIAS 39 or a share that is not revenue account property, for a CFC for which foreign exchange gains and losses from financial assets are not readily distinguishable by an interest holder from foreign exchange gains and losses from financial liabilities:”.
- (9B) After section EX 21E(12)(d), insert:
- “(db) income that is derived from a fixed establishment by a member of the test group and is not an attributable CFC amount, if the member is included in the test group under **subsection (2)(b)(ii)**:”.
- (10) In section EX 21E, list of defined terms, insert “financial asset”, “financial liability”, “fixed establishment”, and “wholly-owned group of companies”.
- (11) **Subsections (1) to (6) and (8) to (9B)** apply for income years beginning on or after 1 July 2009.
- 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:
- “(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)**~~ **Subsections (1) and (2)** apply for income years beginning on or after 1 July 2014.
- 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”.
- (2) In section EX 35(b)(iii), replace “governments of other territories” with “governments of other countries or territories”.

- (3) **Subsection (1)** applies for income years beginning on or after 1 July 2014.

**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)**

- (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—”.

- (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—”.

- (3) **Subsections (1) and (2)** apply for the 2014–15 and later income years.

**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:

“(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.

**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” 5
- (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.” 10
- (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 interest in the FIF; and  
 “(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 interest in the FIF.” 15
- (4) In section EX 58, in the list of defined terms, insert “direct income interest”. 20
- (5) **Subsections (1) to (3)** apply for the 2014–15 and later income years.
- 80B Section EZ 23B amended (Property acquired after depreciable property affected by Canterbury earthquakes)** 25
- (1) In section EZ 23B(5)(b), replace “affected property” with “affected class”.
- (2) In section EZ 23B(5)(c), replace “affected property” with “affected class”.
- 81 Section EZ 32D amended (Value of asset fraction: CFC with excessive debt funding and loan entered before 21 June 2012)** 30
- (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.
- (2) In section EZ 32D(3),— 35

- (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)**”.
- (3) **Subsections (1) and (2)** apply for income years beginning on or after 1 July 2009. 5

**82** **New sections ~~EZ 70~~ and ~~EZ 71~~ EZ 75 and EZ 76 inserted**  
Before Part F, insert:

**~~EZ 70~~ EZ 75 Consideration for property or services: IFRS foreign ASAPs before 2014–15 income year** 10

*“When this section applies*

“(1) This section applies when a person uses IFRSs to prepare financial statements and to report for financial arrangements, and—

“(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 (ASAP) of property or services, hire purchase agreement, specified option, or finance lease) applies to value the relevant property or services; and 15 20

“(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. 25

*“Treatment*

“(2) The person, applying **sections 66 and 67** ~~sections 65 and 66~~ of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act **2013** as if in force, may—

“(a) treat **sections EW 32 and EW 33B** (Foreign ASAPs: designated FX hedges) as applying to the financial arrangement for the 2013–14 income year and every earlier income year; or 30

“(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 35



amount attributed under IFRS rules from the value on account of FX hedges.

*“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. 5

“Defined in this Act: amount, financial arrangement, foreign ASAP, FX hedge, IFRS, income year 10

**~~EZ 71~~EZ 76 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— 15

“(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 20

“(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. 25

*“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 year and every earlier income year. **Section EW 33B** (Foreign ASAPs: designated FX hedges) is excluded. 30

“Defined in this Act: amount, financial arrangement, foreign ASAP, FX hedge, IFRS, income year”. 35

**83 New section ~~EZ 72~~EZ 77 inserted (Substituting debentures repeal: transitional rules)**

After **section ~~EZ 74~~EZ 76**, insert:

**~~EZ 72~~EZ 77 Substituting debentures repeal: transitional rules**

*“When this section applies* 5

- “(1) This section applies if a person has a substituting debenture when the application of **section 84** of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act **2014** (the **repealing Act**) repeals section FA 2(5) and a financial arrangement arises. 10

*“ Substituting debenture: last day*

- “(2) On 31 March 2015—  
 “(a) the substituting debenture is treated as cancelled; and  
 “(b) an amount equal to the debenture’s outstanding principal and outstanding accrued interest is treated as paid to the holder, for the cancellation, by the debenture’s issuer. 15

*“Financial arrangement: first day*

- “(3) On 1 April 2015, the debenture’s issuer and holder are treated as entering into the financial arrangement on the same terms and conditions as the debenture described in **subsection (2)**, except that the amount of principal treated as advanced to the issuer is an amount equal to the amount described in **subsection (2)(b)**. 20

*“Subsections (2) and (3) modified* 25

- “(4) If the repeal of section FA 2(5) arises because a debenture that a person is party to fails to meet a requirement described in **section 84(5)** of the **repealing Act**, then—  
 “(a) **subsection (2)** is modified to apply on the last day of the tax year immediately before the tax year that corresponds to the income year in which the failure to meet a requirement occurs; and 30  
 “(b) **subsection (3)** is modified to apply on the first day of the tax year that corresponds to the income year in which the failure to meet a requirement occurs. 35

*“Continuity*

- “(5) A change in voting interest or market value interest that arises from the application of **section 84** of the repealing Act is ignored for the purposes of the continuity provisions.

“Defined in this Act: consideration, continuity provisions, financial arrangement, financial arrangements rules, income year, market value interest, substituting debenture, voting interest”.

**84 Section FA 2 amended (Recharacterisation of certain debentures)**

- (1) In section FA 2(1), delete “or a substituting debenture”. 10
- (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 or substituting” with “a profit-related debenture is denied a deduction under section DB 10 (Interest or expenditure connected to profit-related”. 15
- (3) Repeal 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)** do not apply, for an income year, to a debenture that a person is party to, if— 20
- (a) the debenture is issued under an arrangement entered into before 22 November 2013; and
- (b) a binding ruling on the application of **section FA 2(5)** was issued to the person in relation to the arrangement; 25  
and
- (c) the binding ruling would continue to apply but for the repeal of the substituting debenture rule by the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act **2014** (the **Act**); and 30
- (d) for the whole of the income year, the total amount and the term of all debentures issued under the arrangement are not more than those disclosed in the application for the binding ruling; and
- (e) the person makes an irrevocable election in writing, received by the Commissioner on or before 31 July 2014, that the repeal of the substituting debenture rule in the Act does not apply to their debenture. 35

- 85 Section FB 15 amended (Specified livestock valued under herd scheme)**  
 In section FB 15, replace “EC 4C” with “EC 4C (which relate to livestock)”.
- 86 Section FC 5 amended (Land transferred to close relatives)** 5  
 (1) Replace section FC 5(3)(b) with:  
     “(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.” 10  
 (2) **Subsection (1)** applies for the 2008–09 and later income years.
- 87 Section FE 1 amended (What this subpart does)**  
 (1) Replace section FE 1(1) with:  
     “*Interest adjustment* 15  
 “(1) This subpart applies to adjust the effective level of interest deductions for a New Zealand taxpayer by treating the taxpayer as deriving income—  
     “(a) if the taxpayer is not a foreign-owned bank and the level of debt in New Zealand of the taxpayer’s New Zealand group (identified in *sections FE 3 or FE 25 to FE 30*) is disproportionately high, either by comparison with the total level of debt worldwide of the taxpayer’s worldwide group (identified in *sections FE 31 to FE 32*) or, in some situations, by comparison with the level of the taxpayer’s debt in New Zealand arising from debt funding provided by third parties, and the taxpayer—  
         “(i) is controlled by a single non-resident: 20  
         “(ii) is controlled by a non-resident owning body: 25  
         “(iii) is controlled by a group of entities, including non-residents and entities controlled by non-residents, that act together: 30  
         “(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 FIF resident in Australia) or for 35

which the person uses the attributable FIF income method:

- “(v) is a New Zealand entity who controls an out-bound entity; and
- “(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.” 5
- (2) In section FE 1, in the list of defined terms, insert “non-resident owning body”, “ownership interest”, and “trustee”. 10
- (3) **Subsection (1)** applies for the 2015–16 and later income years.

**88 Section FE 2 amended (When this subpart applies)**

- (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— 15
    - “(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 20 persons:
      - “(ii) having control of the company by any other means:
        - “(cc) a company that is resident in New Zealand if a trustee who meets the requirements of paragraph **(d) or (db)**— 25
          - “(i) holds total ownership interests in the company of 50% or more:
            - “(ii) has 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— 30
      - “(i) a non-resident or an associated person of a non-resident:
        - “(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 35

- trustee and powers of appointment or removal held by the trustee were ignored:
- “(iii) a group of persons who act in concert, 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: 5
- “(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:” 10 15
- (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: 20
- “(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”. 25
- (6) **Subsections (1) to (4)** apply for the 2015–16 and later income years.
- 89 Section FE 3 amended (Interest apportionment for individuals)** 30
- (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—”.
- (2) Replace section FE 3(1)(b) and (c) with: 35

- “(b) the amount of the total assets of a natural person is calculated excluding the person’s private and domestic assets:
- “(c) the New Zealand group of a trustee is made up of the trustee and all companies identified under section FE 27 as being under the control of the trustee, other than a company with a New Zealand parent not determined under **section FE 26(4D)**: 5
- “(d) the worldwide group of a trustee is made up of the trustee’s New Zealand group.” 10
- (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) 15**
- (1A) In section FE 4, after the heading, insert:  
 “*Definitions*”.
- (1) In section FE 4, insert, in appropriate alphabetical order:  
 “**linked trustee**, for a person, is a trustee to whom the person has provided money under a settlement or arrangement 20  
 “**non-resident owning body**, for a company and an income year, means a group consisting of 2 or more members who are each a non-resident or a person meeting the requirements of **section FE 2(1)(cc), (d), or (db)** and who each hold ownership interests in the company or have a linked trustee holding ownership interests in the company such that,— 25  
 “(a) if the company, for each member of the group, owes money to the member (the **member debt**), or to the member’s linked trustee (the **trustee debt**), or to a company (the **subsidiary**) in which the member or a linked trustee has ownership interests (the **subsidiary debt**),— 30  
 “(i) the member debt for a member, expressed as a fraction of the total member debt for the company, corresponds to the ownership interests or direct ownership interests held by the member, 35  
 expressed as a fraction of the ownership interests

- or direct ownership interests held by the members of the group:
- “(ii) the requirements of **subparagraph (i)** would be met if each of 1 or more members of the group were treated as holding the ownership interests in the company held by the member, and by linked trustees, and were treated as being owed the member debt, the trustee debt, and an amount for a subsidiary debt equal to the product of the subsidiary debt and the ownership interest held in the subsidiary: 5
- “(b) the company is not a widely-held company and the company is funded for the income year under an arrangement between the members of the group concerning debt (the **member-linked funding**) under financial arrangements meeting the requirements of **section FE 18(3B)(b)(i) to (iii)** for the members: 10
- “(c) the company has member-linked funding provided in a way recommended to, or implemented for, the members as a group by a person”. 15
- (1B) In section FE 4, after the definition of **reporting bank**, insert as subsection (2): 20
- “*Types of ownership interest*
- “(2) For the purposes of the definition of **non-resident owning body**, in determining the relationship between the amount of a company’s debt relating to a member and the level of the ownership interests in the company relating to the member, the level of each type of ownership interest in the company is considered, despite section FE 39.” 25
- (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”. 30
- (3) **Subsections (1) and (1B)** apply for the 2015–16 and later income years.
- 91 Section FE 13 amended (Financial arrangements entered into with persons outside group) 35**
- (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
  - “(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 5
  - “(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 10
  - “(d) the person—
    - “(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 property incidental to financial arrangements.” 15
- (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. 20

**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 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. 25 30
- “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— 35

“(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. 5

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

“(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)**.” 10 15

(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:

*“Investments to which subsection (1B) applies”* 20

“(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

“(b) that is an investment— 25

“(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: 30

“(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 35

New Zealand group of an excess debt outbound company:

- “(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.” 5 10
- (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—”. 15
- (3) After section FE 16(1C), insert:  
*“Changes in value excluded if arising from transfers between associated persons*
  - “(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 or ownership interests between a member of the group and an associated person in or after the 2015–16 income year. 20
  - “Exception: change equivalent to revaluation or arising from transaction with non-associate* 25
- “(1E) A change referred to in **subsection (1D)** may be included in the value of the total group assets if—
  - “(a) the change would have been permitted under generally accepted accounting practice in the absence of the transfer: 30
  - “(b) the change—
    - “(i) arises for a company that, with other companies, has its ownership or control purchased by a person (the **purchaser**) who is not an associated person of the former owner and that is restructured on being included in the purchaser’s group (the **group**); and 35

- “(ii) 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 group’s total assets.”
- (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”. 5
- (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)** 10
- (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— 15
- “(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. 20
- “Financial arrangements removed from measurement of amounts* 25
- “(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— 30
- “(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,— 35
- “(i) is a party to the financial arrangement:

- “(ii) guarantees, or provides security for, the performance of obligations under the financial arrangement, if the worldwide group is given by **section FE 3(e) or FE 31D**:
- “(iii) provides, or undertakes to provide, funds for the use of a person who agrees to provide funds under the financial arrangement; and 5
- “(c) the owner has direct ownership interests in a member of the group of 5% or more; and,
- “(d) the financial arrangement is not traded on an exchange that would be a recognised exchange if paragraphs (c) to (e) of the definition of **recognised exchange** referred to financial arrangements as well as to shares and options over shares.” 10
- (1B) In section FE 18(5)(a), replace subparagraph (iii) with: 15
- “(iii) all members of the entity’s worldwide group, not including the entity, are resident in New Zealand and the entity’s worldwide group is not determined under either of **sections FE 3(1)(d) and FE 31D**; or” 20
- (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) **Subsections (1) and (1B)** apply for the 2015–16 and later income years. 25
- 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**”. 30
- (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.” 35

- (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 years.
  
- 96 Section FE 26 amended (Identifying New Zealand parent) 5**
- (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 having a direct ownership interest of 50% or more in the entity and not having 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— 5
- “(a) a direct ownership interest of 50% or more in the entity; and
- “(b) a tax-return member.
- “Controlling trustee*
- “(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 trustee referred to in **section FE 2(1)(cc)**.” 10
- (5) In section FE 26(6), replace “subsection (3), (4), or (4B)” with “1 of subsections (3) to **(4D)**”. 15
- (6) Replace section FE 26(7) with:
- “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,— 20
- “(a) the ownership interests of a person associated with another person are not included with the ownership interests of the other person, except if the persons are associated under **paragraph (b)**: 25
- “(b) a trustee who acts in concert with another trustee is treated as being associated with the other trustee.”
- (7) In section FE 26, in the list of defined terms, insert “income”, “ownership interest”, and “non-resident owning body”. 30
- (8) **Subsections (1) to (6)** apply for the 2015–16 and later income years. 30
- 97 New section FE 31D inserted (Worldwide group for entity with New Zealand parent depending on non-resident owning body)**
- (1) After section FE 31C, insert: 35

**“FE 31D Worldwide group for entity with New Zealand parent depending on 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—

“(a) the entity; and

“(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”.
- (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)**

- (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”.
- (1B) After section FM 5(2), insert:
- “*When subsection (4) applies*
- “(3) **Subsection (4)** applies when—
- “(a) a company in a consolidated group is treated as deriving an amount of income under **section CG 2C or CG 2D** (which relate to the treatment of remitted amounts when certain companies are liquidated or leave groups of companies); and
- “(b) the company—
- “(i) for the purposes of **section CG 2C**, is company A and is liquidated while still part of the consolidated group:



“(ii) for the purposes of **section CG 2D**, is either company C or company D, and leaves the consolidated group.

*“Income of consolidated group*

“(4) The amount of income that the company is treated as deriving under **section CG 2C or CG 2D**, as applicable, is treated as derived by the consolidated group. 5

*“Treatment of unpaid liabilities*

“(5) In the application of **subsection (4)**, to the extent to which an unpaid liability was previously taken into account in determining whether an amount is income under **section CG 2C or CG 2D**, the amount is not included in determining income under subsection (2).” 10

(1C) In section FM 5, in the list of defined terms, insert “income” and “pay”. 15

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

**99B Section FO 5 amended (Amalgamations and remitted liabilities)**

(1) In section FO 5, after the section heading, insert: 20  
*“Treatment of liabilities generally”.*

(2) In section FO 5, replace “CG 2 (Remitted amounts)” with “CG 2, **CG 2C** (which relate to remitted amounts)”.

(3) In section FO 5, insert: 25  
*“Treatment of liabilities on liquidation*

“(2) Despite subsection (1), when an amalgamating company to which **section CG 2C** applies has liabilities that are required to be assumed under section FO 4(2)(b), **section CG 2C** applies—

“(a) to the amalgamated company as if it were company A; 30  
and

“(b) in the same way to the amalgamated company that is an amalgamating company in a subsequent amalgamation; and

“(c) from the date of the amalgamation or a subsequent amalgamation to the date on which the liabilities are met.” 35

**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)”: 5
  - (b) in paragraph (c), replace “section OB 41” with “section OA 8(2), (7), and (8)”. 5
- (2) **Subsection (1)** applies for the 2008–09 and later income years. 10

**100B New heading and new section GB 51 inserted**

After section GB 50, insert:

*“Arrangements involving interest apportionment rules”*

15

**“GB 51 Proportionality between amount of debt and ownership interests”**

*“When this section applies”*

- “(1) This section applies when—
- “(a) a person has ownership interests in a company or a trustee who is a linked trustee for the person under **section FE 4** (Some definitions) has ownership interests in the company; and 20
  - “(b) an arrangement affects the relationship between the level of an ownership interest in the company relating to the person and the company’s debt relating to the person; and 25
  - “(c) the arrangement has an effect of defeating the intent and application of subpart FE (Interest apportionment on thin capitalisation). 30

*“Arrangement disregarded”*

- “(2) The effect of the arrangement on the proportionality between the level of an ownership interest in the company relating to the person and the company’s debt relating to the person is disregarded for the purposes of subpart FE. 35
- “Defined in this Act: company, ownership interest”.

- 101 Section HA 31 amended (Revocation of directors' elections)**
- (1) Replace section HA 31(2), other than the heading, with:
- “(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. 5 10
- 102 Section HC 27 amended (Who is a settlor?)**
- In section HC 27(3B)(b), replace “section CE 1(d)” with “section CE 1(1)(d) (Amounts derived in connection with employment)”.
- 103 Section HC 30 amended (Treatment of foreign trusts when settlor becomes resident)** 15
- In section HC 30(4)(a), replace “date of the election” with “election expiry date”.
- 104 Section HC 31 amended (When existing trusts come into tax base)** 20
- (1) Repeal HC 31(1)(b).
- (2) After section HC 31(1), insert:
- “*When this section does not apply*
- “(1B) This section does not apply if the relevant change in circumstances is a charitable trust failing to meet the requirements to derive exempt income under **section CW 41 or CW 42** (which relate to charities). Instead, *see sections HR 11 and HR 12* (which relate to non-exempt charities).” 25
- 105 Section HD 14 amended (Companies issuing debentures)**
- (1) In section HD 14(2)(a), delete “or substituting debenture”. 30
- (2) **Subsection (1)** does not apply, for an income year, to a debenture that a person is party to, if—
- (a) the debenture is issued under an arrangement entered into before 22 November 2013; and

- (b) a binding ruling on the application of **section FA 2(5)** was issued to the person in relation to the arrangement; and
- (c) the binding ruling would continue to apply but for the repeal of the substituting debenture rule by the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act **2014** (the **Act**); and 5
- (d) for the whole of the income year, the total amount and the term of all debentures issued under the arrangement are not more than those disclosed in the application for the binding ruling; and 10
- (e) the person makes an irrevocable election in writing, received by the Commissioner on or before 31 July 2014, that the repeal of the substituting debenture rule in the Act does not apply to their debenture. 15

**105B Section HF 11 amended (Choosing to become Maori Authority)**

Replace section HF 11(3), other than the heading, with:

- “(3) The election takes effect on—
- “(a) the first day of the income year in which the person’s notice is given; or 20
  - “(b) the first day of the next income year, if the person nominates that date in the notice; or
  - “(c) the day on which the person does not comply with the person’s rules contained in the register of charities under the Charities Act 2005, if the person nominates that date in the notice.” 25

**106 Section HM 1 amended (Outline of subpart and relationship with other Parts)**

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)”. 30

**107 New heading and section HR 11 inserted**

After section HR 10, insert:

*“Non-exempt charities: cessation of tax-exempt status*

**“HR 11 Non-exempt charities: initial tax base**

*“When this section applies*

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

*“Establishing cost of property*

- “(2) For the purposes of this Act, for the person, the cost of 10  
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.

*“Consideration for financial arrangements*

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

$$\begin{aligned} & \text{consideration paid to person} + \text{expenditure} \\ & - \text{consideration paid by person} - \text{income.} \end{aligned}$$

*“Definition of items in formula*

- “(4) In the formula,—
- “(a) **consideration paid to person** is the consideration that 20  
is paid to the person before the date of cessation:
- “(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 25  
is paid by the person before the date of cessation:
- “(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 30  
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 had if section CW 41 or CW 42 never applied. The unexpired 35

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.

*“Information*

“(6) For the purpose of applying this section, the person may use information from their annual returns contained on the register of charitable entities under the Charities Act 2005, if they have no other information that is more readily available. 5

“Defined in this Act: charitable purposes, consideration, financial arrangement, financial arrangements rules, income, tax charity, trading stock”. 10

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

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

**“HR 12 Non-exempt charities: taxation of tax-exempt accumulation 15**

*“When this section applies*

“(1) This section applies on and after the day of final decision (the **end date**).

*“When this section does not apply*

“(2) This section does not apply if the person: 20

“(a) meets, on the day before the end date, the requirements to derive exempt income under a provision in subpart CW excluding **section CW 41 or CW 42** (which relate to charities):

“(b) is re-registered on the register of charitable entities (the **register**) under the Charities Act 2005 within 1 year of the end date. 25

*“Taxation of tax-exempt accumulation*

“(3) 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: 30

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

“(b) assets distributed or applied in the year after the end date, in accordance with the person’s rules contained on the register; and 35

- “(c) assets received from the Crown—  
 “(i) to settle a Treaty of Waitangi claim:  
 “(ii) in accordance with the Maori Fisheries Act 2004;  
 and  
 “(d) assets, other than money, gifted or left to the person 5  
 when the person met the requirements to derive exempt  
 income under section CW 41 or CW 42.
- “Meaning of net assets*
- “(4) In this section, **net assets** means the assets of the person held 10  
 on the end date, less the liabilities of the person on the end date.  
 “Defined in this Act: day of final decision, exempt income, income, net assets”.
- (2) **Subsection (1)** applies—  
 (a) on and after 1 April 2015, unless **paragraph (b)** ap-  
 plies:  
 (b) on and after 14 April 2014, if the person is removed 15  
 from the register of charitable entities before 1 April  
 2015 because section 32(1)(f) of the Charities Act 2005  
 applies.
- 109 Section IW 1 amended (Shortfall penalties)**  
 In section IW 1(3), replace “the penalty imposed on the com- 20  
 pany” with “the penalty imposed on the company or on an-  
 other company in the group”.
- 110 Section LD 3 amended (Meaning of charitable or other  
 public benefit gift)**
- (1) After section LD 3(2)(a), insert: 25  
 “(ab) an entity that, but for this paragraph, no longer meets the  
 requirements of this subsection, but only for the period  
 starting on the day it fails to meet those requirements  
 and ending on the later of—  
 “(i) the day the entity is removed from the register of 30  
 charitable entities under the Charities Act 2005:  
 “(ii) the day on which all reasonably contemplated ad-  
 ministrative appeals and Court proceedings, in-  
 cluding appeal rights, are finalised or exhausted  
 in relation to the person’s charitable status.” 35
- (2) After **section LD 3(2)(ab)**, insert:

- “(ac) a community housing entity, if the gift is made in a tax year that the entity meets the requirements to derive 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”.
- 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.
- 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.
- 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”.
- 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
- (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: 5
- “(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— 10
- “(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:” 15
- (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.
- 117 Section RD 5 amended (Salary or wages)** 20
- In section RD 5(8), replace “section CE 1(1B) (Amounts derived in connection with employment)” with “**section CE 1(1)(bb)** (Amounts derived in connection with employment)”.
- 118 Section RD 6 amended (Certain benefits and payments)** 25
- 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)** (Amounts derived in connection with employment)” 30
- 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.”
- (2) In section RE 2, in the list of defined terms, insert “inflation-indexed instrument”. 5
- 120 Section RE 14 amended (Non-cash dividends other than certain share issues)**
- (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. 10
- 121 New section RE 18B (Capital value increase under inflation-indexed instruments: RWT cap)**
- After section RE 18, insert:
- “RE 18B Capital value increase under inflation-indexed instruments: RWT cap”** 15
- “(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:
- “(a) the net amount of the interest payment (the **current coupon payment**) remaining after the withholding of RWT under section RE 12: 20
- “(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: 25
- $$\text{CV increase} \times \text{tax rate.}$$
- “*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:

“(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)*

“(4) The formula for the purposes of **subsection (3)(a)** is: 5  
                   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: 10

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

“(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 15 20

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

“Defined in this Act: amount, inflation-indexed instrument, interest, money lent, pay” 25

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

(1) After section RF 2(1), insert:

“*Inclusion: Capital value increase under inflation-indexed instruments* 30

“(1B) **Non-resident passive income** includes an amount, arising at 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-in-

- dexed instruments: RWT cap) in relation to the current coupon payment, if that current coupon payment is—
- “(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: 5
- “(b) interest arising because section EI 2 (Interest from inflation-indexed instruments) applies to an inflation-indexed instrument.”.
- (3) In section RF 2, in the list of defined terms, insert “inflation-indexed instrument”. 10

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

- (1) This section amends section YA 1.
- (2) Insert, in appropriate alphabetical order:
- “12 month ASAP:**
- “(a) means an agreement for the sale and purchase of property or services (ASAP) for which an amount paid or payable for property or services is pre-paid (the **prepayment**) by reference to the rights date, and the prepayment is paid 12 months or more before the rights date, except if the prepayment is only— 15
    - “(i) a payment for progress made on either making or constructing property, or providing services: 20
    - “(ii) a deposit for property or services paid within the first 3 months of the ASAP that, when aggregated with all other deposits paid within those first 3 months, totals 10% or less of the amount paid or payable for property or services; and 25  - “(b) means an ASAP for which an amount paid or payable for property or services is delayed (the **deferment**) and the deferment is paid 12 months or more after the rights date, except if the deferment is only— 30
    - “(i) an earnout amount based on business performance after the sale and purchase of property or services:
    - “(ii) an adjustment to the amount paid or payable for the property or service under a warranty: 35

- “(iii) an adjustment to the amount paid or payable for the property or service on account of working capital”.
- (3) Replace the definition of **accommodation** with:
- “**accommodation**,— 5
- “(a) in section CX 28 (Accommodation), includes the use of a house or living premises, or the use of part of a house or living premises, whether permanent or temporary:
- “(b) is defined in **section CE 1(2)** for the purposes of **sections CE 1B to CE 1E, CW 16B to CW 16F, CW 17CB, CZ 23, CZ 29, and CZ 30** (which relate to accommodation provided in connection with employment)” 10
- (4) Insert, in appropriate alphabetical order:
- “**Canterbury earthquakes** is defined in **section CZ 29(5)** (Accommodation expenditure: Canterbury earthquake relief) for the purposes of that section” 15
- (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)”.
- (6) In the definition of **charitable organisation**, after paragraph (a), insert: 20
- “(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: 25
- “(i) the quarter, or income year if section RD 60 (Close company option) applies, in which the person does not comply with their rules contained in the register: 30
- “(ii) the quarter, or income year if section RD 60 applies, in which the day of final decision falls; and”.
- (7) Insert, in appropriate alphabetical order:
- “**community housing entity** is defined in **section CW 42B** (Community housing trusts and companies)” 35
- (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:
- “(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(5)** (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**,—
- (a) in paragraph (b), replace “CW 17B, CW 17C, and CW 18” with “and CW 17B to **CW 18B**”:
- (b) after paragraph (ab), insert:  
“(ac) despite paragraph (a), in sections CE 1, **CE 1B, and CW 16B to CW 16F** (which relate to accommodation provided in connection with employment), includes an employee provided with accommodation or an accommodation payment as described in **section CE 1(3)(a)** (Amounts derived in connection with employment):
- (12) In the definition of **employer**, after paragraph (d), insert:  
“(db) is defined in **section CE 1(3)(a)** (Amounts derived in connection with employment) for the purposes of that section and **sections CE 1B, and CW 16B to CW 16F** (which relate to accommodation provided in connection with employment)”.
- (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, at the time the ASAP is entered into 50% or more of the consideration in New Zealand dollars is in a foreign currency, measured using spot rates at that time”.
- (16B) Insert, in appropriate alphabetical order:  
 “**foreign crew of fishing vessels instructions** means the migration instructions for foreign crew of fishing vessels, certified under section 22(1) of the Immigration Act 2009”.
- (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”. 5
- (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):”. 10
- (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”. 15 20
- (25) In the definition of **lease**, replace paragraph (f) with:  
“(f) in the financial arrangements rules, means—  
“(i) a lease as described in paragraph (d): 25  
“(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 a personal property lease asset:  
“(iii) an occupation right agreement as defined in the Retirement Villages Act 2003”. 30
- (26) Insert, in appropriate alphabetical order:  
“**minister of religion** is defined in **section CE 1E(5)** (Exception: accommodation provided to ministers of religion) for the purposes of that section”. 35
- (27) In the definition of **net asset balance**, replace “DG 11(7)” with “DG 11(7) (Interest expenditure: close companies)”. 35
- (28) Insert, in appropriate alphabetical order:



“**net assets** is defined in **section HR 12** (Non-exempt 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 5  
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~~ an expected value approach* under the financial arrangements rules; and 10
- “(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 15  
the foreign exchange risk of a foreign ASAP for which **section EW 32(2C), (2D), or (2E)** 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”. 20
- (30) Insert, in appropriate alphabetical order:
- “**non-resident owning body** is defined in section FE 4 (Some definitions)”.
- (30B) Replace the definition of **non-resident seasonal worker** with: 25
- “**non-resident seasonal worker** means a non-resident person for whom immigration instructions, certified under section 22 of the Immigration Act 2009, allow them to be employed in New Zealand under—
- “(a) the recognised seasonal employer (RSE) instructions; 30  
or
- “(b) the foreign crew of fishing vessels instructions”.
- (31) Insert, in appropriate alphabetical order:
- “**out-of-town secondment** is defined in **section CW 16B(5)** (Accommodation expenditure: out-of-town secondments 35  
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)”.  
 (32) Replace the definition of **ownership interest** with:  
 “**ownership interest**, in a company,—  
 “(a) means— 5  
 “(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): 10  
 “(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: 15  
 “**period of continuous work**—  
 “(a) is defined in **section CW 16B(5)** (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); and 20  
 “(b) is given an extended meaning in **section CW 16D(4)** (Accommodation expenditure: conferences and overnight stays) for the purposes of that section”.  
 (34) Insert, in appropriate alphabetical order: 25  
 “**project of limited duration** is defined in **section CW 16B(5)** (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)”. 30  
 (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: 35  
 “**rebuilding** is defined in **section CZ 29(5)** (Accommodation expenditure: Canterbury earthquake relief) for the purposes of that section”.

- (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” 5
- (37B) Replace the definition of **recognised seasonal employment scheme** with:  
“**recognised seasonal employer (RSE) instructions** means the recognised seasonal employer (RSE) 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”.
- (40) Delete the definition of **substituting debenture**. 20
- (41) Insert, in appropriate alphabetical order:  
 “**workplace** is defined in **section CW 16B(5)** (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—  
 (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 30  
 (b) relating to the application of the Goods and Services Tax Act 1985 to hire purchase agreements; and  
 (c) relying on the provisions of the definition of **hire purchase agreement** as it was before the amendment made by **subsection (19)**. 35

- (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) **Subsection (6)** applies for a person—
- (a) for the 2014–15 and subsequent income years; and
  - (b) for an income year before the 2014–15 income year, but only for the first income year and subsequent income years for which the person files a return of income on the basis that **subsection (6)** applies 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), (9), (10), (11), (12), (26), (33), (34), and (41)** 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.
- (48) **Subsections (13) and (40)** do not apply, for an income year, to a debenture that a person is party to, if—
- (a) the debenture is issued under an arrangement entered into before 22 November 2013; and
  - (b) a binding ruling on the application of **section FA 2(5)** was issued to the person in relation to the arrangement; and
  - (c) the binding ruling would continue to apply but for the repeal of the substituting debenture rule by the Taxation

(Annual Rates, Employee Allowances, and Remedial Matters) Act **2014** (the **Act**); and

- (d) for the whole of the income year, the total amount and the term of all debentures issued under the arrangement are not more than those disclosed in the application for the binding ruling; and 5
- (e) the person makes an irrevocable election in writing, received by the Commissioner on or before 31 July 2014, that the repeal of the substituting debenture rule in the Act does not apply to their debenture. 10

**123B Section YB 11 amended (Trustee and person with power of appointment or removal)**

- (1) In section YB 11(2), replace paragraph (b) with:
  - “(b) is subject to a professional code of conduct, and disciplinary process intended to enforce compliance with the code, of an approved organisation as that term is defined in section 3(1) of the Tax Administration Act 1994, for such providers of professional services; and” 15
- (2) **Subsection (1)** applies for the purposes of—
  - (a) provisions other than the land provisions, for the 2010–11 and later income years: 20
  - (b) the land provisions other than section CB 11, for land acquired on or after 6 October 2009:
  - (c) section CB 11, for land on which improvements are begun on or after 6 October 2009. 25

**123C Section YD 1 amended (Residence of natural persons)**

- (1) In section YD 1(11), replace “recognised seasonal employment scheme” with “recognised seasonal employer (RSE) instructions”. 30
- (2) In section YD 1, in the list of defined terms, replace “recognised seasonal employment scheme” with “recognised seasonal employer (RSE) instructions”.

**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, “Every Home Global Concern Incorporated” and “Namibian Educational 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 10  
same meaning as in section YA 1 of the Income Tax Act 2007”.
- (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”.
- (3B) In section 3(1), insert, in the appropriate alphabetical order:
  - “**non-resident seasonal worker** has the meaning given in sec- 15  
tion 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  
in which—
  - “(a) the taxpayer owns 50% or more of the shares: 20
  - “(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-  
pany satisfies paragraphs (a) and (c) of the definition of  
**close company** in section YA 1 of the Income Tax Act 25  
2007”.
- (5) In section 3(1), replace the definition of **tax return** with:
  - “**tax return**—
  - “(a) means a form or document that a taxpayer is required 30  
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  
taxpayer provides to the Commissioner; but
  - “(c) does not include the prescribed form or electronic for- 35  
mat under **section 185K**”.

- 129 Section 22 amended (Keeping of business and other records)**  
 After section 22(2)(lb), insert:  
 “(lc) the person’s compliance with **Part 11B**; and”.
- 130 Section 25 amended (RWT withholding certificates)** 5  
 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,— 10  
 “(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)** 15  
 (1) In section 33A(1B), delete “employed under the recognised seasonal employment scheme”.  
 (2) 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.” 20
- 132 Section 33AA amended (Exceptions to requirement for return of income)**  
 After section 33AA(1)(l), insert: 25  
 “(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)** 30  
 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”.

**133B Section 81A amended (Disclosure of information under approved information sharing agreement)**

In section 81A, replace “in force.” with “in force. The information sharing agreement may extend a restricted information sharing provision in this Act, as contemplated by the Privacy Act 1993, without further authority than this section.” 5

**134 New heading and section 91AAT inserted**

After section 91AAS, insert: 10

*“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. 15 20

“(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. 25

“(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. 30

“(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. 35

- “(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—
- “(a) gives notice that the determination has been issued or changed, as applicable; and
- “(b) states where copies of the determination can be obtained.”
- 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)** 15  
 (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**”. 20
- 137 Section 95 amended (Assessment of withdrawal tax)**  
 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)** 25  
 In section 97(3)(a), replace “those sections” with “sections 111 and 113”.
- 139 Section 97B amended (Assessment of Maori authority distribution penalty tax)**  
 In section 97B(3)(a), replace “those sections” with “sections 111 and 113”. 30

- 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)** 5  
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**”. 10  
(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”. 15
- 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)** 20  
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 “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,”. 25  
(3) **Subsection (1)** applies for tax positions taken on or after 1 April 2008.
- 147 Section 141EB amended (Promoter penalties)**  
(1) In section 141EB(3),— 30

- (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**”. 5
- (2) **Subsection (1)** applies for income years starting on or after 1 April 2011.
  
- 148 Section 141FD repealed (Shareholders of loss-attributing qualifying companies)**
- (1) Repeal section 141FD. 10
- (2) **Subsection (1)** applies for income years starting on or after 1 April 2011.
  
- 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,—”. 15
- (2) Replace section 142A(1)(a) with: 20
  - “(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),— 25
  - “(ia) to which **paragraph (a)** does not apply; and”.
- (4) Repeal section 142A(3)(ab).
  
- 150 Section 143 amended (Absolute liability offences)**
- (1) After section 143(1)(a), insert: 30
  - “(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.”

- 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”.
- 152 Section 173B amended (Definitions)** 5  
 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.” 10
- 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,”. 15  
 (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.” 20
- 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,— 25  
 “(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 30  
 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:
- “(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: 5
- “(d) for the purposes of **section 177C**, recovery of the outstanding tax would place the taxpayer, being a natural person, in serious hardship.
- “(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,— 10 15
- “(a) the taxpayer or their dependant has a serious illness:
- “(b) the taxpayer would likely be unable to meet— 20
- “(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. 25
- “(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.” 30

#### 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”. 35

**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.” 5

(2) In section 177C(7)(a) replace “was written off” with “was written off is a natural person who”. 10

(3) In section 177C(7)(b) replace “company” with “relief company”.

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

After Part 11, insert: 15

**“Part 11B**

**“Foreign account information-sharing agreements**

**“185E Purpose**

The purpose of this Part is to give effect to and implement foreign account information-sharing agreements. 20

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

“(1) This section applies for a person, as described in a foreign account information-sharing agreement (the **agreement**), if— 25

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

“(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. 30

“(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. 35

- “(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**). 5
- “(4) The Commissioner must publish an appropriate notice of a choice made or revoked by the New Zealand government under the agreement in a publication chosen by the Commissioner. 10
- “(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** of the Income Tax Act 2007. 15
- “(6) **Subsections (2) to (5)** do not apply to a choice or course of action or inaction listed in **subsection (7)** (an **excluded choice**). 20
- “(7) For the purposes of **subsection (6)**, the following are excluded choices: 20
- “(a) an election to report on accounts under Annex 1.II.A of the foreign account information-sharing agreement:
  - “(b) an election to report on accounts under Annex 1.III.A of the foreign account information-sharing agreement:
  - “(c) an election to report on accounts under Annex 1.IV.A of the foreign account information-sharing agreement: 25
  - “(d) an election to report on accounts under Annex 1.V.A of the foreign account information-sharing agreement.
- “**185G Obligations related to foreign account information-sharing agreements: registration** 30
- 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.



“**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. 5

“**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— 10 15

“(a) the information that the New Zealand competent authority is obliged to obtain and exchange with a foreign competent authority:

“(b) other information that the person is authorised to obtain and provide to the New Zealand competent authority. 20

“(2) Information described in **subsection (1)** 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. 25

“**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. 30

“(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 agree- 35

ment 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). 5

“(3) Information described in **subsections (1) and (2)** must be obtained and provided in accordance with—

“(a) the agreement; and 10

“(b) regulations made by Order in Council by the Governor-General for the purposes of this Part under section 224.

“**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. 15

“**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. 20

“**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. 25

“(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 3 months of the end of the period that the information relates to.” 30

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

After section 225C, insert:

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

“(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 combination 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)** counted as beneficiaries or clients, as the case may be, of entities for the purposes of **section CW 42B(2B)(a)** of the Income Tax Act 2007. 5 10

“(2) The factors that may be used to specify persons or classes of persons for the purposes of **subsection (1)** are:— 15

- “(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*), geographic, household composition, or otherwise: 20 25
- “(d) assets of persons relative to a maximum. 25

“(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.” 30

***Goods and Services Tax Act 1985***

**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**.” 5
- (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” 10
- (3) In section 2(1), in the definition of **resident**, after paragraph (b), insert: 15
- “(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 20
- “(ii) ending on the day immediately following the relevant day that triggers non-residence under section YD 1(5) of that Act” 25
- (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 30
- (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)** 35

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”.

**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.
- (2) In section 6(3)(c)(iii), replace “other body” with “other body, subject to **subsection (4)**”.
- (3) After section 6(3), insert: 10
- “(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. 15
- “(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.” 20

**165 Section 11 amended (Zero-rating of goods)**

- (1A) In section 11(1)(p)(ii), replace “is not registered” with “not a registered person”. 25
- (1) In section 11(8D),—
  - (a) in paragraph (a), replace “chargeable with tax at 0%” with “under subsection (1)(mb) if it meets the requirements set out in that subsection”: 30
  - (b) in the introductory words in paragraph (b), replace “chargeable with tax at 0%” with “under subsection (1)(mb), despite meeting the requirements set out in that subsection”:
  - (c) in paragraph (b)(ii), replace “an amount is paid or payable under the agreement for the supply in advance 35

- of, or contemporaneously with, the supply being made, that” with “for an amount paid or payable under the agreement for the supply in advance of, or contemporaneously with, the supply being made, the payment”.
- (2) In section 11(8D)(b)(ii)(C), replace “under the agreement.” 5  
with “under the agreement:”, and insert:  
“(c) a supply of an interest in land by way of a procurement  
by a third party of an existing lease is a supply under  
subsection (1)(mb) if it meets the requirements set out  
in that subsection.” 10
- (3) **Subsection (1)** applies to supplies made on or after 1 April  
2011.
- 166 Section 11A amended (Zero-rating of services)**
- (1A) After section 11A(1)(m), insert—: 15  
“(maa) the services are supplied—  
“(i) directly in connection with goods, the supply of  
which is subject to section 11(1)(p); and  
“(ii) to a recipient who, when the services are per-  
formed, is a non-resident and not a registered per-  
son; or”. 20
- (1) After section 11A(3), insert:  
“(3B) For the purpose of subsection (1)(k), **outside New Zealand**,  
for a natural person, includes a minor presence in New Zealand  
that is not directly in connection with the supply.”
- 167 Section 20 amended (Calculation of tax payable)** 25
- (1) In section 20(3K), replace “(3C),” with “(3C), and the defini-  
tions of **percentage actual use** and **percentage intended use**  
in section 21G(1),”.
- (1B) After section 20(3L), insert:  
“(3LB) **Subsection (3LC)** applies for the purposes of subsection 30  
(3) and despite subsection (3L), when a non-resident person  
who is registered under section 54B has paid tax under section  
12(1) in relation to the importation of goods. However, **sub-**  
**section (3LC)** does not apply if the non-resident person—  
“(a) is the person in New Zealand who receives the goods; 35  
and

- “(b) is not delivering the goods to another person in New Zealand.
- “(3LC) The recipient of the goods in New Zealand is treated as having paid the tax required to be paid under section 12(1), and the non-resident person is treated as not having paid the tax.” 5
- (2) In section 20(4B), replace “who later becomes a registered person 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 1 April 2011. 10
- 168 New section 21FB inserted (Treatment when use changes to total taxable or non-taxable use)**  
 After section 21F, insert:
- “21FB Treatment when use changes to total taxable or non-taxable use”** 15
- “(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 taxable supplies changes in an adjustment period to either total taxable use or total non-taxable use; and 20
- “(c) the total taxable use or non-taxable use remains unchanged for an unbroken period that is—
- “(i) the remainder of the adjustment period in which the use was changed; and 25
- “(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 referred to in **subsection (1)(c)(ii)** is an amount of input tax calculated using the formula— 30
- 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):
- “(b) **actual deduction** is the amount of deduction already claimed, taking into account adjustments made up to the 35

end of the adjustment period referred to in **subsection (1)(c)(ii)**.

- “(4) If the use changes to total non-taxable use, the person’s adjustment for the adjustment 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)**.” 5

**169 Section 21HB amended (Transitional rule related to treatment of dwellings)**

- (1) In section 21HB, in the heading replace “**rule**” with “**rules**”. 10
- (2) In section 21HB(1),—
- (a) replace “This section applies” with “Subsections (2) and (3) apply”;
  - (b) replace “acquired or produced before 1 April 2011” with “acquired or produced in the period between 1 October 1986 and 1 April 2011”. 15
- (3) After section 21HB(3), insert:
- “(4) A person who 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 may choose not to treat a supply of accommodation in a dwelling affected by the amendments as a taxable supply. 20
- “(5) **Subsection (4)** does not apply if the total value of the person’s supplies of accommodation in dwellings affected by the amendments exceeds the threshold set out in section 51(1)(a).” 25
- (4) After **section 21HB(5)**, insert:
- “(6) **Subsection (7)** 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 30
  - “(b) on or after 1 April 2011, has treated the supply of accommodation in a dwelling, being a residential unit in a retirement village or rest home, as a taxable supply. 35



- “(7) The person may irrevocably choose in a tax return for a period starting before 1 April 2015, to—
- “(a) continue to treat the supply as a taxable supply for that period and for subsequent periods; or
- “(b) treat the supply as an exempt supply for that period and for subsequent periods, and for this purpose, the election to treat the supply as an exempt supply does not constitute a change of use for the purposes of section 21FB(4).”
- (5) **Subsection (2)** applies to a tax position taken by a person after 22 November 2013. 10
- (6) **Subsection (3)** applies to supplies of accommodation in dwellings affected by the amendments that were acquired before 1 April 2011.
- (7) **Subsection (4)** applies to supplies of accommodation in dwellings affected by the amendments that are acquired before 1 April 2015. 15
- 169B Section 25 amended (Credit and debit notes)**  
 In section 25(4), replace “paragraphs (a), (aa), (b)” with “paragraphs (a), (aa), (ab), (b)”. 20
- 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,”. 25
- 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”. 30

*Income Tax Act 2004*

- 172 Income Tax Act 2004 amended**  
**Sections 173 to 180** amend the Income Tax Act 2004.
- 173 Section CD 29 amended (Adjustment if dividend recovered by company)** 5
- (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.” 10
- (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)**,”. 15
- (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”. 20
- (4) In section CD 29, insert in the list of defined terms, “dividend withholding payment rules”, “imputation rules”, “NRWT rules”, and “RWT rules”.
- (5) **Subsections (1) to (4)** apply for the 2005–06 and later income years. 25
- 174 Section DB 44 amended (Expenditure incurred in deriving exempt income)**
- (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.” 30
- (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)”.
- (2) **Subsection (1)** applies for the 2005–06 and later income years. 5

**176 Section EG 1 amended (Election to use balance date used in foreign country)**

- (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”. 10
- (2) **Subsection (1)** applies for the 2005–06 and later income years. 15

**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 20
    - “(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— 25
    - “(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.

**178 Section EX 9 amended (Direct income interests)**

- (1) Replace section EX 9(1)(c) with:
  - “(c) a right to— 35

- “(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 :”. 5
  - (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.” 10
  - (3) **Subsections (1) and (2)** apply for the 2005–06 and later income years.
  
- 179 Section EX 44 amended (Comparative value method) 15**
  - (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.”. 20
  - (2) **Subsection (1)** applies for the 2005–06 and later income years.
  
- 180 Section OB 1 amended (Definitions) 25**
  - (1) In section OB 1, in the definition of **hire purchase agreement**, 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”. 30
  - (2) **Subsection (1)** applies for the 2005–06 and later income 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 35

- (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)**.

*Child Support Act 1991*

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- 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**.
- 183 Section 9 amended (Social security beneficiaries must apply for formula assessment)** 10  
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”. 15
  - (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: 20

  - “(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 25
    - “(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 subsec- 30

tion (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) 5**

(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— 10

“(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 15

“(b) to have met the requirements of section 64(2) and (3).”

**187 Section 81 amended (Notification requirements of liable parent) 20**

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) 25**

(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 30

- “(b) the child support payable is payable under the formula assessment in respect of more than 1 receiving carer.
- “(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 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)** 10  
In section 142, replace “custodian” with “receiving carer”, in each place in which it appears.
- 191 Section 179A amended (Waiver of right to payment)** 15
- (1) In section 179A(1), replace “that child” with “that child, or in receipt of any other social security benefit”.
- (2) In section 179A(5), replace “waiver relates” with “waiver relates, or begins to receive any other social security benefit”.
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**Schedule**  
**Amendments to examples in subparts DG and DZ**

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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%). 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>

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

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**Legislative history**

22 November 2013	Introduction (Bill 176–1)
10 December 2013	First reading and referral to Finance and Expenditure Committee
14 April 2014	Reported from Finance and Expenditure Committee (Bill 176–2)
27 May 2014	Second reading
17 June 2014	Committee of the whole House

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