

Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Bill

Government Bill

As reported from the Finance and Expenditure Committee

Commentary

Recommendation

The Finance and Expenditure Committee has examined the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Bill and recommends that it be passed with the amendments shown.

Introduction

This omnibus bill seeks to amend various Acts, including the Income Tax Act 2007, the Tax Administration Act 1994, the Goods and Services Tax Act 1985, the Child Support Act 1991, and the Child Support Amendment Act 2013.

The bill would set the annual rates of income tax for the 2015–16 tax year (at the same rates as for 2014–15). It would also make the following main changes:

- allowing companies to “cash out” their tax losses from research and development (R&D) expenditure
- allowing tax deductions for certain “black hole” business expenditure
- allowing bodies corporate to choose whether they register for GST
- simplifying the administration of the child support scheme
- extending the choice of method for calculating fringe benefit tax liability to a wider range of employers
- repealing the “simplifying filing requirements for individuals” legislation enacted in 2012, which has yet to take effect
- reducing the number of individuals required to file income tax returns
- making some improvements for families receiving Working for Families tax credits

- clarifying the rules for apportioning expenditure on mixed-use assets
- conferring charitable donee status on several charities.

The bill would make several other policy and remedial changes, including refining the rules for foreign superannuation schemes, controlled foreign companies (CFCs), and foreign investment funds (FIFs), to ensure that the rules are clear and work as intended. It also proposes various minor technical amendments.

Amendments covered by this commentary

This commentary discusses the more significant amendments we recommend to the bill. It does not discuss minor, technical, or consequential amendments.

Commencement

Clause 2 provides for several of the bill's provisions to apply retrospectively, and we recommend that some amendments apply retrospectively. We are satisfied that the justification for backdating these provisions is sound and that taxpayers would not be unreasonably affected. We note that, where appropriate, "savings" provisions are proposed, to protect positions taken by taxpayers before the bill's introduction.

Child support: SOP 77 and remedial matters

In reviewing the bill we have considered amendments to it proposed in Supplementary Order Paper 77 (SOP 77), which the Minister of Revenue released on 21 May 2015. The proposed amendments in SOP 77 reflect policy changes announced as part of Budget 2015 to address child support legacy debt.

Specifically, the proposed amendments would amend the Child Support Act 1991 and the Child Support Amendment Act 2013 in the following two main ways:

- extending the requirement for the Commissioner of Inland Revenue to write off certain penalties
- allowing the Commissioner to write off certain penalties if it is fair and reasonable to do so.

We recommend that the amendments proposed in SOP 77 be incorporated into the bill by inserting clauses 44A to 44D, and amending clauses 50(8) and 55. These changes would amend sections 135G, 135GA, and 135L of the Child Support Act, would insert new section 135JA in that Act, and amend new section 135FA in the Child Support Amendment Act.

Sole-parent students

Clauses 4(3) and 4(4) would amend the definition of "social security benefit" in the Child Support Act to exclude full-time students who are receiving jobseeker student hardship support between academic years. This would allow sole-parent students who are on the student hardship benefit during the summer break to be treated as "off benefit" for child support purposes.

To avoid retrospective administrative changes, we propose that this change apply to benefits granted on or after the first day of the month after the bill's enactment. Accordingly, we recommend amending clauses 2(2)(d) and 4(4), and inserting clause 50(9).

Offsetting child support debt

We recommend some amendments in clause 41(2), which would insert new section 106B of the Child Support Act, including new sections 106B(3A) and (3B). Our proposed changes would refine the rules for offsetting child support debt where parents each care for a child of the relationship and have a liability to each other. The changes would avoid administrative complexity by specifying that further offsetting would not be possible in a month in which offsetting had already taken place.

Objections to child support assessments

For fairness, in view of the bill's timing, we consider that receiving carers should have the right to object to amended child support assessments from 1 April 2015, rather than from the date of the bill's enactment. Accordingly, we recommend amending clause 50(8), which would amend proposed clause 8D in Schedule 1 of the Child Support Act.

Research and development tax losses

Clause 192 would insert new subpart MX in the Income Tax Act 2007. The new subpart would allow loss-making research and development (R&D) start-up companies to "cash out" their tax losses from R&D expenditure by claiming a tax credit of up to 28 percent (the current company tax rate) of such losses in a given year.

We recommend several amendments to improve the workability and fairness of the proposed provisions. We discuss these amendments below. We have also asked the Inland Revenue Department to make detailed advice and examples available promptly after the bill's enactment, to help keep uncertainty and compliance costs to a minimum.

Eligibility

We recommend several amendments in clause 192, new section MX 2, regarding the companies that would be eligible to cash out their R&D tax losses.

As introduced, the bill would exclude certain types of company from being eligible for this tax relief. We understand that this was designed to keep the measure simple and to focus it on start-up companies, which generally do not have complex or unusual tax arrangements.

However, after considering the bill and the points made in submissions, we see no good reason for some of the exclusions, and believe they could potentially mean that some start-up companies carrying out R&D in New Zealand would be ineligible to cash out their losses.

Qualifying companies

In clause 192, we recommend deleting proposed new subsection MX 2(e), so that qualifying companies would be eligible to cash out R&D tax losses. We note that many small companies are qualifying companies, and we see no reason for excluding them, as proposed in the bill as introduced.

Unlike look-through companies, which would be excluded from eligibility under section MX 2(a), qualifying companies' losses do not flow through to shareholders and so cannot be offset against personal income for tax purposes.

Foreign companies within a group

We also see no reason for excluding all companies that include a foreign company within their group. We accept that this was intended to prevent subsidiaries of non-resident parent companies from being able to cash out their losses. We agree that such companies should remain ineligible to access the tax relief. However, we note that a New Zealand-based start-up company might set up a subsidiary in another jurisdiction for several reasons, and we would not wish to see them disadvantaged.

We therefore recommend deleting proposed new section MX 2(c) in clause 192, with consequential amendment of proposed section MX 6(1)(a)(ii).

Limited partnerships within a group

If a company is part of a group of companies, the group as a whole would need to meet some of the eligibility requirements to cash out tax losses. We recommend some refinements to ensure that limited partnerships would fall within the grouping rules, including inserting new section MX 1(2) in clause 192 to define "R&D group" and amending proposed new sections MX 1(1)(d), MX 3(1)(b), and MX 3(4), and clauses 213(28) and 213(57B).

Special corporate entities

As introduced, the bill would exclude special corporate entities, and any company that is majority-owned by such an entity, from being eligible to cash out their R&D tax losses.

We understand that this provision was designed to target publicly funded entities including local authorities, Crown Research Institutes, and State-owned enterprises. This was because publicly funded entities have access to other types of R&D funding. We recommend amending clause 192 to insert new section MX 2(d) and amend new section MX 2(g) to make it clear that only such entities are excluded.

Compliance with tax obligations

Clause 192, new section MX 1(1)(h) and (i), would disqualify taxpayers from cashing out R&D tax losses if they have not complied with all tax law obligations. Although we support the intent of this provision, we would not wish to see a taxpayer disqualified because of an unrelated, immaterial dispute with the department. We also ques-

tion the need for the provision because the Commissioner of Inland Revenue can use refundable tax credits to satisfy a tax liability.

We recommend deleting paragraphs (h) and (i) and including R&D tax loss credits among those that the Commissioner can use to satisfy a tax liability.

Wage intensity criteria

To target the tax relief to R&D start-up companies, clause 192, new section MX 3, proposes using a formula to measure the proportion of total wages that relates to work on R&D. We considered various issues with this calculation, including how the bill would treat R&D costs incurred through a contractor. We are generally satisfied with the approach proposed, but we recommend some amendments in clause 192 (new section MX 3(3) and (4)) for clarification purposes.

Calculating labour expenditure

The bill would use the amount of labour expenditure a company incurs as a basis for calculating the R&D tax loss credit. For simplicity's sake, it proposes that labour expenditure would include salary and wage payments to employees but not other payments, such as fringe benefits or contributions to superannuation funds, that often form part of an employee's remuneration package.

We consider that this approach could lead to illogical results: a company might be ineligible for the R&D tax loss credit solely because of the composition of its remuneration packages. Therefore, we propose that a company should be allowed to include the value of fringe benefits and employer superannuation contributions in calculating its labour costs for the purpose of the R&D tax loss credit if it chooses to do so. We note that a company could use only salary and wage payments if it wished to avoid the additional compliance cost of the more complex calculation.

To make this change, we recommend amending clause 192, new section MX 3(3), and inserting new section MX 3(3B).

Amount of the cash-out and any repayment due

The bill as introduced specifies that a company may claim a maximum of 28 percent of the company's tax losses from R&D spending under the tax credit. This percentage is the current company tax rate.

To future-proof the legislation and provide for potential changes to the tax rate, we recommend replacing references to 28 percent with a more generic reference to the basic tax rate for a company (new sections MX 4, MX 5, MX 6(2)(b), MX 6(3B)(b), and MX 6(5)). This would mean that the R&D tax loss credit would be calculated at the company tax rate that applied to the year in which the credit was claimed.

We recommend inserting new section MX 5B in clause 192 to allow a company to claim a deduction for losses that had previously been cashed out at a lower company tax rate if the company tax rate increases.

Loss reinstatement and R&D repayment tax

We recommend amending clause 192, new section MX 6(1)(a)(i) and (iv), so that amalgamating two companies would not trigger a requirement for previous tax credits to be repaid. However, the amalgamated company would take on any liability for R&D repayment tax.

We recommend amending clause 192, new section MX 6(3B)(b), so that, if a company is sold for less than the balance of the tax credits it had received, any outstanding tax credits would remain attached to the company and the new shareholders would remain liable for repaying any outstanding tax owed.

Filing returns

We recommend amending clause 230, new section 70C(2), to require statements for R&D tax loss credits and R&D repayment tax to be filed on the due date for income tax returns, rather than 14 days later as proposed in the bill as introduced. This would avoid potential confusion about separate filing dates. We understand that taxpayers should have all the relevant information for the statements by that time.

In clause 230, we recommend deleting proposed new section 70C(3), to allow taxpayers to file returns manually rather than electronically if they wish.

To allow for the transition to the new R&D tax loss credit regime, we understand that the Commissioner of Inland Revenue intends to use her existing powers under the Tax Administration Act to allow additional time for taxpayers to file returns in the first year of the regime's operation.

Even if a taxpayer did not ultimately qualify to apply for the R&D tax loss credit, they would not face penalties for late filing if they had had reasonable grounds to believe that they would be able to apply.

Information sharing

The proposed regime to allow tax credits for R&D expenditure would be new, and we recognise that it would take time for the Inland Revenue Department to build its expertise in determining what constitutes legitimate R&D expenditure. We see value in allowing it to consult the Crown agency Callaghan Innovation for advice on difficult or marginal applications.

We also recognise that the department's existing computer system has limited ability to implement and administer new approaches such as this. Rather than seeking to adapt the department's existing system, it is proposed that the Ministry of Business, Innovation and Employment, which already administers a grants programme for R&D, use its ICT system to implement and administer this initiative.

We also see value in allowing the ministry to have access to taxpayer information for policy research, development, and evaluation purposes, subject to strict rules of secrecy.

For these reasons, we recommend inserting clause 232B to amend section 81(4) of the Tax Administration Act to allow the department, Callaghan Innovation, and the min-

istry to share information. Any shared information would be company information rather than individual data and would be subject to the strict taxpayer secrecy rules in section 81 of the Tax Administration Act, which already allows for agencies to share information for specified purposes.

Black hole expenditure

The bill would allow deductions for certain business costs that are currently “black hole” expenditure (that is, expenditure that is neither deductible nor depreciable over time). The significant provisions seek to reduce distortions that discourage investment in R&D.

We recommend some amendments in clauses 73 (new section CG 7C of the Income Tax Act 2007) and 87B (amending section DB 40B) to make the policy intent clear and ensure that the bill works as intended.

We also recommend amending clause 85, new section DB 34(3)(a) of the Income Tax Act 2007, to make it clear that only expenditure a business incurs in carrying out R&D would be deductible. A business that purchased “work in progress” would not be able to deduct the purchase cost for tax purposes if it subsequently derecognised the intangible asset.

GST and bodies corporate

Clauses 249 to 254 would amend the Goods and Services Tax Act 1985 to address uncertainty about how GST rules apply to bodies corporate. The bill would give bodies corporate the choice of registering for GST.

We recommend several amendments to these clauses for completeness and clarification purposes, and to ensure that they meet the policy intent. For example, our change to clause 250(2), inserting new section 5(8AB), would make it clear that the “funds” subject to output tax on registration mean the value of money and assets received by the body corporate as exempt supplies, excluding the common property of the body corporate.

Also, the definition of “body corporate” would be changed to “unit title body corporate” for the purposes of the new rules. The changed definition would ensure that the rules applied to bodies corporate established under both the Unit Titles Act 1972 and the Unit Titles Act 2010 but not to a body corporate of a retirement village registered under the Retirement Villages Act 2003.

Working for Families tax credits

Clause 188 would amend section MB 1 of the Income Tax Act 2007 to make some remedial amendments to the Working for Families (WFF) scheme to correct an unintended consequence and reduce compliance costs for recipients of the scheme.

We recommend some further amendments for remedial and clarification purposes. They concern deposits, withdrawals, and refunds to and from the main income equalisation accounts of entities associated with a WFF recipient. The amendments we pro-

pose aim to ensure that the treatment of such transactions does not have an unintended effect on the recipient's entitlement to WFF tax credits.

The amendments would replace clause 188 (section MB 1), and insert new clauses 188B (section MB 4), 188C (section MB 7) and 188D (section MB 9). As consequential amendments, we also recommend inserting new definitions as clauses 213(33B) and (33C).

Remedial matters

The bill would make various remedial changes to improve the workability of existing legislation. We recommend several further refinements, including the following.

Employer-provided overseas accommodation

We recommend a remedial amendment to the rules for valuing overseas accommodation that employers provide to their staff. Because of an inadvertent error in the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014, only actual accommodation an employer provides is covered at present. This results in different tax outcomes depending on how an overseas accommodation benefit is provided.

Our recommended amendment, inserting clause 75B to amend section CW 16B of the Income Tax Act 2007, would mean that accommodation payments and accommodation allowances provided by an employer would also be covered.

Tax-exempt status of subsidiaries

Clause 76 would amend section CW 55BA of the Income Tax Act 2007 to correct an unintended consequence of changes made to the rules for tax exemption of charities in 2008. It would widen the scope of the income tax exemption that currently applies for tertiary education institutions to include their wholly owned subsidiaries. This would restore the position that existed for such subsidiaries before the changes in 2008.

We understand that a similar situation applies to companies that are wholly owned by charitable entities. We recommend inserting clause 75C (amending section CW 42 of the Income Tax Act 2007) to make clear that it was always intended that wholly owned subsidiaries of charities should be tax exempt.

We also propose a similar amendment for subsidiaries of community housing entities. We recommend inserting clause 75D (amending section CW 42B) so that, if a community housing entity is a wholly owned subsidiary of a charitable trust or another community housing entity, it would be eligible for the tax exemption that applies for community housing entities.

Appendix

Committee process

The Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Bill was referred to the committee on 11 March 2015. The closing date for submissions was 30 April 2015. We received and considered 20 submissions from interested groups and individuals on the bill, and two on Supplementary Order Paper 77. We heard from 10 submitters.

We received advice from the Inland Revenue Department and our specialist tax advisor, Therese Turner (Chartered Accountant).

Committee membership

David Bennett (Chairperson)

Andrew Bayly

Chris Bishop

Hon Clayton Cosgrove

Julie Anne Genter

Stuart Nash

Rt Hon Winston Peters

Grant Robertson

Jami-Lee Ross

David Seymour

Alastair Scott

**Taxation (Annual Rates for 2015–16, Research and
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Key to symbols used in reprinted bill

As reported from a select committee

text inserted unanimously

~~text deleted unanimously~~

Hon Todd McClay

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act **2015**.

2 Commencement

5

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

(2) **Part 1** comes into force on the day after the date on which this Act receives the Royal assent except—

(a) **sections 5, 15, 23, 28(2), 49(1) and (2), and 50(2) to (7)** come into force on 1 April 2015: 10

(b) **sections 31(2), 40(3) and (4), and ~~41(2)~~41(2), and 44A to 44D** come into force on 1 April 2016:

(c) ~~Sections~~**sections 52, 56, and 57** come into force on the date on which this Act receives the Royal assent: 15

(d) **sections 4(3) and (4) and 50(9)** come into force on the first day of the month following the month in which this Act receives the Royal assent.

(3) **Sections 249(1)(4), 250(1), and 253(1)** come into force on 1 October 1986. 20

(3B) **Sections 261D and 261E** come into force on 1 April 1988.

(3C) **Sections 260B(1) and (3) and 261B(1) and (3)** come into force on 1 April 1995.

- (4) ~~Section 261~~ comes into force on 1 April 1997.
- (4) Sections 260B(2) and (4), 261, and 261B(2) and (4) come into force on 1 April 1997.
- (5) **Section 250(3)** comes into force on 10 October 2000.
- (6) **Section 260** comes into force on 31 March 2005. 5
- (7) Sections 257 and 258, 257B, 258, and 258B come into force on 1 April 2005.
- (8) **Section 242** comes into force on 1 October 2007.
- (9) **Section 256** comes into force on 31 March 2008.
- (10) Sections 84(4) and (7), 97, 98, 100, 101, 103, 108, 120, 141(4), 144, 149, 149B, 149E, 150, 151, 152, 157(1), (2), and (3), 159, 160, 167, 169, 170, 175, 176, 183, 190, 193, 196, 197, 198, 199, 202, 205, 213(42), (49), (50), (53), (62), (70), (72), (73), and (74), 223, 224, 244, and 247 come into force on 1 April 2008. 10
- (11) Sections 7675C, 76, and 213(67) and (75) come into force on 1 July 2008. 15
- (12) **Section 171** comes into force on 1 April 2009.
- (13) **Section 157(4), (5), (6), and (7)** come into force on 30 June 2009.
- (14) **Sections 128 and 129** come into force on 1 July 2009.
- (14B) Section 151B comes into force on 6 October 2009. 20
- (15) **Section 213(17) and (18)** come into force on 5 January 2010.
- (16) **Sections 78, 172, 173, and 174** come into force on 1 April 2010.
- (17) **Section 80** comes into force on 4 September 2010.
- (18) Sections 82, 83, 87B, 105, 109(2), (3), and (5), 122, 149C, 188, 188B, 188C, 188D, 189, and 213(54) 213(33B), (33C), (54), and (62B), and 251C come into force on 1 April 2011. 25
- (19) **Section 249(2)(5)** comes into force on 20 June 2011.
- (20) **Sections 134 and 140(2) and (7)** come into force on 1 July 2011.
- (21) **Section 213(51)** comes into force on 29 August 2011.
- (22) **Section 69** comes into force on 28 March 2012. 30
- (23) **Section 215** comes into force on 1 April 2012.
- (24) **Sections 89, 90, 91, 92, 93, 94, and 95** come into force on 1 April 2013.
- (25) Section 84(1), (2), (3), and (5)(5), and (6) come into force on 20 May 2013.
- (26) **Sections 81 and 213(14) and (37)** come into force on 1 July 2013. 35
- (26B) Section 265B comes into force on 17 July 2013.

- (27) **Sections 71(1), (3), (5), (6), and ~~(9)(8B), (8C), (8D), (8E), (8F), (8G), (8H), (9), and (9B)~~, 75(1), 96(1), 121(1) and (2), 133, 136, 140(1), (3), (6), and (8), 145, 168, 186, 213(22), (23), ~~(24), (25), (26), (29), (34), and (48)~~, 226, 231, and 251(1)** come into force on 1 April 2014.
- (28) ~~Section 264 comes~~**Sections 75D and 264** come into force on 14 April 2014. 5
- (29) **Section 218(1)** comes into force on 20 June 2014.
- (30) **Sections 204, 263, 263B, and 265** come into force on 30 June 2014.
- (31) **Sections 207, 208, 209, 210, 211, and 212** come into force on 3 July 2014. 10
- (32) **Sections 249(3), 250(2), 251(2), 251B, 253(2), and 254** come into force on the date of introduction of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Bill.
- (33) **Sections 69B, 70, 71(2), (4), (7), and (8), 72, 73, 75B, 85, 86, 87, 88, 99, 102, 104, 106, 107, 109(1), (4), and (6), 110, 111, 112, 113, 114, 115, 116, 117, ~~121(3)~~121(3) and (4), 146, 153, 153B, 154, 155, 156, 158, 180, 181, 182, 184, 187, 192, 194, 195, 206, 213(2), ~~(5), (6), (7), (8), (9), (10), (11), (12), (13), (16), (27), (28), (29B), (31), (33), (35), (36), (38), (39), (40), (45), (46), (47), (52), (56), (57), (57B), (57C), (58), (59), (61), (64), (68), and (69)~~, 216, 217, 218(2), (3), and (4), 219, 228, 229, 230, 237, and 238** come into force on 1 April 2015. 15
- (34) **Sections 118, 119, 126, 137, 138, 139, 147, 165, 191, 200, 201, 213(43) and (71), 225, 232B, 240, 243, and 267** come into force on 1 April 2016. 20

Part 1 25

Child support remedial matters

Amendments to Child Support Act 1991

- 3 **Child Support Act 1991 amended**
- Sections 4 to 50** amend the Child Support Act 1991.
- 4 **Section 2 amended (Interpretation)** 30
- (1) In section 2(1), definition of **last relevant tax year**, paragraph (a), delete “and has no adjustments of the sort referred to in section 35(1),”.
- (2) In section 2(1), replace the definition of **receiving carer** with:
- receiving carer** means—
- (a) a carer of a qualifying child who the Commissioner determines under section 17 is a receiving carer of the child; or 35

- (b) a person who is entitled to receive child support under section 58(1) or 68(1)
- (3) In section 2(1), definition of **social security benefit**, replace paragraph (c)(iii) with:
- (iii) subject to **subsection (1A)**, jobseeker support: 5
- (4) After section 2(1), insert:
- (1A) The reference to jobseeker support in **paragraph (c)(iii)** of the definition of social security benefit in subsection (1) does not include jobseeker support ~~in a case where the benefit is granted under section 88C(2) or (3) of the Social Security Act 1964 during a period starting on or after 1 October 2015.~~ 10
- 5 Section 3A amended (Transitional and savings provisions relating to amendments to this Act)**
- (1) In the heading to section 3A, replace “**Transitional**” with “**Application, transitional,**”.
- (2) In section 3A, replace “transitional” with “application, transitional,”. 15
- 6 Section 4A amended (Overview of child support payable under formula assessment)**
- In section 4A(1), delete “by a liable parent”.
- 7 Section 8 amended (Who may apply for formula assessment)**
- Replace section 8(1) with: 20
- (1) Any parent or carer of a qualifying child may apply to the Commissioner for a formula assessment of child support payable in respect of the child.
- 8 Section 13 amended (Notification by Commissioner of application)**
- (1) In section 13(2), delete “, in order to ascertain the matters listed in subsection (1),”.
- (2) After section 13(3), insert:
- (4) The Commissioner’s duty to ascertain the matters listed in subsection (1) is subject to **section 13A**.
- 9 New section 13A inserted (Cases where formula assessment to be refused)**
- After section 13, insert: 30
- 13A Cases where formula assessment to be refused**
- (1) The Commissioner must refuse to make a formula assessment in respect of a qualifying child if **subsection (2) or (4)** applies.
- (2) This subsection applies if the applicant is living with a parent of the child in a marriage, civil union, or de facto relationship. 35

- (3) However, **subsection (2)** does not apply if—
- (a) the applicant is a parent of the child; and
 - (b) the child has—
 - (i) a parent with whom the applicant is not living in a marriage, civil union, or de facto relationship; or
 - (ii) a non-parent carer with whom the applicant is not living in a marriage, civil union, or de facto relationship and who the Commissioner determines is a receiving carer.
- (4) This subsection applies if the applicant is a non-parent carer of the child who the Commissioner determines is not a receiving carer.
- (5) If the Commissioner refuses to make a formula assessment under this section, the Commissioner must notify the applicant of the refusal (and withdraw any notices given under section 13).

10 Section 25 amended (When liability to pay child support ceases)

- (1) Repeal section 25(3)(e).
- (2) After section 25(3), insert:
- (4) **Subsection (5)** applies if the Commissioner accepts an election under **section 27** to end a formula assessment as it applies in respect of a qualifying child.
- (5) A liable parent ceases to be liable to pay child support in respect of the qualifying child under the formula assessment on—
- (a) the day on which the Commissioner received the notice of election; or
 - (b) if the notice of election specified a later day on which the formula assessment as it applies in respect of the qualifying child is to end, that later day.

11 Section 27 replaced (Election by receiving carer to end formula assessment)

Replace section 27 with:

27 Election by receiving carer to end formula assessment

- (1) Where a formula assessment applies in respect of a qualifying child (**child C**), a person may by notice to the Commissioner elect to end the formula assessment as it applies in respect of child C.
- (2) If a person (**person P**) does so, the Commissioner must accept the election if satisfied that the election qualifies for acceptance (and may refuse to accept the election if not so satisfied) (*see section 25(4) and (5)* for the effect of the Commissioner's acceptance of the election).
- (3) The election qualifies for acceptance if—

- (a) person P is a recognised carer of child C by virtue of **subsection (6)(a)**; and
- (b) every other recognised carer of child C (if any) agrees to the election.
- (4) However, the election does not qualify for acceptance if a recognised carer of child C is, or is expected to be, on the day referred to in **section 25(5)(a) or (b)** (as the case may be),— 5
- (a) a social security beneficiary by virtue of paragraph (a), (c), or (d) of the definition of social security benefit in section 2(1); or
- (b) a social security beneficiary by virtue of paragraph (b) of that definition where the unsupported child’s benefit is granted in respect of child C. 10
- (5) In determining whether to accept the election, the Commissioner—
- (a) may act on the basis of any information accompanying the notice of election and any other information in the Commissioner’s possession; and
- (b) is not required to conduct any enquiries or investigations into the matter. 15
- (6) For the purposes of this section, a **recognised carer of child C** is a person who is either of the following at the time the Commissioner receives the notice of election:
- (a) a receiving carer of child C under the formula assessment:
- (b) a parent of child C who is not a receiving carer of child C under the formula assessment but who provides at least 28% of ongoing daily care to child C. 20
- (7) The Commissioner’s acceptance of the election is final, unless overturned in accordance with **subsection (8) or (9)**.
- (8) The acceptance may be overturned, wholly on the basis of information in the Commissioner’s possession at the time of the acceptance,— 25
- (a) under Part 6, on an objection to the acceptance made under **section 90(1)(bb)**; or
- (b) under Part 7, on an appeal against the Commissioner’s disallowance of an objection to the acceptance made under **section 90(1)(bb)**. 30
- (9) The Commissioner may overturn the acceptance if a person who the Commissioner regarded as being a recognised carer of child C when accepting the election is a social security beneficiary of the kind referred to in **subsection (4)(a) or (b)** on the day referred to in **section 25(5)(a) or (b)** (as the case may be). 35
- (10) Without affecting the acceptance, subsequent changes may be made to the receiving carers or liable parents, or to their entitlements or liabilities, under the formula assessment in respect of times before the day referred to in **section 25(5)(a) or (b)** (as the case may be) (and the acceptance does not prevent a person applying for a new formula assessment in respect of child C). 40

- (11) A notice of election must be given using an approved form or given in another way approved by the Commissioner.
- 12 Section 32 amended (Minimum annual rate of child support)**
- (1) In section 32, after “child support payable”, insert “under a formula assessment”.
- (2) In section 32(b), replace “qualifying children of the liable parent that each” with “the liable parent’s qualifying children in respect of whom a formula assessment applies that each receiving”.
- 13 Section 34 amended (Child support income amount)**
- In section 34(1), replace “relevant tax” with “child support”.
- 14 Section 35 amended (Adjusted taxable income)**
- (1) Replace section 35(1) to (5) with:
- (1) A person’s **adjusted taxable income** for a child support year is—
- (a) the person’s income from employment for the calendar year immediately preceding the start of the child support year if, in the most recent tax year, the person’s taxable income was derived solely from withholding income; or
- (b) if **paragraph (a)** does not apply, the person’s taxable income in the tax year immediately preceding the most recent tax year, inflated by the inflation percentage for the child support year.
- (2) Replace section 35(7) with:
- (7) This section is subject to—
- (a) sections 38 to 39A (which relate to ascertaining taxable income, etc); and
- (b) sections 40AA to 44A (which permit elections for adjusted taxable income to be assessed using estimated taxable income).
- 15 Section 35A amended (Living allowance)**
- Replace section 35A(2)(a) to (c) with:
- (a) for every person other than a person identified in **paragraph (b)**, the rate set out in clause 1 of Schedule 3A of the Social Security Act 1964 (ignoring the reference to Income Test 1):
- (b) for a person granted a supported living payment under section 40B or 40D of the Social Security Act 1964 who is, for the purposes of that benefit, a single beneficiary with 1 or more dependent children, the rate set out in clause 1(c) of Schedule 6 of that Act (ignoring the reference to Income Test 1).

- 16 Section 39A amended (Commissioner may take overseas income into account)**
- (1) Replace section 39A(3)(b) with:
- (b) references to “tax year” and “relevant tax year” are references to—
- (i) income periods of the relevant country that most appropriately correspond to the equivalent New Zealand periods; or
- (ii) such other periods as the Commissioner considers appropriate in the circumstances:
- (2) In section 39A(3)(d) to (g), delete “taxable”.
- 17 Section 40AA amended (Interpretation for purposes of sections 40 to 45)**
- (1) In section 40AA, definition of **election**, replace “original taxable income” with “income referred to in **section 35(1)(a) or (b)**”.
- (2) In section 40AA, repeal the definition of **original taxable income**.
- 18 Section 40 amended (Estimated taxable income)**
- (1) In section 40(1), replace “the taxable income” with “the income”.
- (2) In section 40(2) and (4)(e), replace “original taxable income” with “original adjusted taxable income”.
- 19 Section 41 amended (Effect of election)**
- Replace section 41(1) with:
- (1) If the Commissioner accepts an election made by a person, the Commissioner must determine the person’s adjusted taxable income by calculating the person’s annualised estimated taxable income.
- 20 Section 42 amended (Revocation of election and subsequent elections)**
- In section 42(2)(b), replace “original taxable income” with “original adjusted taxable income”.
- 21 Section 44 amended (End-of-year reconciliation)**
- (1) In section 44(1), replace “based on the income amount determined under subsection (2)” with “treating the amount determined under subsection (2) as the person’s adjusted taxable income”.
- (2) In section 44(2), replace “income amount to be used for” with “amount to be treated as the person’s adjusted taxable income for the purposes of”.
- (3) In section 44(2)(a), replace “the value of any adjustments made under section 41(1)(b)” with “nil”.
- (4) In section 44(2)(b)(i), delete “, and adjusted in accordance with section 41(1)(b)”.

- 22 Section 44A amended (Determining income amount if no tax return filed)**
In section 44A(2), replace “used” with “treated as the person’s adjusted taxable income”.
- 23 Section 45 repealed (Penalty if estimated income less than 80% of actual income)** 5
Repeal section 45.
- 24 Section 51 amended (Exception in respect of child support voluntary agreement where formula assessment in force)**
- (1) In the heading to section 51, replace “**in force**” with “**applies**”.
- (2) In section 51(a), replace “is in force requiring one party to the agreement to pay child support to the other” with “applies”. 10
- (3) Replace section 51(b) with:
- (b) the Commissioner has not accepted an election under **section 27** to end the formula assessment as it applies in respect of the child.
- 25 Section 88 amended (Notice of assessment of formula assessment of child support)** 15
Replace section 88(2) with:
- (2) As a minimum, the notice of assessment must set out, in relation to each qualifying child to whom the notice relates, the matters identified in section 88A so far as they are relevant to the assessment as it applies in respect of the child. 20
- (2A) However, in no case may a notice of assessment reveal any more detail about another person who is a parent or carer than the person’s name (subject to subsection (5)) and, in relation to a qualifying child, the person’s proportion of care and care cost percentage.
- 26 Section 88A amended (Details in notices of assessments)** 25
- (1) In section 88A(1), replace “A notice of assessment given to a liable parent must set out all of the following that are applicable in relation to each qualifying child to whom the notice relates” with “The matters referred to in **section 88(2)** for a notice of assessment given to a liable parent are as follows”.
- (2) In section 88A(1)(f), after “income”, insert “or such other details as the Commissioner considers appropriate of any income of the liable parent taken into account in making the assessment”. 30
- (3) In section 88A(1)(g), replace “amount of the dependent child allowance for each dependent child” with “sum of any dependent child allowances to which the liable parent is entitled”. 35
- (4) In section 88A(2), replace “A notice of assessment given to a parent of a child who is a receiving carer must set out all of the following that are applicable in relation to each qualifying child to whom the notice relates” with “The matters

- referred to in **section 88(2)** for a notice of assessment given to a parent of a child who is a receiving carer are as follows”.
- (5) In section 88A(2)(f), after “income”, insert “or such other details as the Commissioner considers appropriate of any income of the parent taken into account in making the assessment”. 5
- (6) In section 88A(2)(g), replace “amount of the dependent child allowance for each dependent child” with “sum of any dependent child allowances to which the parent is entitled”.
- (7) In section 88A(3), replace “A notice of assessment given under this section to a non-parent receiving carer of a child must set out all of the following that are applicable in relation to each qualifying child to whom the notice relates” with “The matters referred to in **section 88(2)** for a notice of assessment given to a non-parent receiving carer of a child are as follows”. 10
- 27 Section 89L amended (Application for determination)**
- After section 89L(3), insert: 15
- (4) The determinations that the Commissioner may make under this subpart are not limited by the terms of the application.
- 28 Section 90 amended (Objections to appealable decisions)**
- (1) After section 90(1)(ba), insert: 20
- (bb) a decision to accept an election under **section 27**:
- (bc) a decision not to accept an election under **section 27** (including a decision to overturn the acceptance of an election under **section 27(9)**):
- (2) In section 90(1)(d), delete “45 or”.
- 29 Section 91 amended (Objections to assessments)**
- (1) In section 91(1), after “an assessment”, insert “, other than an amended assessment,”. 25
- (2) After section 91(1), insert:
- (1A) An objection to an amended assessment may be made on any or all of the grounds listed in subsection (1)(b) to (d), but— 30
- (a) on no other ground; and
- (b) only if the matters covered by the objection are attributable to the amendment of the assessment.
- (3) In section 91(2), replace “who is affected by the assessment” with “to whom the Commissioner is required to give notice of the assessment under section 88 or 89”. 35
- (4) Repeal section 91(3).

- 30 Section 96C amended (Matters as to which Commissioner must be satisfied before making determination)**
- (1) In section 96C(2)(b), after “105(3)”, insert “; and”.
 - (2) After section 96C(2)(b), insert:
 - (c) **section 105(2)(d)** has effect subject to **section 105(3D)**. 5
 - (3) In section 96C(3), after “Subsections”, insert “**(3C)** and”.
- 31 Section 96D amended (Determinations that may be made)**
- (1) After section 96D(1)(b), insert:
 - (ba) **section 106A** (further provision on orders for re-establishment costs situations if income increases): 10
 - (2) After **section 96D(1)(ba)** (as inserted by **subsection (1)** of this section), insert:
 - (bb) **section 106B** (further provision on orders for offsetting of liabilities situations):
 - (3) After section 96D(1), insert: 15
 - (1A) The determinations that the Commissioner may make under subsection (1) are not limited by the terms of the application under section 96B.
- 32 Section 96X amended (Commissioner to notify receiving carers and liable parent who is not subject parent)**
- (1) In the heading to section 96X, replace “**who is not subject parent**” with “**with rights of election under section 96Y**”. 20
 - (2) In section 96X, replace “the receiving carers and any liable parent who is not the subject parent” with “any receiving carer or liable parent who has rights of election under section 96Y”.
- 33 Section 96Y amended (Election by receiving carer or by liable parent who is not subject parent to become party or discontinue proceedings)** 25
- (1) In the heading to section 96Y, delete “**who is not subject parent**”.
 - (2) In section 96Y(1), replace “receiving carer, or any liable parent who is not the subject parent,” with “relevant person (*see* **subsection (8)**)”.
 - (3) In section 96Y(2), replace “receiving carer, or a liable parent who is not a subject parent,” with “relevant person”. 30
 - (4) In section 96Y(3), replace “receiving carer or liable parent” with “relevant person” in each place.
 - (5) In section 96Y(4), replace “receiving carer or by a liable parent who is not the subject parent” with “relevant person”. 35
 - (6) In section 96Y(5), replace “receiving carer or liable parent who is not the subject parent” with “relevant person”.

- (7) In section 96Y(6), replace “receiving carer or liable parent who is not the subject parent” with “relevant person”.
- (8) After section 96Y(6), insert:
- (7) However, if there is more than 1 relevant person, the Commissioner must not discontinue the proceedings unless each relevant person has elected under subsection (2) to discontinue them. 5
- (8) In this section and sections 96Z and 96ZA, **relevant person** means—
- (a) a receiving carer who is not the subject parent; or
- (b) a liable parent who is not the subject parent.
- 34 Section 96Z amended (Written representations by parties)** 10
- (1) Replace section 96Z(2)(b)(ii) with:
- (ii) in the case of a relevant person (*see section 96Y(8)*), within 14 days after the date on which the relevant person is sent notification under section 96X.
- (2) In section 96Z(3), replace “the receiving carer or liable parent who is not the subject parent” with “a relevant person”. 15
- (3) In section 96Z(4), replace “receiving carer or liable parent who is not the subject parent” with “relevant person”.
- (4) In section 96Z(5), replace “receiving carer or liable parent who is not the subject parent” with “relevant person”. 20
- 35 Section 96ZA amended (Procedure for making determination)**
- In section 96ZA(4), replace “receiving carer or liable parent who is not the subject parent” with “relevant person (*see section 96Y(8)*)”.
- 36 Section 98 amended (Minimum liability in respect of child support)**
- In section 98(2A), replace “qualifying children of the liable parent” with “the liable parent’s qualifying children in respect of whom a formula assessment applies”. 25
- 37 Section 99 amended (Declarations in respect of step-parents)**
- (1) In section 99(1), delete “receiving”.
- (2) Replace section 99(3) with: 30
- (3) Subject to section 125, the parties to the proceeding are—
- (a) the applicant for the declaration under this section; and
- (b) the person whom the application seeks to be declared to be a step-parent of the child (if that person is not the applicant); and
- (c) any other person who is a parent or carer of the child when the application is made. 35

38 Section 102 amended (Appeals against decisions of Commissioner)

Replace section 102(3) with:

- (3) Subject to section 125, the parties to the appeal are the objector and the Commissioner.

39 Section 103 amended (Appeals against assessments)

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- (1) In section 103(1), replace “any person affected by the assessment” with “the objector”.

(2) Replace section 103(3) with:

- (3) Subject to section 125, the parties to the appeal are the objector and the Commissioner.

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- (3) In section 103(6), replace “the persons concerned,” with “a person affected by the assessment that was objected to,”.

40 Section 105 amended (Matters as to which court must be satisfied before making order)

- (1) In section 105(2)(c)(iii), replace “interest.” with “interest; or”.

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(2) After section 105(2)(c), insert:

Re-establishment costs situation if income increases

- (d) that the application in relation to the child of the provisions of this Act relating to formula assessment of child support would result in an unjust and inequitable determination of the level of child support to be provided by the liable parent for the child in respect of a child support year because—

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- (i) the adjusted taxable income of a parent of the child for the child support year includes income from relevant additional work (*see subsections (3A) to (3C)*); and

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- (ii) some or all of the income from relevant additional work has been used, or will be used, by the parent to meet, wholly or partly, actual and reasonable costs incurred to re-establish himself or herself, and any child or other person that he or she has a duty to maintain, after the child’s parents ceased to live together in a marriage, civil union, or de facto relationship.

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- (3) In **section 105(2)(d)(ii)** (as inserted by **subsection (2)** of this section), replace “relationship.” with “relationship; or”.

(4) After **section 105(2)(d)** (as inserted by **subsection (2)** of this section), insert:

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Offsetting of liabilities situation

- (e) that it would be just and equitable to offset one liability against another, if 2 persons are each liable to pay in respect of the other an amount of

child support under a formula assessment (whether or not those amounts have become due and payable).

- (5) After section 105(3), insert:
- (3A) In **subsection (2)(d)**, **relevant additional work** means work done by the parent during the relevant 3-year period that, in quantity or nature or both, is additional to work that he or she did before the child’s parents ceased to live together in a marriage, civil union, or de facto relationship. 5
- (3B) In **subsection (3A)**, **the relevant 3-year period** means the 3-year period starting on the date on which the child’s parents ceased to live together in a marriage, civil union, or de facto relationship. 10
- (3C) For the purpose of calculating that 3-year period, the court may exclude a period or periods of resumed cohabitation with, or each with, the sole or main motive of reconciliation if that period does not exceed, or those periods in aggregate do not exceed, 3 months.
- (3D) The ground in **subsection (2)(d)** applies only in relation to child support in respect of the child support year starting on 1 April 2016 or a later child support year. 15

41 New sections 106A and 106B inserted

- (1) After section 106, insert:
- 106A Further provision on orders for re-establishment costs situations if income increases** 20
- The amount that an order under section 106 on the ground in **section 105(2)(d)** excludes, or in effect excludes, from the parent’s adjusted taxable income is not to exceed the lesser of the following:
- (a) so much of the income from relevant additional work as has been used, or will be used, by the parent as referred to in **section 105(2)(d)(ii)**: 25
- (b) 30% of the parent’s adjusted taxable income.
- (2) After **section 106A** (as inserted by **subsection (1)** of this section), insert:
- 106B Further provision on orders for offsetting of liabilities situations**
- (1) An order under section 106 on the ground in **section 105(2)(e)** may provide for the offsetting of liabilities in cases involving all or any of the following: 30
- (a) liabilities in respect of the 2 persons caring at different times for the same child:
- (b) liabilities in respect of the 2 persons caring at the same time for 2 or more different children: 35
- (c) liabilities in respect of different child support years:

- (d) liabilities in respect of child support years ending before 1 April 2016 (that is, the date of commencement of this section and **section 105(2)(e)**):
- (e) liabilities under different formula assessments.
- (2) **Subsection (1)** does not limit **section 105(2)(e)**. 5
- (3) ~~However, an~~An order under section 106 on the ground in **section 105(2)(e)** may not apply in respect of—
- (a) any liability of a person in respect of a period if during that period the person is expected to be, or (as the case requires) was, a social security beneficiary; or 10
- (b) a penalty payable under section 134; ~~or,~~
- (c) a liability that has been offset under section 152B.
- (3A) **Subsection (3B)** applies to an order under section 106 on the ground in **section 105(2)(e)** if the liability of 1 of the persons in respect of the other to pay child support in respect of a particular month under 1 or more formula assessments (the **relevant liability**)— 15
- (a) has been offset to any extent under section 152B; or
- (b) has been reduced to any extent by virtue of section 34 or 35 as in force before 1 April 2015 (including as applied on and after that date by **clause 1A** of Schedule 1), if the relevant liability is in respect of a month before April 2015. 20
- (3B) The order may not apply in respect of the relevant liability to any extent.
- (4) In relation to a liability in respect of a child support year ending before 1 April 2015 (~~that is, the commencement date defined in clause 1 of Schedule 1~~), any order on the ground in **section 105(2)(e)** is to be made under ~~old~~ section 106 as in force before that date in accordance with **clause 1A** of Schedule 1 and the orders that may be made include an order varying the annual rate of child support payable by a parent in respect of that child support year. 25
- (5) ~~In **subsection (4)**, old section 106 is to be read in accordance with clause 1 of Schedule 1 (see the definition of old provisions).~~ 30
- (6) An order under section 106 on the ground in **section 105(2)(e)** may be made only on an application made on or after 1 April 2016.

42 Section 107 amended (Implementation of orders)

After section 107(3), insert:

- (4) Without limiting subsections (1) to (3), the Commissioner may, in taking action under any of those subsections, apply some or all of the provisions of this Act relating to the amount of child support payable in relation to a receiving carer under a formula assessment (for example, sections 36A to 36C) with the modi- 35

fications the Commissioner considers necessary to achieve fully the intention of the court’s order.

43 Section 129 replaced (Right to choose payment method)

Replace section 129 with:

129 Right to choose voluntary automatic deductions or other payment method

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(1) Subject to sections 130 and 131, any person who is liable to pay financial support under this Act must pay the money so payable to the Commissioner—

(a) by way of automatic deduction under Part 10 from source deduction payments paid by an employer of the person, if the conditions in **subsection (2)** are met; or

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(b) if those conditions are not met, by any other payment method acceptable to the Commissioner.

(2) The conditions are that—

(a) the person is, or will be, the recipient of source deduction payments from the employer; and

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(b) the person chooses, in a way acceptable to the Commissioner, for deductions in respect of future payments of financial support to be made from source deduction payments paid by the employer; and

(c) the Commissioner does not consider automatic deductions inappropriate in the person’s case.

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44 Section 130 amended (Defaulters to pay child support by automatic deduction)

Replace section 130(b) with:

(b) that payment, and those further payments, of financial support are to be paid—

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(i) by way of automatic deduction under Part 10; or

(ii) if the Commissioner considers automatic deduction inappropriate in the person’s case, by another payment method acceptable to the Commissioner.

44A Section 135G amended (Discretionary relief for residual incremental penalty debt)

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(1) Replace section 135G(1)(b) with:

(b) the Commissioner is satisfied—

(i) that recovery of the incremental penalties would place the liable person in serious hardship; or

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(ii) that it would be fair and reasonable to grant relief.

(2) In section 135G(2), replace “(1)(b)” with “(1)(b)(i)”.

44B Section 135GA amended (Discretionary relief for residual penalty-only debt)

- (1) Replace section 135GA(1)(b) with:
- (b) the Commissioner is satisfied—
- (i) that recovery of those penalties would place the liable person in serious hardship (as defined in section 135G(3)); or 5
- (ii) that it would be fair and reasonable to grant relief.
- (2) Replace section 135GA(2)(b) with:
- (b) the Commissioner is satisfied that those penalties relate to, or arise from, some or all of that written-off benefit component; and 10
- (c) the Commissioner is satisfied—
- (i) that recovery of those penalties would place the liable person in serious hardship (as defined in section 135G(3)); or
- (ii) that it would be fair and reasonable to grant relief.
- (3) In section 135GA(3), replace “(1)(b) or (2)(b)” with “**(1)(b)(i) or (2)(c)(i)**”. 15

44C New section 135JA inserted (Relief from incremental penalties unpaid before deduction plan made on or after 1 April 2016)

After section 135J, insert:

135JA Relief from incremental penalties unpaid before deduction plan made on or after 1 April 2016 20

- (1) For the purposes of this section,—
- deduction plan** means a plan made on or after 1 April 2016 by the Commissioner in relation to a liable person—
- (a) that is a plan for the collection, by way of automatic deduction under Part 10 from relevant payments, of— 25
- (i) the amount of the initial debt; and
- (ii) the amount of financial support (if any) that the liable person will become liable to pay during the term of the plan; and
- (b) that is not made with the agreement of the liable person
- initial debt**, in relation to a deduction plan, means the amount the liable person owes in respect of financial support and related initial late payment penalties at the time the deduction plan is made 30
- relevant deduction notice**, in relation to a deduction plan, means a deduction notice given by the Commissioner under section 154 for the purpose of collecting amounts in accordance with the deduction plan 35
- relevant payments** means payments of—

- (a) income specified in paragraph (a) of the definition of withholding income in section 2(1); or
- (b) earnings related compensation (as defined in section 82(9) of the Tax Administration Act 1994); or
- (c) a benefit of the kind referred to in section 131; or
- (d) a basic grant or an independent circumstances grant under the Student Allowances Regulations 1998

review date means—

- (a) the day that is 26 weeks after the date on which the deduction plan is made; and
 - (b) each of the days on which there expire periods of 26 weeks that consecutively succeed the first period of 26 weeks described in **paragraph (a)**; and
 - (c) the day on which the deduction plan expires.
- (2) If a deduction plan has been made and the deduction plan has been complied with up until a particular review date in accordance with **subsection (3)**, the Commissioner must, on that review date,—
- (a) review the incremental penalties in relation to the initial debt of the liable person that were unpaid at the time the deduction plan was made; and
 - (b) write off those penalties proportionally in accordance with **subsection (4)**.
- (3) For the purposes of **subsection (2)**, a deduction plan has been complied with up until a particular review date if all of the deductions and payments required to be made under relevant deduction notices by that date have been made in accordance with those notices.
- (4) For the purposes of **subsection (2)**, the proportion of incremental penalties that must be written off must be calculated in accordance with the following formula:
- $$r = [(a \times c) \div b] - d$$
- where—
- r is the amount of incremental penalty that is to be written off
 - a is the total amount of the initial debt that has been paid since the deduction plan was made
 - b is the initial debt
 - c is the total amount of incremental penalties related to the initial debt of the liable person that were unpaid at the time the deduction plan was made

d is the total amount of incremental penalties related to the initial debt of the liable person that have already been written off in accordance with this section since the deduction plan was made.

(5) If an incremental penalty that is written off under this section has been paid in whole or in part, the Commissioner must refund to the liable person the whole or part of the incremental penalty that has been paid. 5

44D Section 135L amended (Writing-off of incremental penalties if non-compliance with arrangement)

After section 135L(2), insert:

(2A) **Subsection (2B)** applies if,— 10

(a) at the time of a review date in relation to a deduction plan under **section 135JA**, there has been a failure to make any deduction and payment in accordance with a relevant deduction notice (as defined in **section 135JA**); and

(b) the Commissioner is satisfied, in respect of each failure to make a deduction and payment in accordance with a relevant deduction notice (as defined in **section 135JA**), that the circumstances in relation to the failure would, if they were related to the payment of a debt to which a penalty relates, entitle the Commissioner to grant relief under any of the provisions of sections 135B to 135E. 15
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(2B) The Commissioner may disregard a failure to make a deduction and payment for the purpose of applying **section 135JA**.

45 Section 154 amended (Deduction notice)

In section 154(1), replace “Where, in accordance with section 130 or section 131, financial support is payable by way of automatic deduction, the Commissioner may, for the purpose of collecting that financial support, give a notice to any person” with “The Commissioner may, for the purpose of collecting financial support by way of automatic deduction in accordance with any of sections **129** to 131, give a notice to any person”. 25

46 Section 158 amended (Life of deduction notices) 30

After section 158(2), insert:

(3) A person who has chosen under **section 129** to pay financial support by way of automatic deduction under this Part may at any time choose, in a way acceptable to the Commissioner, to stop automatic deduction.

(4) In that case, the Commissioner must revoke any relevant deduction notice under subsection (2)(a) unless section 130 or 131 applies. 35

47 Section 180 amended (Payee may uplift financial support debt)

Replace section 180(2)(b) with:

- (b) under subsection (1)(b), if the payee is not a social security beneficiary at the time the child support is payable unless, at the time of the making of the election,—
- (i) the Commissioner has accepted an election under **section 27** that covers the liability of the liable parent to pay child support; or
 - (ii) the payee elects that the liability of the liable parent to pay child support is to end under section 64 or 70.

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48 Section 240 amended (Secrecy)

In section 240(2)(a)(ii), replace “parent” with “spouse or partner” in each place.

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49 Section 276 amended (Transitional and savings provisions relating to amendments to Act)

- (1) In the heading to section 276, replace “**Transitional**” with “**Application, transitional,**”.
- (2) In section 276, replace “transitional” with “application, transitional,”.
- (3) In section 276, insert as subsection (2):

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(2) The application, transitional, and savings provisions are set out in the following Parts of Schedule 1:

Part heading	Part of Schedule 1
Child Support Amendment Act 2013, etc: provisions relating to amendments effective on 1 April 2015	1
Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2015	1A

50 Schedule 1 amended

- (1) In Schedule 1, before clause 1, insert:

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Part 1
Child Support Amendment Act 2013, etc: provisions relating to amendments effective on 1 April 2015

- (2) In Schedule 1, clause 1, definition of **commencement date**, replace “Part 1 (except sections 6, 18, 19, 19A, 31, and 32) of the Child Support Amendment Act 2013 comes” with “the enactments listed in **clause 1A(2)** come”.
- (3) In Schedule 1, clause 1, definition of **new assessment**, delete “and applying after the commencement date to the child support year ending on 31 March 2016”.
- (4) In Schedule 1, clause 1, definition of **new provisions**, replace “Part 1 of the Child Support Amendment Act 2013” with “the enactments listed in **clause 1A(2)**”.

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- (5) In Schedule 1, clause 1, definition of **old provisions**, replace “Part 1 of the Child Support Amendment Act 2013 comes” with “the enactments listed in **clause 1A(2)** come”.
- (6) In Schedule 1, after clause 1, insert:
- 1A Application of Act to financial support for child support years ending before 1 April 2015** 5
- (1) This Act applies on and after 1 April 2015 in relation to financial support in respect of a child support year ending before that date as if the amendments made by the enactments listed in **subclause (2)** had not been made.
- (2) The enactments are: 10
- (a) Part 1 of the Child Support Amendment Act 2013, except sections 6, 18, 19, 19A, 31, and 32:
- (b) sections 206 to 215 of the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014:
- (c) **sections 15, 23, and 28(2)** of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act **2015**. 15
- (3) **Subclause (1)** does not prevent section 179A(3) from applying in relation to financial support in respect of a child support year ending before 1 April 2015.
- (4) **Subclause (1)** does not limit the application of sections 17 to 19 of the Interpretation Act 1999 in relation to financial support in respect of a child support year ending before 1 April 2015. 20
- (5) In this clause, references to financial support in respect of a child support year ending before 1 April 2015 include a reference to a penalty imposed under this Act (whether before, on, or after that date) that is treated as being of the same nature as an amount of such financial support. 25
- (7) In Schedule 1, after clause 2, insert:
- 2A Reconciliation of estimation made under old provisions**
- Without limiting **clause 1A**, old sections 44 to 45 continue to apply on and after the commencement date in relation to old assessments.
- (8) In Schedule 1, after clause 8, insert: 30
- Part 1A**
- Taxation (Annual Rates for 2015–16, Research and Development,
and Remedial Matters) Act 2015**
- 8A Amendment of sections 4A, 8, and 13 and insertion of new section 13A (applications for formula assessments)** 35
- The amendments made by **sections 6 to 9** of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act **2015** apply

only in relation to applications for formula assessments made after the date on which that Act receives the Royal assent.

8B Amendment of sections 2(1), 34, 35, 40AA, 40, 41, 42, 44, and 44A (adjusted taxable income)

The amendments made by **sections 4(1), 13, 14, and 17 to 22** of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act **2015** apply only in relation to child support in respect of the child support year commencing on 1 April 2016 or a later child support year.

8C Amendment of sections 25, 51, 90(1), and 180 and replacement of section 27 (election by receiving carer to end formula assessment, etc)

The amendments made by **sections 10, 11, 24, 28(1), 47, and 60** of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act **2015**—

- (a) apply only in relation to child support in respect of the child support year commencing on 1 April 2015 or a later child support year; but
- (b) do not apply in relation to a formula assessment as it applies in respect of a qualifying child if, on or before the date on which the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act **2015** receives the Royal assent, a receiving carer of the child makes an election under section 27 of this Act that the liability of every liable parent to pay child support to the receiving carer in respect of the child under the formula assessment is to end.

8D Amendment of sections 88, 88A, 91, and 103 (notices of, and objections to, assessments)

(1) The amendments made by **sections 25, 26, 29, and 39** of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act **2015** apply only in relation to assessments (including amended assessments) made after the date on which that Act receives the Royal assent in respect of the child support year commencing on 1 April 2015 or a later child support year (subject to **subclause (2)**).

(2) The amendments made by **section 29(1), (2), and (4)** of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act **2015** also apply in relation to amended assessments made on or before the date on which that Act receives the Royal assent in respect of the child support year commencing on 1 April 2015 or a later child support year.

(3) The Commissioner must, despite section 92(1) and (2), accept for consideration an objection to an amended assessment in relation to which the amendments referred to in **subclause (2)** apply if—

	(a) <u>the Commissioner gave notice of the amended assessment before the date on which the Act referred to in subclause (2) received the Royal assent; and</u>	
	(b) <u>the objection could not have been made on or before that date because of section 91(3) (as in force on and before that date); and</u>	5
	(c) <u>the objection is delivered or posted to the Commissioner after that date within a period that the Commissioner considers to be reasonable; and</u>	
	(d) <u>the objection is otherwise properly made.</u>	
8E	Amendment of sections 89L and 96D (determinations that may be made by Commissioner under subpart 3 of Part 5A or Part 6A)	10
	The amendments made by sections 27 and 31(3) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2015 apply only in relation to applications made after the date on which that Act receives the Royal assent.	
8F	Amendment of sections 96X, 96Y, 96Z, and 96ZA (proceedings under Part 6B)	15
	The amendments made by sections 32 to 35 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2015 apply only for cases where the Commissioner’s decision to start proceedings under Part 6B is made after the date on which that Act receives the Royal assent in respect of the child support year commencing on 1 April 2015 or a later child support year.	20
8G	Amendment of section 99 (declarations in respect of step-parents)	
	The amendment made by section 37(2) of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2015 applies only in relation to proceedings on applications made after the date on which that Act receives the Royal assent.	25
8H	Amendment of section 102 (appeals against Commissioner’s disallowance of objections)	
	The amendment made by section 38 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2015 applies only in relation to objections made after the date on which that Act receives the Royal assent.	30
8I	Amendment of section 107 (implementation of orders)	
	The amendment made by section 42 of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act 2015 applies only in relation to orders under section 106, or determinations under section 89M, 89N, 96D, or 96ZB, made after the date on which that Act receives the Royal	35

assent in respect of the child support year commencing on 1 April 2015 or a later child support year.

8J Amendment of sections 130, 154, and 158 and replacement of section 129 (payment of financial support)

The amendments made by **sections 43 to 46**, **44**, **45**, and **46** of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act **2015** apply in relation to the payment of financial support after the date on which that Act receives the Royal assent (including where the liability to pay the financial support arises on or before that date).

(9) In Schedule 1, **Part 1A** (as inserted by **subsection (8)** of this section), before **clause 8A**, insert:

8AA Amendment of definition of social security benefit in section 2

(1) The amendments made by **section 4(3) and (4)** of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act **2015** (the **2015 Act**) apply in relation to jobseeker support granted under section 88C(2) or (3) of the Social Security Act 1964 whether the grant is made before, on, or after the day referred to in **section 2(2)(d)** of the 2015 Act.

(2) In relation to times before that day, this Act applies on and after that day as if those amendments had not been made.

Amendments to Child Support Amendment Act 2013

51 Child Support Amendment Act 2013 amended

Sections 52 to 64 amend the Child Support Amendment Act 2013.

52 Section 2 amended (Commencement)

Replace section 2(4) with:

(4) Sections 40(1), 41, 42, 44, and 45 come into force on the day after the date on which the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act **2015** receives the Royal assent.

(5) The rest of Part 2 comes into force on 1 April 2016.

53 Section 37 and cross-heading above section 37 repealed

Repeal section 37 and the cross-heading above section 37.

54 Section 38 and cross-heading above section 38 repealed

Repeal section 38 and the cross-heading above section 38.

55 Section 43 amended (New section 135FA inserted)

In section 43, new section 135FA(3), replace “(2)(b)” with “(2)(a) or (b)”.

- 55 Section 43 amended (New section 135FA inserted)**
- (1) In section 43, replace new section 135FA(2) with:
- (2) The Commissioner may grant relief to the liable person in the manner prescribed by section 135A in respect of the incremental penalties of the liable person that were unpaid at the time a payment agreement was entered into if the Commissioner is satisfied— 5
- (a) that recovery of those incremental penalties would place the liable person in serious hardship (as defined in section 135G(3)); or
- (b) that it would be fair and reasonable to grant relief.
- (2) In section 43, new section 135FA(3), replace “(2)(b)” with “**(2)(a)**”. 10
- 56 Section 44 amended (Discretionary relief for residual incremental penalty debt)**
- In section 44(3), replace “135GA(2)(b)(i)” with “135GA”.
- 57 Section 45 amended (New section 135GA inserted)**
- (1) In section 45, replace new section 135GA(1)(b) with: 15
- (b) the Commissioner is satisfied that recovery of those penalties would do either or both of the following:
- (i) place the liable person in serious hardship (as defined in section 135G(3));
- (ii) involve an inefficient use of the Commissioner’s resources. 20
- (2) In section 45, new section 135GA(2)(a) and (b), before “all”, insert “some or”.
- (3) In section 45, new section 135GA(2)(b)(i), replace “parent” with “person”.
- 58 Section 57 repealed (New section 152B inserted)**
- Repeal section 57.
- 59 Section 58 and cross-heading above section 58 repealed** 25
- Repeal section 58 and the cross-heading above section 58.
- 60 Section 59 amended (Payee may uplift financial support debt)**
- In section 59, replace new section 180(2)(b) with:
- (b) under subsection (1)(b), if the payee is a social security beneficiary (as so defined) at the time of the making of the election; or 30
- (c) under subsection (1)(b), if the payee is not a social security beneficiary (as so defined) at the time of the making of the election, unless, at that time,—
- (i) the Commissioner has accepted an election under **section 27** that covers the liability of the liable parent to pay child support; or 35

- (ii) the payee elects that the liability of the liable parent to pay child support is to end under section 64 or 70.

61 Section 60 amended (New sections 180A to 180C inserted)

- (1) In the heading to section 60, replace “180C” with “180D”.
- (2) In section 60, replace new section 180A(2) with: 5
- (2) The **benefit component** of an amount of child support, in subsection (1), means the proportion of that amount that is deductible under section 142 or 143 in respect of social security benefit or unsupported child’s benefit (or any lesser amount that would be deductible in lieu of that proportion under those sections). 10
- (3) In section 60, after new section 180C, insert:

180D Sections 180B and 180C to cover child support penalties

In sections 180B and 180C, **child support debt** includes the following:

- (a) an initial late payment penalty (as defined in section 135) imposed in relation to child support: 15
- (b) an incremental penalty (as defined in section 135) imposed in relation to child support:
- (c) a penalty imposed under section 45 as in force before 1 April 2015 (including as applied on and after that date by **clauses 1A and 2A** of Schedule 1). 20

62 Section 61 repealed (Direct payment to payee)

Repeal section 61.

63 Section 62 replaced (New section 276 substituted)

Replace section 62 with:

62 Section 276 amended 25

In section 276(2) (as inserted by **section 49(3)** of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act **2015**), after the item relating to Part 1A of Schedule 1, insert:

Child Support Amendment Act 2013: Provisions relating to amendments effective on 1 April 2016 2

64 Section 63 amended (Schedule 1 amended)

- (1) Repeal section 63(1). 30
- (2) In section 63(2), after “this Act”, insert “and amended by **section 50** of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act **2015**”.
- (3) In section 63(2), new Part 2 of Schedule 1, repeal clause 9.

(4) In section 63(2), new Part 2 of Schedule 1, after clause 10, insert:

11 Insertion of sections 180A and 180C (Writing off of child support debt)

(1) In relation to child support ~~payable~~ in respect of a child support year ending before 1 April 2015, sections 180A(1)(a) ~~and 180C(a) apply~~ applies as if the references to the receiving carer were ~~referenees~~ to the qualifying custodian. 5

(2) In relation to child support in respect of a child support year ending before 1 April 2015 (including any penalty referred to in **section 180D(a) to (c)** relating to such child support), section 180C(a) applies as if the reference to the receiving carer were to the qualifying custodian.

Part 2 10

Annual rates of income tax

65 Annual rates of income tax for 2015–16 tax year

Income tax imposed by section BB 1 of the Income Tax Act 2007 must, for the 2015–16 tax year, be paid at the basic rates specified in schedule 1 of that Act.

Part 3 15

Amendments to Income Tax Act 2007

66 Income Tax Act 2007

This Part amends the Income Tax Act 2007.

67 Section CD 18 amended (Dividend reduced if foreign tax paid on company’s income) 20

In section CD 18(3), definition of **total tax paid**, replace “the country” with “the country or territory”.

68 Section CD 39 amended (Calculation of amount of dividend when property made available)

(1) Repeal section CD 39(13). 25

(2) Repeal section CD 39(14).

(3) In section CD 39, list of defined terms, delete “attributed repatriation” and “New Zealand repatriation amount”.

69 Section CD 44 amended (Available capital distribution amount)

(1) After section CD 44(7)(d), insert: 30

(db) an amount is derived by the company that is attributable to the difference between the consideration for disposal or acquisition of livestock and the value of that livestock under section EC 4C (Value and timing of transfers); or

(2) After section CD 44(9), insert:

Capital losses amount: herd scheme

(9B) For the purposes of this section, a company incurs a capital loss if it incurs a loss that is attributable to the difference between the consideration for disposal or acquisition of livestock and the value of that livestock under section EC 4C. 5

69B Section CE 1C amended (Exception: overseas accommodation)

(1) In section CE 1C(1), “section CE 1B(1)” is replaced by “section CE 1B”.

(2) Insert after section CE 1C(1):

Inclusion of allowances or payments

(1B) For the purposes of subsection (1), the provision of accommodation at or near an overseas work location includes an accommodation allowance or an amount paid for or towards the provision of the accommodation when the amount of the allowance or payment is— 10

(a) the actual cost to the employee for the accommodation; or

(b) a reasonable estimate of the expenditure that is likely to be incurred by the employee, or group of employees, for whom the amount is payable. 15

70 Section CE 1E amended (Exception: accommodation provided to ministers of religion)

After section CE 1E(3), insert:

Calculation of remuneration for purposes of section

(3B) For the purposes of subsection (3)(a), the calculation of the amount of the item **remuneration** excludes the value of accommodation described in subsection (1) that is provided to the person. 20

71 Section CF 3 amended (Withdrawals from foreign superannuation scheme) 25

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

(1) This section applies when a New Zealand resident derives a benefit (a **foreign superannuation withdrawal**), other than a pension or annuity, that arises from an interest in a foreign superannuation scheme (the **scheme**) that—

(a) is not a FIF superannuation interest; and 30

(b) is acquired—

(i) ~~when the person is a non-resident or is treated under a double tax agreement as not being resident in New Zealand;~~

(i) when the person is a non-resident or is treated under a double tax agreement as being resident in a foreign country or territory; 35

(ii) ~~in a transaction referred to in subsection (21)(b) or (d) from a person who acquired the interest in the scheme when being a non-~~

- ~~resident or when treated under a double tax agreement as not being resident in New Zealand.~~
- (ii) in a transaction referred to in subsection (21)(b) or (d) from a person who acquired the interest in the scheme when being a non-resident or when treated under a double tax agreement as being resident in a foreign country or territory. 5
- (2) Replace **section CF 3(1)**, other than the heading, with:
- (1) This section applies when a New Zealand resident derives a benefit (a **foreign superannuation withdrawal**) that is not a pension or annuity and arises from an interest in a foreign superannuation scheme (the **scheme**) that— 10
- (a) is not a FIF superannuation interest and is acquired—
- (i) ~~when the person is a non-resident or is treated under a double tax agreement as not being resident in New Zealand:~~
- (i) when the person is a non-resident or is treated under a double tax agreement as being resident in a foreign country or territory: 15
- (ii) ~~in a transaction referred to in subsection (21)(b) or (d) from a person who acquired the interest in the scheme when being a non-resident or when treated under a double tax agreement as not being resident in New Zealand:~~
- (ii) in a transaction referred to in subsection (21)(b) or (d) from a person who acquired the interest in the scheme when being a non-resident or when treated under a double tax agreement as being resident in a foreign country or territory: 20
- (b) is a FIF superannuation interest (a **low-value FIF superannuation interest**) from which the person does not have FIF income or loss because the person, although not acting as a trustee, does not meet the requirements of sections CQ 5(1)(d) and DN 6(1)(d) (which relate to when FIF income and FIF loss arise). 25
- (3) Replace section CF 3(3), other than the heading, with:
- (3) A foreign superannuation withdrawal is not income of the person under subsection (2)(d) if— 30
- (a) the benefit is an interest of the person in the scheme that is withdrawn on the death of the person or under a relationship agreement arising from an event (the **relationship cessation**) that occurs when,—
- (i) for a marriage or civil union of the person, the marriage or civil union is dissolved or the person and the person's spouse or civil union partner separate or begin to live apart (whether or not they continue to live in the same residence): 35
- (ii) for a de facto relationship of the person, the de facto relationship ends; and 40

- (b) ~~immediately before the death or the relationship cessation, the person is a New Zealand resident who is treated under all double tax agreements as being resident in New Zealand; and~~
- (b) immediately before the death or the relationship cessation, the person is a New Zealand resident who is treated under no double tax agreement as being resident in a foreign country or territory; and 5
- (e) ~~the withdrawal of the interest in the scheme is for immediate reinvestment as an interest, in a foreign superannuation scheme outside Australia, of another person who is—~~
- (i) ~~a spouse, civil union partner, or de facto partner of the person immediately before the death or the relationship cessation; and~~ 10
- (ii) ~~a New Zealand resident who is treated under all double tax agreements as being resident in New Zealand.~~
- (c) the interest withdrawn is immediately reinvested as an interest, in a foreign superannuation scheme outside Australia, of another person who is— 15
- (i) a spouse, civil union partner, or de facto partner of the person immediately before the death or the relationship cessation; and
- (ii) a New Zealand resident who is treated under no double tax agreement as being resident in a foreign country or territory. 20
- (4) In section CF 3(5), before paragraph (a), replace “interest in the scheme” with “interest in the scheme, other than a low-value FIF superannuation interest.”
- (5) In section CF 3(8)(a), before subparagraph (i), replace “begins” with “if the person is a non-resident when they acquire the interest, begins”.
- (6) After section CF 3(8)(a), insert: 25
- (ab) ~~if the person is a resident who is treated under a double tax agreement as being a non-resident when they acquire the interest in the scheme, begins on the date when the person becomes, for the first time after acquiring the interest, a New Zealand resident who is treated under all double tax agreements as resident in New Zealand and who owns the interest in the scheme:~~ 30
- (ab) if the person is a resident who is treated under a double tax agreement as being resident in a foreign country or territory when they acquire the interest in the scheme, begins on the date when the person becomes, for the first time after acquiring the interest, a New Zealand resident who is treated under no double tax agreement as being resident in a foreign country or territory and who owns the interest in the scheme: 35
- (7) After **section CF 3(8)(ab)**, insert:
- (ac) if the person is a resident when they acquire the interest and **paragraph (ab)** does not apply, begins when they acquire the interest: 40

- (8) Insert, after section CF 3(9)(b)(i):
- (ib) the interest is not a low-value FIF superannuation interest; and
- (8B) Replace section CF 3(20), other than the heading, with:
- (20) For the purposes of this section, if a person acquires, under an arrangement with a foreign superannuation scheme that provides for contributions to the superannuation scheme by or for the person, rights (**benefit rights**) in the foreign superannuation scheme to benefit as a member or beneficiary from distributions by the superannuation scheme, the person holds an interest in the foreign superannuation scheme under the arrangement for the period beginning when the person acquires benefit rights under the arrangement and ending when the arrangement ends.
- (8C) Replace the heading to section CF 3(21) with “*When person acquires rights*”.
- (8D) In section CF 3(21), replace the words before paragraph (a) with “In determining when a person who acquires rights in a foreign superannuation scheme acquires an interest in the foreign superannuation scheme,—”.
- (8E) In section CF 3(21)(a), replace “the interest” with “the rights”.
- (8F) In section CF 3(21)(b), replace “the interest” with “the corresponding rights”.
- (8G) In section CF 3(21)(c), replace “the interest” with “the existing rights”.
- (8H) Replace section CF 3(21)(d)(i) with:
- (i) having owned the existing rights from the time the former owner acquired the existing rights; and
- (9) In section CF 3(21)(d), replace “a New Zealand resident” with “a New Zealand resident who is treated under all double tax agreements as being resident in New Zealand”.
- (9) Replace section CF 3(21)(d)(iv) with:
- (iv) having been a New Zealand resident who is treated under no double tax agreement as being resident in a foreign country or territory and as having owned the existing rights during the assessable period of the former owner, at the time of the transfer, for the interest consisting of the rights; and
- (9B) In section CF 3(21)(d)(v), replace “the interest” with “the existing rights”.

72 Section CG 7B amended (Disposals or applications after earlier deductions)

- (1) In section CG 7B(1)(c), after “in the lodging of a patent application with a complete specification”, insert “or a design registration application,”.
- (2) In section CG 7B(2)(b), after “in the lodging of a patent application with a complete specification”, insert “or a design registration application,”.
- (3) In section CG 7B, list of defined terms, insert “design registration application”.
- (4) **Subsections (1) and (2)** apply for the 2015–16 and later income years.

73 New section CG 7C inserted

- (1) After section CG 7B, insert:

CG 7C ~~Clawback for derecognised non-depreciable assets~~ Disposal or rerecognition of derecognised non-depreciable assets

When this section applies

5

- (1) This section applies when, for ~~an~~ a non-depreciable intangible asset, a person has been allowed a deduction under **section DB 34** (Research or development) because **section DB 34(3)** applies and—

(a) the intangible asset is disposed of in an income year for consideration that is not income under another provision of this Act:

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(b) the intangible asset is ~~used or available for use~~ rerecognised for financial reporting purposes in an income year.

Disposal for consideration

- (2) If **subsection (1)(a)** applies, an amount equal to the deduction described in **subsection (1)** is income of the person ~~in~~ for the income year, unless **subsection (3)** applies.

15

Special case: disposal for consideration less than deduction

- (3) If **subsection (1)(a)** applies and the consideration is less than the deduction described in **subsection (1)**, then, despite **subsection (2)**, an amount equal to the consideration is income of the person ~~in~~ for the income year.

20

Used or available for use Rerecognition

- (4) If **subsection (1)(b)** applies, an amount equal to the deduction described in **subsection (1)** is income of the person ~~in~~ for the income year.

Relationship with subpart EE

- (5) For the purposes of subpart EE (Depreciation), the person is treated as never having the deduction described in **subsection (1)**.

25

Defined in this Act: deduction, dispose, income, income year

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

74 Section CQ 2 amended (When attributed CFC income arises)

- (1) In section CQ 2(2), replace the subsection heading with “*Special rule: taxable distributions under the attributable FIF income method*”.

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- (2) In section CQ 2, list of defined terms, delete “attributed repatriation”.

75 Section CQ 5 amended (When FIF income arises)

- (1) After section CQ 5(1)(c)(ii), insert:

(iii) the exemption for Australian regulated superannuation savings in section EX 33 (Exemption for Australian regulated superannuation savings):

35

- (2) In section CQ 5(1)(c)(xiv), replace “non-resident’s annuity” with “annuity”.
- (3) In section CQ 5(3), replace “whether or not the CFC is a non-attributing Australian CFC under section EX 22 (Non-attributing Australian CFCs)” with “regardless of whether the CFC is a non-attributing active CFC under section EX 21B (Non-attributing active CFCs) or a non-attributing Australian CFC under section EX 22 (Non-attributing Australian CFCs)”.

75B Section CW 16B amended (Accommodation expenditure: out-of-town secondments and projects)

In section CW 16B(5), definition of **project of limited duration**, replace paragraphs (b) and (c) with:

- (b) which is carried out under a contract between an employer (the contractor) and 1 or more persons who are not associated with the contractor; and
- (c) in relation to which the engagement of an employee of the contractor 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
- (iii) in the contractor’s expectation at the start of the project, will last for a period of no more than 3 years

75C Section CW 42 amended (Charities: business income)

- (1) Replace section CW 42(1)(c) with:
- (c) no person with some control over the business, other than the trustee or trustees, the society, or the institution, is able to direct or divert, to their own benefit or advantage, an amount derived from the business.
- (2) In section CW 42(5), words before paragraph (a), delete “to their own benefit or advantage”.

75D Section CW 42B amended (Community housing trusts and companies)

- (1) In section CW 42B(2), words before the paragraphs, replace “a trust and its trustees, or a company (as applicable, the **entity**) whose activities are predominantly” with “a trustee or company (the **entity**) whose activities involve”.
- (2) Replace section CW 42B(2)(c) with:
- (c) no person with some control over the activities, other than the entity, is able to direct or divert, to their own benefit or advantage, an amount derived from the activities.
- (3) In section CW 42B(3), words before the paragraphs, replace “a trust and its trustees, or a company (as applicable, the **entity**)” with “a trustee or company (the **entity**)”.

(4) In section CW 42B(3)(a), replace “beneficiaries or clients of the entity” with “beneficiaries of the trust or clients of the entity”.

(5) In section CW 42B(4) delete “to their own benefit or advantage”.

76 Section CW 55BA replaced (Tertiary education institutions)

(1) Replace section CW 55BA with: 5

CW 55BA Tertiary education institutions and subsidiaries

Exempt income

(1) An amount of income derived by a tertiary education institution or a tertiary education subsidiary is exempt income. 10

Tertiary education subsidiary

(2) In this section, a **tertiary education subsidiary**, for a tertiary education institution, means a company—

(a) in which the tertiary education institution, alone or together with other tertiary education institutions, holds—

(i) voting interests in the company adding up to 100%; or 15

(ii) market value interests in the company adding up to 100%, when a market value circumstance exists; and

(b) where no person, other than ~~the~~ tertiary education institution, with some control over the company is able to direct or divert, to their own benefit or advantage, an amount derived from the company. 20

Control over company

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

No control over company

(4) For the purposes of **subsection (2)(b)**, a person described in section CW 42(7)(a) and (b) is not treated as having some control over the company merely because of the factors in section CW 42(7)(a) and (b). 30

Benefit or advantage

(5) For the purposes of **subsection (2)(b)**, a benefit or advantage is one that would be a benefit or advantage under section CW 42(1)(c) and (8). 30

Defined in this Act: amount, company, exempt income, income, market value circumstance, market value interest, tertiary education institution, tertiary education subsidiary, voting interest

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

77	Section CX 48 repealed (Amounts remitted as condition of new start grant) Repeal section CX 48.	
78	Section CX 56C amended (Distributions to investors by listed PIEs)	
(1)	In section CX 56C(1)(a), replace “resident” with “resident in New Zealand”.	5
(2)	In section CX 56C, list of defined terms, replace “resident” with “resident in New Zealand”.	
79	Section CZ 10 repealed (Transitional relief for calculation of attributed repatriation dividends: 2 July 1992) Repeal section CZ 10.	10
80	Section CZ 29 amended (Accommodation expenditure: Canterbury earthquake relief) In section CZ 29(3), insert, as a subsection heading, “ <i>Modified definition of project of limited duration</i> ”.	
81	New section CZ 33 inserted (Transitional exception for accommodation provided to ministers of religion) After section CZ 32, insert:	15
	CZ 33 Transitional exception for accommodation provided to ministers of religion	
	<i>When this section applies</i>	20
(1)	This section applies for the period that starts on 1 July 2013 and ends on 31 March 2015 when accommodation is provided to a person who is a minister of religion and the property in which the accommodation is provided is supplied by the religious society or organisation of which they are a minister.	
	<i>Income</i>	25
(2)	Despite section CE 1 (Amounts derived in connection with employment), the value of the accommodation is income of the person but is limited to the extent described in subsection (3) .	
	<i>Limited amount</i>	
(3)	The amount of income for an income year is calculated using the formula— $\text{remuneration} \times (1 - \text{adjustment}).$	30
	<i>Definition of items in formula</i>	
(4)	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 du-	35

	ties as a minister from the religious society or organisation of which they are a minister:	
	(b) adjustment is the adjustment referred to in subsection (6) , 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.	5
	<i>Calculation of remuneration for purposes of section</i>	
(5)	For the purposes of subsection (4)(a) , the calculation of the amount of the item remuneration excludes the value of the accommodation described in subsection (1) that is provided to the person.	10
	<i>Adjustments</i>	
(6)	An adjustment referred to in subsection (4)(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:	15
	(b) if more than 1 person referred to in subsection (1) shares in the accommodation provided, the amount is apportioned equally between them.	
	<i>Part years</i>	20
(7)	For the purposes of this section, if accommodation is provided for part of an income year, the references to income year are read as references to the relevant parts of the income year.	
	<i>Meaning of minister of religion</i>	
(8)	For the purposes of this section, minister of religion —	25
	(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	30
	(ii) whose duties are related mainly to the practice, study, teaching, or advancement of religious beliefs; and	
	(iii) whose accommodation is used as an integral part of performing their duties; and	
	(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, income year, minister of religion	

82 Section DA 5 repealed (Treatment of expenditure for commercial fit-out)

- (1) Repeal section DA 5.

(2) **Subsection (1)** applies for the 2011–12 and later income years.

83 New section DB 22B inserted (Amounts paid for commercial fit-out for building)

(1) After section DB 22, insert:

DB 22B Amounts paid for commercial fit-out for building

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When this section applies

(1) This section applies when a person incurs expenditure relating to a building.

Determining whether expenditure of capital nature

(2) For the purpose of determining whether the expenditure is capital in nature, expenditure relating to an item of commercial fit-out for the building is treated as not relating to the building.

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Defined in this Act: commercial fit-out

(2) **Subsection (1)** applies for the 2011–12 and later income years.

84 Section DB 31 amended (Bad debts)

(1) Replace section DB 31(3) with:

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Deduction: financial arrangement debt: dealers and holders

(3) ~~For a financial arrangement to which the financial arrangement rules apply, a person who carries on a business for the purpose of deriving assessable income that includes dealing in or holding financial arrangements that are the same as, or similar to, the financial arrangement is allowed a deduction, quantified in **subsection (3B)**, for an amount owing under the financial arrangement if—~~

20

~~(a) the amount is a bad debt and a requirement of subsection (1)(a) is met; and~~

~~(b) the person is not associated with the person owing the amount written off.~~

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(3) A person is allowed a deduction, quantified in **subsection (3B)**, for an amount of a bad debt owing under a financial arrangement to which the financial arrangement rules apply, if—

(a) the person carries on a business for the purpose of deriving assessable income; and

30

(b) the business includes dealing in or holding financial arrangements that are the same as, or similar to, the financial arrangement; and

(c) a requirement of subsection (1)(a) is met for the bad debt; and

(d) the person is not associated with the person owing the amount written off.

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<i>Amount of deduction under subsection (3)</i>		
(3B)	For the purposes of subsection (3) , the amount of the deduction for the amount owing under the financial arrangement is the lesser of—	
	(a) the amount provided by subsection (4B) ; and	
	(b) the amount provided by subsection (5).	5
(2)	Replace section DB 31(4B), (4C), (4D), and (4E) with:	
<i>Amount for purposes of subsections (3) and (3B)</i>		
(4B)	For the purposes of subsections (3) and (3B) , the amount is the least of—	
	(a) the amount of consideration that the person pays for acquiring the financial arrangement:	10
	(b) the amount owing under the financial arrangement:	
	(c) the amount calculated using the following formula, treating the calculation of a negative amount as zero:	
	amount owing – limited recourse consideration.	
<i>Definition of items in formula</i>		15
(4C)	In the formula in subsection (4B)(c) ,—	
	(a) amount owing is the lesser of—	
	(i) the amount of consideration that the person pays for acquiring the financial arrangement:	
	(ii) the amount owing under the financial arrangement:	20
	(b) limited recourse consideration is the amount of consideration paid to the person under a limited-recourse arrangement that relates to the financial arrangement.	
<i>Limited recourse: base price adjustment</i>		
(4D)	If subsection (4B)(c) applies for an amount owing under a financial arrangement, then the person is allowed a deduction, at the time the person performs a base price adjustment for the related limited-recourse arrangement, of an amount equal to the amount owing under the financial arrangement minus the total amount of deductions for the financial arrangement under subsections (2) and (3) that have arisen before the base price adjustment.	25 30
(3)	In section DB 31(5B), replace “a debt (the debt)” with “an amount owing under a financial arrangement (the debt)”.	
(4)	Replace section DB 31(6)(b)(iii) with:	
	(iii) the general limitations still apply, except that subsection (3) overrides the capital limitation for a financial arrangement entered into in the ordinary course of business.	35
	<u>(iii) the general limitations still apply, except that subsection (3) overrides the capital limitation for a financial arrangement held as</u>	

part of a business that includes dealing in or holding financial arrangements.

- (5) In **section DB 31(6)(b)(iii)**, replace “subsection (3) overrides” with “**subsections (3) and (4D)** override”.
- (6) **Subsections (1), (2), (3), and (5)** apply for a debt that goes bad in the 2008–09 or later income year. 5
- (7) **Subsection (4)** applies for the 2008–09 and later income years.

85 Section DB 34 amended (Research or development)

- (1) After section DB 34(2), insert:
- Expenditure on derecognised non-depreciable assets* 10
- (3) Subsection (1) applies to a person who—
- (a) incurs expenditure, on the development of an intangible asset that is not depreciable intangible property,—
- (i) on or after 7 November 2013; and
- (ii) before the intangible asset is derecognised or written off by the person as described in **paragraph (b)**; and 15
- (b) derecognises or writes off the intangible asset for financial reporting purposes under—
- (i) paragraph 112(b) of the new reporting standard; or
- (ii) paragraph 5.14 of the old reporting standard. 20
- (2) In section DB 34(7), replace “that is not interest” with “that is not interest and is described in subsection (2), (4), or (5)”.

- (3) After section DB 34(7), insert:
- Allocation of deduction for derecognised non-depreciable assets*
- (7B) A person who is allowed a deduction as provided by **subsection (3)** must allocate the deduction to the income year in which the relevant intangible asset is derecognised or written off by the person for financial reporting purposes under— 25
- (a) paragraph 112(b) of the new reporting standard; or
- (b) paragraph 5.14 of the old reporting standard. 30
- (4) **Subsections (1), (2), and (3)** apply for the 2015–16 and later income years.

86 Section DB 35 amended (Some definitions)

- (1) In section DB 35(1), definition of **development**, replace “reporting standard” with “new reporting standard”.
- (2) In section DB 35(1), definition of **research**, replace “reporting standard” with “new reporting standard”. 35

- 87 Section DB 37 amended (Expenses in application for patent)**
- (1) Replace the heading to section DB 37 with “**Expenses in application for patent or design registration**”.
 - (2) In section DB 37(1), replace “the grant of a patent” with “the grant of a patent or of a design registration”. 5
 - (3) In section DB 37, list of defined terms, insert “design registration”.
 - (4) **Subsection (2)** applies for the 2015–16 and later income years.
- 87B Section DB 40B amended (Expenditure in unsuccessful development of software)**
- (1) In section DB 40B(1)(a), replace “when the software is not depreciable property” with “when the copyright in the software is not depreciable property”. 10
 - (2) In section DB 40B(1)(b), replace “the software would have been depreciable property” with “the copyright in the software would have been depreciable property”.
 - (3) **Subsections (1) and (2)** apply for the 2011–12 and later income years. 15
- 88 Section DF 1 amended (Government grants to businesses)**
- (1) After section DF 1(1), insert:
When this section does not apply
 - (1BA) This section does not apply to the extent to which a payment described in subsection (1) is the payment of a ~~tax credit for R&D tax losses~~ R&D loss tax credit and the person’s expenditure is attributable to that payment. 20
 - (2) In section DF 1, list of defined terms, insert “R&D loss tax credit ~~for R&D tax losses~~”.
 - (3) **Subsections (1) and (2)** apply for income years beginning on or after 1 April 2015. 25
- 89 Section DG 4 amended (Meaning of private use for this subpart)**
- (1) Replace section DG 4(2), other than the heading, with:
 - (2) The person referred to in subsection (1)(a) is a natural person who—
 - (a) owns, leases, licenses, or otherwise has the asset:
 - (b) is associated with a person who owns, leases, licenses, or otherwise has the asset. 30
 - (2) Replace section DG 4(3), other than the heading, with:
 - (3) The use of an asset is not private use if—
 - (a) the asset is used to derive income for a particular period; and
 - (b) during the period, use of the asset by the person is limited to: 35
 - (i) use in the ordinary course of business:

- (ii) deriving the person’s employment income.
- (3) **Subsections (1) and (2)** apply,—
- (a) for the 2013–14 and later income years, for an item of property referred to in section DG 3(2)(a)(i) of the Income Tax Act 2007:
- (b) for the 2014–15 and later income years, for an item of property referred to in section DG 3(2)(a)(ii) and (iii) of the Income Tax Act 2007. 5
- 90 Section DG 9 amended (Apportionment formula)**
- (1A) In section DG 9(1), after “for use”, insert “where it is referred to”.
- (1) In section DG 9(3)(a)(iii), replace “capital use” with “capital purpose”.
- (1) Replace section DG 9(3)(a)(iii) with: 10
- (iii) a use of the asset for which the expenditure is of a capital nature:
- (2) **Subsection (1)** applies—
- (a) for the 2013–14 and later income years, for an item of property referred to in section DG 3(2)(a)(i) of the Income Tax Act 2007:
- (b) for the 2014–15 and later income years, for an item of property referred to in section DG 3(2)(a)(ii) and (iii) of the Income Tax Act 2007. 15
- 91 Section DG 11 amended (Interest expenditure: close companies)**
- (1) Replace section DG 11(3), other than the heading, with:
- (3) If the debt value for the income year is equal to or less than the asset value for the income year, the company is allowed a deduction for interest expenditure incurred for the income year of an amount calculated using the formula in **subsection (3B)**. 20
- (2) After **section DG 11(3)** insert:
- Formula*
- (3B) The formula is— 25
- $$\text{interest expenditure} \times \frac{(\text{income-earning days} + \text{capital-use days})}{(\text{income-earning days} + \text{counted days})}$$
- $$\frac{\text{interest expenditure} \times (\text{income-earning days} + \text{capital-use days})}{\div (\text{income-earning days} + \text{counted days})}$$
- Definition of items in formula*
- (3C) In the formula in **subsection (3B)**,—
- (a) **interest expenditure** is the amount of interest expenditure incurred by the company for the income year: 30
- (b) **income-earning days** is the number of days in the income year for which the company derives income from the use of the asset, other than exempt income, including days on which—

<p>(i) the use of the asset is described in section DG 4(3) to (5):</p> <p>(ii) the asset has become unavailable for use because another person who had earlier reserved the asset for their own use, subsequently did not take advantage of that reservation:</p> <p>(iii) a fringe benefit tax liability arises:</p> <p>(c) capital-use days is the number of days in the income year on which the asset is used for a capital purpose <u>in such a way that the expenditure relating to the use is of a capital nature:</u></p> <p>(d) counted days is the number of days in the income year on which the asset is in use, each of which is not an income-earning day as described in paragraph (b).</p>	<p>5</p> <p>10</p>	
<p>(3) In section DG 11(5), replace “the formula” with “the formula in subsection (4)”.</p> <p>(4) In section DG 11(6)(a) replace “section DG 9(2)” with “subsection (3B)”.</p> <p>(5) In section DG 11(6)(b) replace “item expenditure” with “item interest expenditure”.</p> <p>(6) After section DG 11(6) insert:</p>	<p>15</p>	
<p><i>Deductions for interest expenditure in excess of reduced amounts</i></p>		
<p>(6B) The company is allowed a deduction for the amount of interest expenditure calculated under subsection (6C) to the extent to which the amount would be a deduction under Part D (Deductions) in the absence of this subpart.</p> <p style="text-align: center;"><i>Formula</i></p> <p>(6C) The formula is—</p> <p style="text-align: center;">interest expenditure – reduced amount.</p> <p style="text-align: center;"><i>Definition of items in formula</i></p> <p>(6D) In the formula in subsection (6C),—</p> <p>(a) interest expenditure is the amount of interest expenditure incurred by the company for the income year:</p> <p>(b) reduced amount is the reduced amount of interest expenditure calculated using the formula in subsection (4).</p>	<p>20</p> <p>25</p> <p>30</p>	
<p>(7) In section DG 11, replace the example with:</p>		
<p>Example</p> <p>Holiday Home Ltd holds a holiday home with a rateable value of \$200,000. The company has debt of \$40,000, with associated interest expenditure of \$4,000. Since the debt value is less than the asset value, all the interest expenditure must be apportioned (section DG 11(3)-(3C)).</p> <p>Boat Ltd has a charter boat whose adjusted tax value is \$60,000. The company has debt of \$100,000, with associated interest expenditure of \$10,000. Since the debt value is</p>		<p>35</p>

more than the asset value, the company must apportion the interest expenditure of \$6,000 (section DG 11(4)—(6)). The formula is $\$10,000 \times (\$60,000/\$100,000) = \$6,000$.

The remaining interest expenditure of \$4,000 is not subject to apportionment under subpart DG and is allowed as a deduction under section DB 7 (section DG 11(6B)—(6D)). The formula is $\$10,000 - \$6,000 = \$4,000$.

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- (8) **Subsections (1), (2), (3), (4), (5), (6), and (7)** apply,—
- (a) for the 2013–14 and later income years, for an item of property referred to in section DG 3(2)(a)(i) of the Income Tax Act 2007:
- (b) for the 2014–15 and later income years, for an item of property referred to in section DG 3(2)(a)(ii) and (iii) of the Income Tax Act 2007.

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92 Section DG 12 amended (Interest expenditure: group companies)

- (1) In section DG 12(3)(a), replace “section DG 9(2)” with “**section DG 11(3B)**”.
- (2) In section DG 12(3)(b), replace “item **expenditure**” with “item **interest expenditure**”.
- (2B) In section DG 12(6), replace “the formula” with “the formula in subsection (5)”.
- (3) In section DG 12(7)(a), replace “section DG 9(2)” with “**section DG 11(3B)**”.
- (4) In section DG 12(7)(b), replace “item **expenditure**” with “item **interest expenditure**”.
- (5) After section DG 12(7) insert:

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Deductions for interest expenditure in excess of reduced amounts

- (7B) Company B is allowed a deduction for the amount of interest expenditure calculated under **subsection (7C)** to the extent to which the amount would be a deduction under Part D (Deductions) in the absence of this subpart.

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Formula

- (7C) The amount of interest expenditure is calculated using the formula—
interest expenditure – reduced amount.

Definition of items in formula

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- (7D) In the formula in **subsection (7C)**,—
- (a) **interest expenditure** is the amount of interest expenditure described in subsection (6)(a):
- (b) **reduced amount** is the reduced amount of interest expenditure calculated using the formula in subsection (5).

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- (6) **Subsections (1), (2), (3), (4), and (5)** apply,—
- (a) for the 2013–14 and later income years, for an item of property referred to in section DG 3(2)(a)(i) of the Income Tax Act 2007:

- (b) for the 2014–15 and later income years, for an item of property referred to in section DG 3(2)(a)(ii) and (iii) of the Income Tax Act 2007.

93 Section DG 13 amended (Interest expenditure: corporate shareholders)

- (1) In section DG 13(1), replace the words before paragraph (a) with “This section applies to a company that is not in the same group of companies as another company (**company A**), that is a close company or qualifying company, when—”. 5
- (2) In section DG 13(1)(b), replace the words before subparagraph (i) with “the company is 1 or more of—”. 5
- (3) In section DG 13(5)(a), replace “section DG 9(2)” with “**section DG 11(3B)**”. 10
- (4) In section DG 13(5)(b), replace “item **expenditure**” with “item **interest expenditure**”. 10
- (5) In section DG 13(9)(a), replace “section DG 9(2)” with “**section DG 11(3B)**”. 15
- (6) In section DG 13(9)(b), replace “item **expenditure**” with “item **interest expenditure**”. 15
- (7) After section DG 13(9) insert:
- Deductions for interest expenditure in excess of reduced amounts*
- (9B) The company is allowed a deduction for the amount of interest expenditure calculated under **subsection (9C)** to the extent to which the amount would be a deduction under Part D (Deductions) in the absence of this subpart. 20
- Formula*
- (9C) The formula is—
- interest expenditure – reduced amount. 25
- Definition of items in formula*
- (9D) In the formula in **subsection (9C)**,—
- (a) **interest expenditure** is the amount of interest expenditure incurred by the company for the income year:
- (b) **reduced amount** is the reduced amount of interest calculated using the formula in subsection (7). 30
- (8) **Subsections (1), (2), (3), (4), (5), (6), and (7)** apply,—
- (a) for the 2013–14 and later income years, for an item of property referred to in section DG 3(2)(a)(i) of the Income Tax Act 2007:
- (b) for the 2014–15 and later income years, for an item of property referred to in section DG 3(2)(a)(ii) and (iii) of the Income Tax Act 2007. 35

- 94 Section DG 14 amended (Interest expenditure: non-corporate shareholders)**
- (1) In section DG 14(1), replace the words before paragraph (a) with “This section applies for a person, for an income year and a company (**company A**) that is a close company or qualifying company, when—”. 5
- (2) In section DG 14(1)(b), replace the words before subparagraph (i) with “the person—”.
- (3) **Subsections (1) and (2)** apply,—
- (a) for the 2013–14 and later income years, for an item of property referred to in section DG 3(2)(a)(i) of the Income Tax Act 2007: 10
- (b) for the 2014–15 and later income years, for an item of property referred to in section DG 3(2)(a)(ii) and (iii) of the Income Tax Act 2007.
- 95 Section DG 16 amended (Quarantined expenditure when asset activity negative)**
- (1) In section DG 16(1)(a), replace “expenditure” with “expenditure or loss”. 15
- (2) **Subsection (1)** applies—
- (a) for the 2013–14 and later income years, for an item of property referred to in section DG 3(2)(a)(i) of the Income Tax Act 2007:
- (b) for the 2014–15 and later income years, for an item of property referred to in section DG 3(2)(a)(ii) and (iii) of the Income Tax Act 2007. 20
- 96 Section DN 6 amended (When FIF loss arises)**
- (1) After section DN 6(1)(c)(ii), insert:
- (iii) the exemption for Australian regulated superannuation savings in section EX 33 (Exemption for Australian regulated superannuation savings): 25
- (2) In section DN 6(1)(c)(iv), replace “regime” with “rules”.
- (3) In section DN 6(3), replace “whether or not the CFC is a non-attributing Australian CFC under section EX 22 (Non-attributing Australian CFCs)” with “regardless of whether the CFC is a non-attributing active CFC under section EX 21B (Non-attributing active CFCs) or a non-attributing Australian CFC under section EX 22 (Non-attributing Australian CFCs)”. 30
- 97 Section DT 3 replaced (Acquisition of privileges and permits)**
- (1) Replace section DT 3 with:

DT 3 Acquisition of privileges and permits

When expenditure for privileges or permits incurred

- (1) The consideration that a person pays to acquire a privilege or permit referred to in **subsection (2)** from a petroleum miner is incurred in the income year in which the petroleum miner disposes of the privilege or permit to the person. 5

Privileges and permits

- (2) **Subsection (1)** applies to the person and a privilege or permit if—
- (a) the consideration that the person pays to acquire the privilege or permit is petroleum exploration expenditure; and
 - (b) the privilege or permit is— 10
 - (i) an existing privilege that is a prospecting licence granted under Part 1 of the Petroleum Act 1937;
 - (ii) a prospecting permit for petroleum;
 - (iii) an exploration permit for petroleum.

Defined in this Act: dispose, existing privilege, exploration permit, income year, pay, petroleum, petroleum miner, prospecting permit 15

- (2) **Subsection (1)** applies for the 2008–09 and later income years. However, **subsection (1)** does not apply to a person in relation to a tax position taken by the person—
- (a) for an arrangement entered into before the date of introduction of the Taxation (Annual Rates 2015–16, Research and Development, and Remedial Matters) Bill; and 20
 - (b) relying upon the definition of **petroleum exploration expenditure** as it was before the amendment made by **section 213(49)**.

98 Section DT 8 replaced (Acquisition of certain petroleum mining assets) 25

- (1) Replace section DT 8 with:

DT 8 Acquisition of certain petroleum mining assets

When expenditure for petroleum mining assets incurred

- (1) The consideration that a person pays to acquire a petroleum mining asset, excluding a privilege or permit referred to in **subsection (2)**, from a petroleum miner is incurred in the income year in which the petroleum miner disposes of the petroleum mining asset to the person. 30

Privileges and permits

- (2) For the purposes of **subsection (1)** for a person, a privilege or permit is excluded if— 35
- (a) the consideration that the person pays to acquire the privilege or permit is petroleum exploration expenditure; and
 - (b) the privilege or permit is—

<ul style="list-style-type: none"> (i) an existing privilege that is a prospecting licence granted under Part 1 of the Petroleum Act 1937: (ii) a prospecting permit for petroleum: (iii) an exploration permit for petroleum. 	5
<p>Defined in this Act: dispose, existing privilege, exploration permit, income year, pay, petroleum, petroleum development expenditure, petroleum miner, petroleum mining asset, prospecting permit</p>	
<p>(2) Subsection (1) applies for the 2008–09 and later income years. However, subsection (1) does not apply to a person in relation to a tax position taken by the person—</p> <ul style="list-style-type: none"> (a) for an arrangement entered into before the date of introduction of the Taxation (Annual Rates 2015–16, Research and Development, and Remedial Matters) Bill; and (b) relying upon the definition of petroleum exploration expenditure as it was before the amendment made by section 213(49). 	10
<p>99 New heading and section DV 26 inserted (Deduction for reinstatement of R&D tax losses)</p>	15
<p>(1) After section DV 25, insert:</p>	
<p><i>Reinstatement of R&D tax losses</i></p>	
<p>DV 26 Deduction for reinstatement of R&D tax losses</p>	
<p><i>Deduction</i></p>	20
<p>(1) A person is allowed a deduction for the amount given by section MX 6(5) (Reinstatement of R&D tax losses and R&D repayment tax).</p>	
<p><i>Choice for allocation of deduction</i></p>	
<p>(2) The person may choose to allocate all or part of the deduction—</p> <ul style="list-style-type: none"> (a) to an income year after the income year in which the person incurs the expenditure; and (b) in the way required by section EJ 23 (Allocation of deductions for research, development, and resulting market development). 	25
<p><i>Allocation of deduction</i></p>	
<p>(2) <u>The deduction is allocated to the income year in which the person incurs the expenditure of the R&D repayment tax.</u></p>	30
<p><i>Section need not be applied</i></p>	
<p>(3) The person may return income and expenditure in their return of income for an income year on the basis that this section does not apply to the deduction in the income year.</p>	35

Link with subpart DA

- (4) This section overrides the general permission and the general limitations.
Defined in this Act: deduction, general limitation, general permission, ~~income~~, income year, ~~return of~~
~~income~~R&D repayment tax
- (2) **Subsection (1)** applies for income years beginning on or after 1 April 2015. 5
- 100 Section DZ 4 amended (Expenditure on abandoned exploratory well before 16 December 1991)**
- (1) In section DZ 4(2)(b), after “existing privilege”, insert “that is a mining licence under Part 1 of the Petroleum Act 1937”.
- (2) **Subsection (1)** applies for the 2008–09 and later income years. 10
- 101 Section DZ 5 amended (Farm-out arrangements for petroleum mining before 16 December 1991)**
- (1) In section DZ 5(5), replace “subsection (4)” with “subsection (3)”.
- (2) In section DZ 5(5)(b), replace “existing privilege or” with “existing privilege that is a prospecting licence under Part 1 of the Petroleum Act 1937 or a”. 15
- (3) **Subsections (1) and (2)** apply for the 2008–09 and later income years.
- 102 Section EC 31 amended (Enhanced production)**
- (1) Replace section EC 31(1)(b) with:
- (b) as a result, in an income year or over the following 3 income years, acquires more non-specified livestock that— 20
- (i) is not replacement livestock; and
- (ii) is not homebred livestock; and
- (iii) is valued at its standard value.
- (2) In section EC 31(2), before paragraph (a), replace “bought” with “acquired”.
- (3) In section EC 31(2)(a), replace “bought” with “acquired”. 25
- (4) **Subsections (1), (2), and (3)** apply for the 2015–16 and later income years.
- 103 Section EC 41 amended (Reduction: bloodstock not previously used for breeding in New Zealand other than as shuttle stallions)**
- (1) In section EC 41(1B)(a), replace “matrimonial agreement” with “relationship agreement”. 30
- (2) In section EC 41, list of defined terms,—
- (a) delete “matrimonial agreement”:
- (b) insert “relationship agreement”.
- (3) **Subsection (1)** applies for the 2008–09 and later income years.

104 Section EE 16 amended (Amount resulting from standard calculation)

- (1) In section EE 16(4)(b)(i), replace “patent or” with “patent, design registration, or”.
- (2) After section EE 16(4)(b)(i), insert:
- (ib) for a design registration to which subparagraph (i) does not apply, for a design registration application, or for ~~the copyright in an artistic work to which section 75 of the Copyright Act 1994 applies~~ industrial artistic copyright, its cost to the person, but excluding expenditure that the person incurred before 7 November 2013 or for which they are allowed a deduction under a provision of this Act outside this subpart: 5
- (3) In section EE 16(4)(c), replace “and EE 19” with “to EE 19”.
- (4) In section EE 16(7), heading, delete “*patent*”.
- (5) In section EE 16(7), replace “patent application” with “patent application and a design registration application”. 15
- (6) ~~In section EE 16, list of defined terms, insert “design registration” and “design registration application”.~~
- (6) In section EE 16, list of defined terms, insert “design registration”, “design registration application”, and “industrial artistic copyright”.
- (7) **Subsections (1), (2), (3), and (5)** apply for the 2015–16 and later income years. 20

105 New section EE 18B inserted (Cost: some depreciable intangible property)

- (1) After section EE 18, insert:

EE 18B Cost: some depreciable intangible property

For the purposes of **section EE 16** and this subpart, the cost to a person for an item of depreciable intangible property (the **amortising item**) includes an amount of expenditure incurred by the person for an item of intangible property (the **underlying item**) if— 25

- (a) the underlying item gives rise to, supports, or is an item in which the person holds, the amortising item; and 30
- (b) the amortising item is none of—
- (i) a patent:
- (ii) a patent application with a complete specification lodged on or after 1 April 2005:
- (iii) plant variety rights; and 35
- (c) the person is ~~not allowed~~ denied a deduction for the expenditure under a provision outside this subpart.

Defined in this Act: deduction, depreciable intangible property, plant variety rights

- (2) **Subsection (1)** applies for the 2011–12 and later income years.
- 106 Section EE 18B amended (Cost: some depreciable intangible property)**
- (1) In **section EE 18B**, before paragraph (a), replace “item of depreciable intangible property” with “item of depreciable intangible property or a plant variety rights application”. 5
- (2) Replace **section EE 18B(b)** with:
- (b) the amount of expenditure is incurred by the person on or after 7 November 2013, if the amortising item is 1 of—
- (i) a patent or a patent application with a complete specification lodged on or after 1 April 2005: 10
 - (ii) plant variety rights:
 - (iii) a plant variety rights application:
 - (iv) a design registration:
 - (v) a design registration application:
 - (vi) ~~the copyright in an artistic work to which section 75 of the Copyright Act 1994 applies; and~~ 15
 - (vi) industrial artistic copyright; and
- (3) ~~In **section EE 18B**, list of defined terms, insert “design registration” and “design registration application”.~~
- (3) In **section EE 18B**, list of defined terms, insert “design registration”, “design registration application”, and “industrial artistic copyright”. 20
- (4) **Subsections (1) and (2)** apply for the 2015–16 and later income years.
- 107 Section EE 19 amended (Cost: fixed life intangible property)**
- (1) After section EE 19(1), insert:
- When this section does not apply* 25
- (1B) This section does not apply for additional costs incurred before 7 November 2013 for—
- (a) a design registration:
 - (b) a design registration application:
 - (e) ~~the copyright in an artistic work to which section 75 of the Copyright Act 1994 applies.~~ 30
 - (c) industrial artistic copyright.
- (2) ~~In section EE 19, list of defined terms, insert “design registration” and “design registration application”.~~
- (2) In section EE 19, list of defined terms, insert “design registration”, “design registration application”, and “industrial artistic copyright”. 35

- (3) **Subsection (1)** applies for the 2015–16 and later income years.
- 108 Section EE 32 amended (Election in relation to certain depreciable property acquired on or after 1 April 2005)**
- (1) In section EE 32(2), replace “economic depreciation rate” with “economic rate”. 5
- (2) In section EE 32, list of defined terms, replace “economic depreciation rate” with “economic rate”.
- (3) **Subsection (1)** applies for the 2008–09 and later income years.
- 109 Section EE 33 amended (Annual rate for fixed life intangible property)**
- (1) After section EE 33(1)(a), insert: 10
- (ab) a design registration for which a rate is set in **section EE 34B**:
- (2) Replace section EE 33(3)(a) with:
- (a) if section **EE 18B** or EE 19 apply, the item’s remaining legal life from the start of the income year in which the relevant costs are recognised under the section: 15
- (3) In section EE 33(3)(b), replace “section EE 19 does not apply” with “sections **EE 18B** and EE 19 do not apply”.
- (4) In section EE 33, list of defined terms, insert “design registration”.
- (5) **Subsections (2) and (3)** apply for the 2011–12 and later income years.
- (6) **Subsection (1)** applies for the 2015–16 and later income years. 20
- 110 Section EE 34 amended (Annual rate for patent granted in 2005–06 or later income year)**
- (1) Replace section EE 34(4), other than the heading, with:
- (4) If the patent is an item of fixed life intangible property to which section **EE 18B** or EE 19 applies, **legal life** is the patent’s remaining legal life from the start of the income year in which the relevant costs are recognised under the section. 25
- (2) In section EE 34(5), replace “section EE 19 does not” with “sections **EE 18B** and EE 19 do not”.
- (3) In section EE 34(6), replace “section EE 19 does not apply to the patent, and has not” with “sections **EE 18B** and EE 19 do not apply to the patent, and have not”. 30
- (4) In the heading to section EE 34(7), replace “*section EE 19*” with “*section **EE 18B** or EE 19*”.
- (5) In section EE 34(7), replace “section EE 19 does not apply to the patent, but has” with “sections **EE 18B** and EE 19 do not to the patent, but have”. 35

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

111 New section EE 34B inserted (Annual rate for design registrations)

- (1) After section EE 34, insert:

EE 34B Annual rate for design registrations

5

When this section applies

- (1) This section applies to an item that is a design registration (the **design**).

Rate

- (2) The rate is the rate calculated using the formula—

$$\frac{1}{\text{legal life.}}$$

$$1 \div \text{legal life.}$$

10

Definition of item in formula

- (3) In the formula, **legal life** is set out in whichever of **subsections (4) to (7)** applies to the design.

When section EE 18B or EE 19 applies to design

- (4) If the design is an item to which section **EE 18B** or EE 19 applies, **legal life** is the design's remaining legal life from the start of the income year in which the relevant costs are recognised under the section.

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When no depreciation loss for design application

- (5) If sections **EE 18B** and EE 19 do not apply to the design and the person has been denied a deduction for an amount of depreciation loss for the design's design registration application (the **design application**), **legal life** is the design's remaining legal life from the first time a cost is recognised for the design under this subpart.

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When depreciation loss for design application

- (6) If sections **EE 18B** and EE 19 do not apply to the design, and have not applied to the design application while the person has owned it, and the person has been allowed a deduction for an amount of depreciation loss for the design application, **legal life** is the remaining legal life of the design application from the first time a cost is recognised for the application under this subpart.

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When section EE 18B or EE 19 applied to design application

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- (7) If sections **EE 18B** and EE 19 do not apply to the design, but have applied to the design application while the person has owned it, and the person has been allowed a deduction for an amount of depreciation loss for the design application, **legal life** is the remaining legal life of the design application from the first time a cost is recognised for the design under this subpart.

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	<i>How rate expressed</i>	
(8)	The rate calculated using the formula is expressed as a decimal and rounded to 2 decimal places, with numbers at the midpoint or greater being rounded up and other numbers being rounded down. Defined in this Act: deduction, depreciation loss, design registration, design registration application, income, legal life, own	5
(2)	Subsection (1) applies for the 2015–16 and later income years.	
112	Section EE 44 amended (Application of sections EE 48 to EE 52)	
(1)	After section EE 44(2)(b), insert: (bb) a person’s design registration application has concluded because a design registration is granted to the person in relation to the application:	10
(2)	In section EE 44, list of defined terms, insert “design registration” and “design registration application”.	
(3)	Subsection (1) applies for the 2015–16 and later income years.	
113	Section EE 57 amended (Base value in section EE 56 when none of sections EE 58, EE 59, and EZ 22(1) applies)	15
(1)	In section EE 57(3)(cb), replace “a patent application, a patent” with “a patent application, a patent, a design registration, a design registration application”.	
(2)	In section EE 57, list of defined terms, insert “design registration” and “design registration application”.	20
(3)	Subsection (1) applies for the 2015–16 and later income years.	
114	Section EE 60 amended (Total deductions in section EE 56)	
(1)	After section EE 60(3)(a)(i), insert: (ib) if the item is a design registration, for the design registration application in relation to which the item was granted:	25
(2)	In section EE 60(5)(a)(i), replace “subparagraph (ii) or (iii)” with “subparagraph (ii), (iii), or (iv)”.	
(3)	After section EE 60(5)(a)(iii), insert: (iv) if the item is a design registration and the person acquired the design registration application in relation to which the design registration was granted, the date on which the person acquired the design registration application; or	30
(4)	In section EE 60(5)(b)(i), replace “subparagraph (ii)” with “subparagraph (ii) or (iii)”.	
(5)	After section EE 60(5)(b)(ii), insert: (iii) if the item is a design registration and the person acquired the design registration application in relation to which the design regis-	35

tration was granted, the beginning of the month in which the person acquired the design registration application; or

- (6) In section EE 60, list of defined terms, insert “design registration” and “design registration application”.
- (7) **Subsections (1), (2), (3), (4), and (5)** apply for the 2015–16 and later income years. 5

115 Section EE 61 amended (Meaning of annual rate)

- (1) In section EE 61(1), replace “subsections (2) to (5)” with “subsections (2) to **(5B)**”.
- (2) After section EE 61(5), insert: 10
Design registrations, applications
- (5B) The rate is the rate set by **section EE 34B** if the item is a design registration and **section EE 34B** applies to the item and the person.
- (3) In section EE 61, list of defined terms, insert “design registration”.
- (4) **Subsections (1) and (2)** apply for the 2015–16 and later income years. 15

116 Section EE 67 amended (Other definitions)

- (1) In section EE 67, definition of **legal life**, replace paragraph (b) with:
 - (b) for an item that is a patent application, a design registration application, a patent, or a design registration, means the legal life under paragraph (a) that a patent or design registration would have if granted when the relevant application is first lodged: 20
 - (bb) ~~for an item that is the copyright in an artistic work to which section 75 of the Copyright Act 1994 applies, means the number of years, months, and days for which protection against infringement of that copyright is available under section 75(1)(c) to (e) of that Act:~~ 25
 - (bb) for an item that is industrial artistic copyright, means the number of years, months, and days for which protection against copyright infringement is available as a result of section 75(1)(c) to (e) of the Copyright Act 1994:
- (2) In section EE 67, list of defined terms, insert “design registration” and “design registration application”. 30
- (2) In section EE 67, list of defined terms, insert “design registration”, “design registration application”, and “industrial artistic copyright”.
- (3) **Subsection (1)** applies for the 2015–16 and later income years.

~~**117 Section EJ 23 amended (Allocation of deductions for research, development, and resulting market development)**~~ 35

- (1) After section EJ 23(1)(a), insert:

- (ab) a deduction for reinstatement of R&D tax losses that the person chooses to allocate under ~~section DV 26~~ (Deduction for reinstatement of R&D tax losses):
- (2) **Subsection (1)** applies for income years beginning on or after 1 April 2015.
- 118 Section EM 1 amended (Australian non-attributing shares and attributing FDR method interests)** 5
- Replace section EM 1(1)(b)(ii) with:
- (ii) uses section EX 53 (Fair dividend rate periodic method).
- 119 Section EM 6 amended (Income and expenditure for fair dividend rate hedge portions)** 10
- Replace section EM 6(3)(b)(ii) with:
- (ii) the unit valuation period described in section EX 53 (Fair dividend rate periodic method):
- 120 Section EW 9 amended (Persons to whom financial arrangements rules apply)** 15
- (1) Replace section EW 9(2), other than the heading, with:
- (2) Subsection (1) does not apply to a person who is not resident in New Zealand unless the person is described in subsection (3) or (4).
- (2) ~~Replace section EW 9(4)(b) with:~~
- (b) ~~the person as trustee, together with the trust,—~~ 20
- (i) ~~do not meet the requirements of section HC 25(3)(a) and (b) (Foreign-sourced amounts: non-resident trustees); and~~
- (ii) ~~do not meet the requirements of section HC 25(4)(a) and (b).~~
- (2) Replace section EW 9(4)(b) with:
- (b) the person as trustee— 25
- (i) meets the requirements of section HC 25(2)(a) (Foreign-sourced amounts: non-resident trustees) for the derivation of assessable income from a foreign-sourced amount; and
- (ii) meets the requirements of neither of the exceptions, to section HC 25(2), in section HC 25(3) and (4). 30
- (3) **Subsections (1) and (2)** apply for the 2008–09 and later income years.
- 121 Section EW 15D amended (IFRS financial reporting method)**
- (1) In section EW 15D(2)(ac), replace “to equity” with “to equity, to other comprehensive income,”.
- (2) In section EW 15D(2)(ad), replace “to equity” with “to equity, to other comprehensive income,”. 35

- (3) ~~In section EW 15D(2)(b), replace “arising from the use of the fair value method may be allocated to equity reserves” with “may be allocated to equity or other comprehensive income”.~~

121 Section EW 15D amended (IFRS financial reporting method)

- (1) In section EW 15D(2)(ac) replace “to equity or to profit or loss” with “to equity, equity reserves, other comprehensive income, or profit or loss”. 5
- (2) In section EW 15D(2)(ad) replace “to equity or to profit or loss” with “to equity, equity reserves, other comprehensive income, or profit or loss”.
- (3) In section EW 15D(2)(b), replace “arising from the use of the fair value method may be allocated to equity reserves” with “may be allocated to equity, equity reserves, or other comprehensive income”. 10
- (4) **Subsection (3)** applies for the 2015–16 and later income years.

121B Section EW 15G amended (Modified fair value method)

- (1) In section EW 15G(2)(a) replace “to equity reserves” with “to equity, equity reserves, or other comprehensive income”. 15
- (2) In section EW 15G(2)(b) replace “to equity reserves” with “to equity, equity reserves, or other comprehensive income”.
- (3) In section EW 15G(2)(b)(v) replace “to equity reserves” with “to equity, equity reserves, or other comprehensive income”.
- (4) In section EW 15G(3)(a), replace “to equity reserves” with “to equity, equity reserves, or other comprehensive income”. 20

122 Section EW 33C amended (Consideration in foreign currency: some agreements for sale and purchase)

In section EW 33C(3), insert as a subsection heading, “*Spot rates unavailable*”.

123 Section EW 46 repealed (Consideration when debtor released as condition of new start grant) 25

Repeal section EW 46.

124 Section EX 16 amended (Income interests for certain purposes)

- (1) Repeal section EX 16(3)(a).
- (2) In section EX 16, list of defined terms, delete “attributed repatriation”. 30

125 Section EX 20B amended (Attributable CFC amount)

- (1) In section EX 20B(9)(e), replace “performed in the accounting period.” with “performed in the accounting period; and”.
- (2) In section EX 20B(9), after paragraph (e), insert:
- (f) a person who holds an attributing interest in the CFC files, after the date on which the Taxation (Annual Rates for 2015–16, Research and Devel-
- 35

opment, and Remedial Matters) Act **2015** receives the Royal assent, a return of income in which the amount attributed to the working person is determined under this section.

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

- (1) Replace section EX 20C(13)(a)(iii) with: 5
- (iii) correspond to amounts that would be deductions of the CFC after the adjustments that would be made under sections CH 2 and DB 50 (which relate to adjustments for prepayments) if the CFC were a resident:
- (2) **Subsection (1)** applies for the 2016–17 and later income years. 10

127 Section EX 21 amended (Attributable CFC amount and net attributable CFC income or loss: calculation rules)

- (1) Replace section EX 21(13)(c) with: 15
- (c) subpart CQ (Attributed income from foreign equity) or DN (Attributed losses from foreign equity) or this subpart to the extent to which any of the subparts would result in attributed CFC income or attributed CFC loss for the CFC:
- (2) In section EX 21, list of defined terms, delete “attributed repatriation”.

128 Section EX 21D amended (Non-attributing active CFC: default test)

- (1) After section EX 21D(1), insert: 20
- CFC as part of test group for part of accounting period*
- (1B) ~~An interest holder who acquires or disposes of an interest in a CFC (the **first CFC**) after the beginning of an accounting period may choose to apply this section to group the first CFC, together with other CFCs that the interest holder acquires or disposes of at the same time, as a test group for the accounting period if, for the period in the accounting period in which the interest holder holds the interest in the first CFC:~~ 25
- (a) ~~the first CFC has an ownership interest in each of the other CFCs; and~~
- (b) ~~the income interest under section EX 17 for the period, of the interest holder in the first CFC and of the first CFC in each other CFC, is more than 50%; and~~ 30
- (c) ~~the requirements of subsection (1)(a), (c), and (d) are met.~~
- (1B) An interest holder who acquires, or disposes of, an interest in a CFC (the **first CFC**) after the beginning of an accounting period may choose to apply this section to group the first CFC with other CFCs as a test group for the accounting period if— 35
- (a) the CFCs in the test group are all acquired, or all disposed of, in the accounting period by the interest holder or by members (the **wholly-owned**

<p><u>members) of a wholly-owned group of companies that includes the interest holder; and</u></p> <p>(b) <u>for the period in the accounting period in which the interest holder holds the interest in the first CFC, the interest holder or the wholly-owned members hold an income interest under section EX 17 of more than 50% in the first CFC and in each other CFC in the test group; and</u></p> <p>(c) <u>the interest holder, or the wholly-owned members, own the first CFC and each other CFC in the test group—</u></p> <p style="padding-left: 20px;">(i) <u>at the beginning of the accounting period; or</u></p> <p style="padding-left: 20px;">(ii) <u>at the end of the accounting period; and</u></p> <p>(d) <u>the requirements of subsection (1)(a), (c), and (d) are met.</u></p> <p>(2) Subsection (1) applies for income years beginning on or after 1 July 2009.</p> <p>129 Section EX 21E amended (Non-attributing active CFC: test based on accounting standard)</p> <p>(1) After section EX 21E(2), insert:</p> <p style="padding-left: 20px;"><i>CFC as part of test group for part of accounting period</i></p> <p>(2B) An interest holder who acquires or disposes of an interest in a CFC (the first CFC) after the beginning of an accounting period may choose to apply this section to group the first CFC, together with other CFCs that they acquire or dispose of at the same time, as a test group for the accounting period if, for the period in the accounting period in which the interest holder holds the interest in the first CFC:</p> <p style="padding-left: 20px;">(a) the first CFC has an ownership interest in each of the other CFCs; and</p> <p style="padding-left: 20px;">(b) the income interest under section EX 17 for the period, of the interest holder in the first CFC and of the first CFC in each other CFC, is more than 50%; and</p> <p style="padding-left: 20px;">(e) the requirements of subsection (2)(a), (b), (d), and (e) are met.</p> <p>(2B) <u>An interest holder who acquires, or disposes of, an interest in a CFC (the first CFC) after the beginning of an accounting period may choose to apply this section to group the first CFC with other CFCs as a test group for the accounting period if—</u></p> <p style="padding-left: 20px;">(a) <u>the CFCs in the test group are all acquired, or all disposed of, in the accounting period by the interest holder or by members (the wholly-owned members) of a wholly-owned group of companies that includes the interest holder; and</u></p> <p style="padding-left: 20px;">(b) <u>for the period in the accounting period in which the interest holder holds the interest in the first CFC, the interest holder or the wholly-owned members hold an income interest under section EX 17 of more than 50% in the first CFC and in each other CFC in the test group; and</u></p>	<p>5</p> <p>10</p> <p>15</p> <p>20</p> <p>25</p> <p>30</p> <p>35</p>
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<p>(c) <u>the interest holder, or the wholly-owned members, own the first CFC and each other CFC in the test group—</u></p> <p style="padding-left: 2em;">(i) <u>at the beginning of the accounting period; or</u></p> <p style="padding-left: 2em;">(ii) <u>at the end of the accounting period; and</u></p> <p>(d) <u>the requirements of subsection (2)(a), (b), (d), and (e) are met.</u></p>	5	
<p>(2) Subsection (1) applies for income years beginning on or after 1 July 2009.</p>		
<p>130 Section EX 24 amended (Companies moving to or from New Zealand)</p>		
<p>(1) In section EX 24(3), replace “branch equivalent income or loss” with “CFC attributable income or loss”.</p> <p>(2) In section EX 24(4), before the formula, replace “branch equivalent income or loss” with “CFC attributable income or loss”.</p> <p>(3) In section EX 24(4), formula, replace “branch equivalent income or loss” with “CFC attributable income or loss”.</p> <p>(4) In section EX 24, list of defined terms, delete “branch equivalent income”.</p>	10	
<p>131 Section EX 25 amended (Change of CFC’s balance date)</p>		
<p>(1) In section EX 25(1)(b), replace “attributed CFC income or loss or attributed repatriation” with “attributed CFC income or loss”.</p> <p>(2) In section EX 25(3)(d), replace “attributed CFC income or on attributed repatriation” with “attributed CFC income”.</p> <p>(3) In section EX 25(4), replace “attributed CFC income or attributed repatriation” with “attributed CFC income”.</p> <p>(4) In section EX 25, list of defined terms, delete “attributed repatriation”.</p>	15	
<p>132 Section EX 31 amended (Exemption for ASX-listed Australian companies)</p> <p>Replace section EX 31(2)(c)(ii) with:</p>		
<p style="padding-left: 2em;">(ii) <u>at the earliest date in the income year on which the person owns shares in the company, if the person does not own shares in the company at the beginning of the income year; or</u></p>	25	
<p>133 New section EX 33 inserted (Exemption for Australian regulated superannuation savings)</p> <p>After section EX 32, insert:</p>		
<p>EX 33 Exemption for Australian regulated superannuation savings</p> <p>A person’s rights in a FIF are not an attributing interest if—</p> <p style="padding-left: 2em;">(a) the person is a natural person; and</p> <p style="padding-left: 2em;">(b) the FIF is a foreign superannuation scheme that is—</p> <p style="padding-left: 4em;">(i) an Australian approved deposit fund:</p>		30
		35

<ul style="list-style-type: none"> (ii) an Australian exempt public sector superannuation scheme: (iii) an Australian regulated superannuation fund: (iv) an Australian retirement savings account. 	5
<p>Defined in this Act: attributing interest, Australian approved deposit fund, Australian exempt public sector superannuation scheme, Australian regulated superannuation fund, Australian retirement savings account, FIF, foreign superannuation scheme</p>	
<p>134 Section EX 35 amended (Exemption for interest in FIF resident in Australia)</p>	
<ul style="list-style-type: none"> (1) Replace section EX 35(a) with: <ul style="list-style-type: none"> (a) for the total period in the year for which the person has rights in the FIF, the item income interest calculated under section EX 50(4) for the person and the FIF is 10% or more; and (2) In section EX 35, list of defined terms, delete “direct income interest”. (3) Subsection (1) applies for income years beginning on or after 1 July 2011. 	10
<p>135 Section EX 44 amended (Five calculation methods)</p>	
<ul style="list-style-type: none"> (1) In section EX 44(1), before paragraph (a), replace “FIF income or loss” with “FIF income or loss from an attributing interest”. (2) In section EX 44, list of defined terms,— <ul style="list-style-type: none"> (a) delete “fair dividend rate”: (b) insert “attributing interest” and “fair dividend rate method”. 	20
<p>136 Section EX 50 amended (Attributable FIF income method)</p>	
<ul style="list-style-type: none"> (1) In section EX 50(6), before the formula, replace “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” with “an indirect attributing interest <u>in the foreign company</u>”. (2) In section EX 50, list of defined terms,— <ul style="list-style-type: none"> (a) delete “taxed FIF relationship”: (b) insert “indirect attributing interest” and “taxed FIF connection”. (3) Subsection (1) applies for the 2014–15 and later income years. 	25
<p>137 New section EX 51B inserted (Requirements to use different forms of fair dividend rate method)<u>New section EX 52A inserted (Fair dividend rate method: use of different forms)</u></p>	
<ul style="list-style-type: none"> (1) After section EX 51, insert: 	30

EX 51B52A Requirements to use different forms of fair dividend rate method
Fair dividend rate method: use of different forms*When this section applies*

- (1) This section applies when a person calculates FIF income from an attributing interest in a FIF for an income year (the **current year**) under the fair dividend rate method. 5

When person must use fair dividend rate periodic method

- (2) A person must use the fair dividend rate periodic method under section EX 53 for the attributing interest for the current year if the person—
- (a) is a unit trust or other entity that— 10
- (i) makes investments for the benefit of other persons (the **investors**); and
- (ii) assigns each investor an interest in a proportion of the net returns from the investments; and
- (iii) determines the value of each investor's interests for each of a number of periods making up the income year: 15
- (b) for the attributing interest, uses the fair dividend rate periodic method for the income year ending before the beginning of the current year and uses the fair dividend rate annual method under section EX 52 for an income year included in the period that is the ~~shorter~~shortest of— 20
- (i) the 4-year period ending before the beginning of the current year:
- (ii) ~~the period from the beginning of the income year in which the person acquired the attributing interest and ending before the beginning of the current year.~~
- (ii) the period from the beginning of the income year in which the person acquired the attributing interest and ending before the beginning of the current year. 25
- (iii) the period from the beginning of the 2015–16 income year and ending before the beginning of the current year.

When person must use fair dividend rate annual method 30

- (3) A person must use the fair dividend rate annual method for the attributing interest for the current year if the person uses for the attributing interest—
- (a) the fair dividend rate annual method for the income year ending before the beginning of the current year; and
- (b) the fair dividend rate periodic method for an income year included in the period that is the ~~shorter~~shortest of— 35
- (i) the 4-year period ending before the beginning of the current year:

(ii) ~~the period from the beginning of the income year in which the person acquired the attributing interest and ending before the beginning of the current year.~~

(ii) the period from the beginning of the income year in which the person acquired the attributing interest and ending before the beginning of the current year.

(iii) the period from the beginning of the 2015–16 income year and ending before the beginning of the current year.

Defined in this Act: attributing interest, fair dividend rate annual method, fair dividend rate method, fair dividend rate periodic method, FIF, FIF income, income year, unit trust

(2) **Subsection (1)** applies for the 2016–17 and later income years.

138 Section EX 52 amended (Fair dividend rate method: usual method)

(1) Replace the heading to section EX 52 with “**Fair dividend rate annual method**”.

(2) Replace section EX 52(1)(b) with:

~~(b) is not required under **section EX 51B** to use the fair dividend rate periodic method; and~~

(b) is not required under **section EX 52A** to use the fair dividend rate periodic method; and

(c) does not choose under section EX 53 to use the fair dividend rate periodic method.

(3) In section EX 52(2), replace “the fair dividend rate method” with “the fair dividend rate annual method”.

(4) In section EX 52(7)(a), after “FDR interest”, insert “from the shareholding for the FDR interest”.

(5) In section EX 52(7)(b), after “FDR interest”, insert “from the shareholding for the FDR interest”.

(6) In section EX 52(10)(a), before subparagraph (i), replace “reorganisation” with “reorganisation affecting the shareholding for the FDR interest”.

(7) In section EX 52(10)(b), replace “reorganisation” with “reorganisation affecting the shareholding for the FDR interest”.

(8) In section EX 52(14C), replace “the fair dividend rate method” with “the fair dividend rate annual method”.

(9) In section EX 52, list of defined terms, insert “fair dividend rate annual method” and “fair dividend rate periodic method”.

(10) **Subsections (1), (2), (3), (4), (5), (6), (7), and (8)** apply for the 2016–17 and later income years.

- 139 Section EX 53 amended (Fair dividend rate method for unit-valuing funds and others by choice)**
- (1) In section EX 53, replace the heading with “**Fair dividend rate periodic method**”.
- (2) Replace section EX 53(1) and (1B) with: 5
- When this section applies*
- (1) This section applies when a person (the **interest holder**), who calculates under the fair dividend rate method the FIF income from an attributing interest in a FIF for an income year,—
- (a) ~~is required under **section EX 51B** to use the fair dividend rate periodic method:~~ 10
- (a) is required under **section EX 52A** to use the fair dividend rate periodic method:
- (b) determines the market value of the attributing interest for each period of a day (the **unit valuation period**) in the income year and— 15
- (i) is not required to use the fair dividend rate periodic method; and
- (ii) chooses to use the fair dividend rate periodic method.
- (3) In section EX 53, list of defined terms, insert “fair dividend rate periodic method”.
- (4) **Subsection (2)** applies for the 2016–17 and later income years. 20
- 140 Section EX 58 amended (Additional FIF income or loss if CFC owns FIF)**
- (1) Replace section EX 58(1)(ab) with:
- (ab) as a result of an income interest of the CFC in a FIF, the person has an indirect attributing interest in the FIF for the accounting period; and
- (1B) In section EX 58(1)(b), delete “because section EX 21(33) applies.”. 25
- (2) Replace section EX 58(4)(b) with:
- (b) otherwise apply the calculation rules in sections EX 44 to EX 61, for the period when the person held the income interest in the CFC, as if the person directly held the attributing interest in the FIF; and
- (3) Replace **section EX 58(4)(b)** with: 30
- (b) otherwise apply the calculation rules in sections EX 44 to EX 61 to the CFC and the CFC’s interest in the FIF, for the period when the person held the indirect attributing interest; and
- (4) In section EX 58(6), replace the subsection heading with “*Non-attributing Australian CFCs and non-attributing active CFCs*”. 35
- (5) In section EX 58(6), replace “whether or not the CFC is a non-attributing Australian CFC under section EX 22 (Non-attributing Australian CFCs)” with “re-

	regardless of whether the CFC is a non-attributing active CFC under section EX 21B or a non-attributing Australian CFC under section EX 22”.	
(6)	In section EX 58, list of defined terms, insert “indirect attributing interest”.	
(7)	Subsection (2) applies for income years beginning on or after 1 July 2011.	
(8)	Subsections (1) and (3) apply for the 2014–15 and later income years.	5
141	Section EX 62 amended (Limits on changes of method)	
(1)	Repeal section EX 62(2)(a).	
(2)	Repeal section EX 62(6)(a).	
(3)	In section EX 62(6)(b), replace “other than under paragraph (a)” with “other than a change from the branch equivalent method”.	10
(4)	In section EX 62, list of defined terms,—	
	(a) delete “settlor”;	
	(b) insert “branch equivalent method” and “gifting settlor”.	
142	Section EX 63 amended (Consequences of changes in method)	
(1)	In section EX 63(1)(b), replace “, the accounting profits method, or the branch equivalent method” with “or the accounting profits method”.	15
(2)	In section EX 63, list of defined terms, delete “branch equivalent method”.	
143	Section EX 72 amended (Commissioner’s default assessment power)	
	In section EX 72(2), replace “FIF income or loss, or attributed repatriation” with “or FIF income or loss”.	20
144	Section EZ 5 amended (Reduction: bloodstock not previously used for breeding in New Zealand: pre-1 August 2006)	
(1)	In section EZ 5(1)(b)(i), replace “matrimonial agreement” with “relationship agreement”.	
(2)	In section EZ 5, list of defined terms,—	25
	(a) delete “matrimonial agreement”;	
	(b) insert “relationship agreement”.	
145	New section EZ 32G inserted (Person deriving pension from foreign superannuation scheme and returning as income before 1 April 2014)	
	After section EZ 32F, insert:	30
	EZ 32G Person deriving pension from foreign superannuation scheme and returning as income before 1 April 2014	
	<i>When this section applies</i>	
(1)	This section applies when a person has, before 1 April 2014, an interest in a foreign superannuation scheme and—	35

<ul style="list-style-type: none"> (a) the interest would be an attributing interest in the absence of this provision; and (b) on and after 1 April 2014, the interest is not a FIF superannuation interest; and (c) the person— <ul style="list-style-type: none"> (i) does not, before 1 April 2014, derive from the foreign superannuation scheme a payment that is a withdrawal: (ii) derives payments, each of which is a pension, from the foreign superannuation scheme before 1 April 2014 and includes each payment in a return of income, for the income year of the payment, that is received by the Commissioner by the due date for the return of income. <p><i>No FIF income or loss from interest</i></p> <ul style="list-style-type: none"> (2) The person is treated as having no FIF income or loss from the interest for the period before 1 April 2014. <p>Defined in this Act: attributing interest, Commissioner, FIF income, FIF superannuation interest, foreign superannuation scheme, income year, loss, return of income</p>	<p>5</p> <p>10</p> <p>15</p>
<p>146 New section EZ 69B inserted (IFRS financial reporting method: equity or other comprehensive income)</p>	
<ul style="list-style-type: none"> (1) After section EZ 69, insert: <p>EZ 69B IFRS financial reporting method: equity or other comprehensive income</p> <p><i>When this section applies</i></p> <ul style="list-style-type: none"> (1) This section applies when— <ul style="list-style-type: none"> (a) section EW 15D(2)(b) (IFRS financial reporting method) modifies an IFRS rule so that the person must allocate an amount of equity or other comprehensive income for a financial arrangement to the 2015–16 income year for tax purposes; and (b) the person does not allocate, for the financial arrangement, an amount of equity or other comprehensive income to the 2014–15 income year that the person would be required to allocate if the requirement referred to in paragraph (a) applied for the 2014–15 income year. <p><i>Change of spreading method</i></p> <ul style="list-style-type: none"> (2) The change from the non-allocation treatment described in subsection (1)(b) to the allocation treatment described in subsection (1)(a) is treated as a change of spreading method for the 2015–16 income year under section EW 26(2) (Change of spreading method). Sections EW 26(3) and (4) and 	<p>20</p> <p>25</p> <p>30</p> <p>35</p>

EW 27 (Spreading method adjustment formula) apply accordingly, but section EW 26(6) does not apply.

Defined in this Act: financial arrangement, IFRS, income year

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

147 Section EZ 70 amended (Insurance for Canterbury earthquake damage of property: deemed sale and purchase) 5

- (1) In section EZ 70, heading, replace “**deemed sale and purchase**” with “**treatment as disposal and reacquisition**”.

- (2) In section EZ 70(2), heading, replace “*Deemed sale and repurchase*” with “*Treatment as disposal and reacquisition*”. 10

148 Section EZ 76 amended (Consideration for property or services: non-IFRS foreign ASAPs before 2014–15 income year)

In section EZ 76(1)(a), replace “which section EW 32” with “which section EW 32 (Consideration for agreement for sale and purchase (ASAP) of property or services, hire purchase agreement, specified option, or finance lease)”. 15

149 Section FB 1 replaced (What this subpart does) [~~1 April 2008~~]

- (1) Replace section FB 1 with:

FB 1 When this subpart applies

This subpart applies when property is transferred on a settlement of relationship property. 20

Defined in this Act: property, settlement of relationship property

~~**FB 1B Meaning of settlement of relationship property and property**~~

~~In this subpart—~~

- ~~(a) a **settlement of relationship property** means a transaction under a relationship agreement that creates a disposal and acquisition of property: 25~~

- ~~(b) **property** includes a look-through interest for a look-through company.~~

~~Defined in this Act: look-through company, look-through interest, property, relationship agreement, settlement of relationship property~~

~~**FB 1C General treatment of transfers**~~

~~*Transferor liable for tax obligations prior to transfer* 30~~

- ~~(1) The transferor of property to which this subpart applies is liable for a tax obligation in relation to the property relating to the period beginning when the transferor acquires the property and ending when the property is transferred to the transferee.~~

<i>General treatment for transferor</i>	
(2)	The transferor is not liable for a tax obligation in relation to the property that would otherwise arise from disposing of the property.
<i>Transferee liable for tax obligations that occur after transfer</i>	
(3)	The transferee is liable for a tax obligation in relation to the property that arises on or after the date on which the property is transferred.
<i>General treatment for transferee</i>	
(4)	For the transferee's tax obligations in relation to the property,—
(a)	the transferee is treated as having—
(i)	acquired the property at the cost of the property to the transferor:
(ii)	acquired the property on the date on which the transferor acquired the property:
(iii)	the status, intention, and purpose of the transferor in relation to the property:
(b)	the transferor is treated as having not owned the property.
<i>Relationship with sections FB 2 to FB 21</i>	
(5)	Sections FB 2 to FB 21 override this section.
Defined in this Act: property, tax	
(2)	Subsection (1) applies for the 2008–09 and later income years.
149B	<u>New section FB 1B inserted (Meaning of settlement of relationship property)</u>
(1)	After section FB 1, insert:
FB 1B	<u>Meaning of settlement of relationship property</u>
	In this subpart, <u>settlement of relationship property</u> means a transaction between parties to a relationship agreement that creates a disposal and acquisition of property.
	Defined in this Act: relationship agreement, settlement of relationship property
(2)	Subsection (1) applies for the 2008–09 and later income years.
149C	<u>Section FB 1B replaced (Meaning of settlement of relationship property)</u>
(1)	Replace section FB 1B with:
FB 1B	<u>Meaning of settlement of relationship property and property</u>
	In this subpart,—
(a)	<u>settlement of relationship property</u> means a transaction between parties to a relationship agreement that creates a disposal and acquisition of property:

(b) **property** includes a look-through interest for a look-through company.

Defined in this Act: look-through company, look-through interest, property, relationship agreement, settlement of relationship property

(2) **Subsection (1)** applies for income years beginning on or after 1 April 2011

149D Section FB 1B amended (Meaning of settlement of relationship property and property) 5

Replace **section FB 1B(a)** with:

(a) **settlement of relationship property** means a transaction under a relationship agreement that creates a disposal and acquisition of property between—

- (i) a person who is a party to the relationship agreement or is associated with a party to the agreement;
- (ii) another person who is a party to the relationship agreement or is associated with a party to the agreement;

149E New section FB 1C inserted (Obligations for periods before and from transfer of property) 15

(1) After **section FB 1B**, insert:

FB 1C Obligations for periods before and from transfer of property

Obligations relating to period before transfer

(1) A transferor of property on a settlement of relationship property remains responsible for all tax obligations relating to the property and the period ending immediately before the transfer. 20

Obligations relating to period from transfer

(2) In determining the tax obligations relating to property transferred on a settlement of relationship property and the period beginning with the transfer,— 25

- (a) the transferee is treated as—
 - (i) acquiring the property at the cost of the property to the transferor; and
 - (ii) acquiring the property on the date on which the transferor acquired the property; and
 - (iii) acquiring and holding the property with the status, intention, and purpose of the transferor in relation to the property;
- (b) the transferor is treated as having not owned the property.

Relationship with sections FB 2 to FB 21

(3) Sections FB 2 to FB 21 override this section. 35

Defined in this Act: property, settlement of relationship property, tax

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

150 Section FC 1 amended (What this subpart does)

(1) In section FC 1, replace the heading with “**Disposals to which this subpart applies**”.

(2) Replace section FC 1(1)(c) with:

(c) the transfer of property on a distribution by a trustee of a trust to a beneficiary of the trust, unless the distribution is part of an arrangement under which the beneficiary pays an amount for the property that would reasonably be expected to be paid on a disposal at arm’s length:

(3) In section FC 1, list of defined terms, insert “property”.

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

151 Section FC 4 replaced (Property transferred to charities or to close relatives and others)

(1) Replace section FC 4 with:

FC 4 Property transferred to charities or to close relatives and others

When this section applies

(1) This section applies in the circumstances described in ~~section FC 1(1)(b)~~section FC 1(1)(a) or (b) when tax-base property is transferred on a person’s death if—

(a) each beneficiary of the deceased person is described in **subsection (2)**; and

(b) no life interest in the property is created; and

(c) no trust over the property is created, other than a trust to execute the will and administer the estate; and

(d) the net income of the estate is distributed as described in **subsection (3)**.

Beneficiaries of deceased

(2) A beneficiary of the deceased person must be:

(a) a close relative of the deceased person:

(b) a person exempt under section CW 41, CW 42, or CW 43 (which relate to exempt income of charities).

Income from estate must be distributed

(3) While the administration of the estate is continuing, the net income of the estate is distributed to the extent allowed—

(a) under the will or the rules governing intestacy; and

(b) by the trustee’s legal obligations.

Transfer subject to subpart FB

(4) ~~The transfer is treated as a transfer of property on a settlement of relationship property under subpart FB (Transfers of relationship property).~~

(4) The transfer, including any intervening transfer to an executor or administrator, is treated as a transfer of property on a settlement of relationship property under subpart FB (Transfers of relationship property). 5

Defined in this Act: close relative, net income, property, settlement of relationship property, tax-base property, trustee

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

151B Section FC 4 amended (Property transferred to charities or to close relatives and others) 10

(1) In **section FC 4(1)**, replace “FC 1(1)(a) or (b)” with “FC 1(1)(b)”.

(2) In **section FC 4(4)**, delete “, including any intervening transfer to an executor or administrator.”.

(3) In **section FC 4**, in the list of defined terms, insert “property”. 15

152 Section FC 6 amended (Forestry assets transferred to close relatives)

(1) Replace section FC 6(2), other than the heading, with:

(2) A transfer of a forestry asset, including any intervening transfer to an executor or administrator, is treated as a transfer of property on a settlement of relationship property— 20

(a) under section FB 6 (Timber or right to take timber), when the forestry asset is timber or a right to take timber:

(b) under section FB 7 (Land with standing timber), when the forestry asset is standing timber.

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

153 Section FE 1 amended (What this subpart does)

(1) Replace section FE 1(a)(iii) with:

(iii) is controlled by a trustee of a trust, if 50% or more by value of settlements on the trust are from persons who are, or are controlled by, non-residents or non-resident owning bodies and who act in concert. 30

(2) In section FE 1, list of defined terms, delete “trustee”.

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

153B Section FE 2 amended (When this subpart applies)

(1) Replace section FE 2(1)(cb)(i) with: 35

(i) holding total ownership interests in the company of 50% or more, after adjustment to the extent necessary to avoid multiple counting

if ownership interests in the company would otherwise be counted more than once:

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

154 Section FE 4 amended (Some definitions)

In section FE 4, list of defined terms, delete “control interest”. 5

155 Section FE 12 amended (Calculation of debt percentages)

- (1) In section FE 12(5)(a), replace “FE 31” with “FE 31, FE 31D,”.
- (2) In section FE 12(5)(b), replace “FE 31B to FE 32” with “FE 31B, FE 31C, and FE 32”.
- (3) **Subsections (1) and (2)** apply for the 2015–16 and later income years. 10

156 Section FE 18 amended (Measurement of debts and assets of worldwide group)

- (1) In section FE 18(3B)(b)(ii), replace “section FE 3(e)” with “section FE 3(1)(d)”.
- (2) **Subsection (1)** applies for the 2015–16 and later income years. 15

157 Section FE 28 amended (Identifying members of New Zealand group)

- (1) In section FE 28(2)(b), before subparagraph (i), replace “company that is resident” with “company that is not a member of the New Zealand banking group of a registered bank and is resident”.
- (2) In section FE 28(2)(b)(iii), replace “parent; or” with “parent; and”. 20
- (3) Delete section FE 28(2)(b)(iv).
- (4) In section FE 28(2)(b), before subparagraph (i), replace “company that” with “company that is not a member of the New Zealand banking group of a registered bank and”.
- (5) In section FE 28(2)(b)(iii), replace “parent; or” with “parent.” 25
- (6) Delete section FE 28(2)(b)(iv).
- (7) **Subsections (4), (5), and (6)** apply for income years beginning on or after 1 July 2009.

158 Section FE 31D replaced (Worldwide group for entity with New Zealand parent depending on non-resident owning body) 30

- (1) Replace section FE 31D with:

FE 31D Worldwide group for entity controlled by non-resident owning body or trustee

A worldwide group for an excess debt entity is made up of the entity itself and the entity’s New Zealand group if— 35

<p>(a) the entity would not meet the requirements of section FE 2 in the absence of section FE 2(1)(cb):</p> <p>(b) the entity’s New Zealand parent is identified to be the trustee of the entity by section FE 26(4D).</p> <p>Defined in this Act: excess debt entity, trustee</p>	5
<p>(2) Subsection (1) applies for the 2015–16 and later income years.</p>	
<p>159 Section FO 12 amended (Financial arrangements: resident’s restricted amalgamation, companies in wholly-owned group)</p>	
<p>(1) In section FO 12(1)(d), replace “unless section IE 2 (Treatment of tax losses by amalgamating company) applies when the tax losses are those of the consolidated group” with “except to the extent to which the loss balance is attributed to the amalgamated company under section IE 2 (Treatment of tax losses by amalgamating company)”.</p>	10
<p>(2) Subsection (1) applies for the 2008–09 and later income years.</p>	
<p>160 Section FO 13 amended (Financial arrangements: resident’s restricted amalgamation, calculation method unchanged)</p>	
<p>(1) Replace section FO 13(2) with:</p>	
<p><i>Disposal and acquisition</i></p>	
<p>(2) The amalgamating company is treated as having disposed of the financial arrangement for consideration, and the amalgamated company is treated as having acquired the financial arrangement for that consideration.</p>	20
<p><i>Base price adjustment and income or expenditure</i></p>	
<p>(3) For the income year of the amalgamation,—</p> <p>(a) the amalgamating company must calculate a base price adjustment under section EW 31 (Base price adjustment formula) as modified by subsection (4); and</p> <p>(b) the amalgamated company has an amount of income or expenditure determined under subsection (5).</p>	25
<p><i>Base price adjustment for amalgamating company</i></p>	
<p>(4) For the income year of the amalgamation, the consideration for the disposal and acquisition of the financial arrangement is an amount that results in the base price adjustment for the amalgamating company under section EW 31 representing for the amalgamating company an allocation that is fair and reasonable, as between the amalgamating company and the amalgamated company, of the income or expenditure relating to the financial arrangement that the amalgamating company would have derived or incurred in the income year if the amalgamation had not taken place.</p>	30 35

	<i>Income or expenditure of amalgamated company</i>	
(5)	For the income year of the amalgamation, the amalgamated company has an amount of income or expenditure that represents for the amalgamated company an allocation that is fair and reasonable, as between the amalgamating company and the amalgamated company, of the income or expenditure relating to the financial arrangement that the amalgamating company would have derived or incurred in the income year if the amalgamation had not taken place.	5
(2)	Subsection (1) applies for the 2008–09 and later income years, unless subsection (3) applies.	
(3)	Subsection (1) does not apply for a person and a financial arrangement if the person has taken a tax position for the financial arrangement—	10
	(a) relying on section FO 13 in the absence of the amendment made by subsection (1) ; and	
	(b) for the 2008–09 or a later income year; and	
	(c) in a tax return filed before the date on which the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Bill is introduced.	15
161	Section GB 8 repealed (Arrangements involving attributed repatriation from CFCs)	
	Repeal section GB 8.	20
162	Section GB 9 amended (Temporary disposals of direct control or income interests)	
(1)	In section GB 9(1)(b), replace “attributed CFC income or attributed repatriation” with “attributed CFC income”.	
(2)	In section GB 9(1)(d), before subparagraph (i), replace “attributed CFC income or attributed repatriation” with “attributed CFC income”.	25
(3)	In section GB 9, list of defined terms, delete “attributed repatriation”.	
163	Section GB 11 amended (Temporary increases in totals for control interest categories)	
(1)	In section GB 11(1)(d), before subparagraph (i), replace “attributed CFC income or attributed repatriation” with “attributed CFC income”.	30
(2)	In section GB 11, list of defined terms, delete “attributed repatriation”.	
164	Section GB 13 amended (When combination of changes reduces income)	
(1)	In section GB 13(1)(b), replace “attributed CFC income or attributed repatriation” with “attributed CFC income”.	35
(2)	In section GB 13(1)(e), before subparagraph (i), replace “attributed CFC income or attributed repatriation” with “attributed CFC income”.	

(3) In section GB 13, list of defined terms, delete “attributed repatriation”.

165 New section GB 15BA inserted (CFC income or loss: arrangements for inclusion of CFC in test group)

(1) After section GB 15, insert:

GB 15BA CFC income or loss: arrangements for inclusion of CFC in test group 5

When this section applies

(1) This section applies where—

(a) for 2 or more accounting periods, a CFC is not a non-attributing active CFC unless a person elects to test the CFC together with other CFCs as a group (**test group**) under— 10

- (i) section EX 21D (Non-attributing active CFC: default test); or
- (ii) section EX 21E (Non-attributing active CFC: test based on accounting standard); and

(b) the person enters into an arrangement to—

- (i) elect to include the CFC in a test group for 1 of the accounting periods; and 15
- (ii) not elect to include the CFC in a test group for another of the accounting periods; and

(c) the effect of the arrangement is that the person has less net attributable CFC income when the CFC is in a test group and greater net attributable CFC losses when the CFC is not in a test group. 20

Treatment of election

(2) The Commissioner may treat an election as having been made or not made, as applicable, to the extent appropriate to prevent the effect of the arrangement.

Defined in this Act: accounting period, arrangement, CFC, Commissioner, net attributable CFC income, net attributable CFC loss, non-attributing active CFC 25

GB 15BA CFC income or loss: arrangements for inclusion of CFC in test group

When this section applies

(1) This section applies when—

(a) for a person and 2 or more accounting periods, a CFC is not a non-attributing active CFC unless the person chooses to test the CFC together with other CFCs as a group (the **test group**) under— 30

- (i) section EX 21D (Non-attributing active CFC: default test); or
- (ii) section EX 21E (Non-attributing active CFC: test based on accounting standard); and 35

(b) the person enters into an arrangement to—

- (i) choose to include the CFC in the test group for 1 of the accounting periods; and
- (ii) not choose to include the CFC in the test group for another of the accounting periods; and
- (c) the effect of the arrangement in the absence of this section would be that the person had less net attributable CFC income when the CFC was in the test group and greater net attributable CFC losses when the CFC was not in the test group. 5
- Treatment of election*
- (2) The Commissioner may treat an election as having been made or not made, as appropriate to prevent the arrangement having the effect referred to in **subsection (1)(c)**. 10
- Defined in this Act: accounting period, arrangement, CFC, Commissioner, net attributable CFC income, net attributable CFC loss, non-attributing active CFC
- (2) **Subsection (1)** applies for the 2016–17 and later income years. 15
- 166 Section GB 27 amended (Attribution rule for income from personal services)**
- Replace section GB 27(3)(d) and (e) with:
- (d) if the total amount to be attributed to the working person, for the associated entity and the income year, is less than \$5,000, unless— 20
- (i) the application of this paragraph would prevent income being attributed to the working person for the income year in relation to another associated entity:
- (ii) the associated entity is a CFC and a person who holds an attributing interest in the CFC files, after the date (the **Royal assent date**) on which the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act **2015** receives the Royal assent, a return of income in which the amount of income attributed to the working person is determined under this section: 25
- (e) if the associated entity is a CFC and— 30
- (i) the amount gives rise to attributed CFC income under section CQ 2(2B) (When attributed CFC income arises) or attributed CFC loss under section DN 2(2) (When attributed CFC loss arises) for a person who holds an attributing interest in the CFC; and
- (ii) the person who holds the attributing interest in the CFC files, after the Royal assent date, a return of income in which the amount attributed to the working person is determined under section EX 20B (Attributable CFC amount). 35

167 Section HC 10 amended (Complying trusts)

- (1) After section HC 10(1)(a), insert:
- (ab) the following requirements are met:
- (i) a person makes an election under section HC 33; and
 - (ii) for the life of the trust up to the time of distribution, the tax obligations relating to the trustee’s income tax liability for the trustee income are satisfied for each tax year; or
- (2) In section HC 10(3), after “subsection (1)(a)”, insert “and **(ab)**”.
- (3) Replace section HC 10(4), other than the heading, with:
- (4) For the purposes of **subsection (1)(a) and (ab)**, section HC 29(6) does not apply in determining whether the requirements are met.
- (4) **Subsections (1), (2), and (3)** apply for the 2008–09 and later income years.

168 Section HC 27 amended (Who is a settlor?)

- (1) Repeal section HC 27(1).
- (2) In section HC 27, list of defined terms, delete “consolidation rules”. 15

169 Section HC 29 amended (Settlers’ liability to income tax)

- (1) In section HC 29(7), replace “HC 10(1)(a)(ii)” with “HC 10(1)(a) and **(ab)**”.
- (2) **Subsection (1)** applies for the 2008–09 and later income years.

170 Section HC 33 amended (Choosing to satisfy income tax liability of trustee) 20

- (1) In section HC 33(1), after “trust”, insert “as described in **subsection (2)**”.
- (2) After section HC 33(1), insert:

Trustee treated as making election

- (1B) A trustee is treated as making an election under subsection (1), ignoring the requirement in subsection (4), if— 25
- (a) for the period beginning at the start of the income year in which a settlement is first made on the trust and ending before the date on which the trust ceases to be a complying trust as described in **paragraph (b)**, the trust is a complying trust under section HC 10(1)(a); and
 - (b) the trust ceases to be a complying trust under section HC 10(1)(a) because the trust does not meet the requirement in section HC 10(1)(a)(i); and 30
 - (e) ~~the trustee indicates that the trust is a complying trust in the return of income for each income year ending after a settlement was first made on the trust and before the distribution referred to in section HC 10(1);~~ 35
 - (c) the trustee indicates that the trust is a complying trust in the return of income for each income year ending after the trust ceases to be a comply-

- ing trust, as described in **paragraph (b)**, and before the distribution referred to in section HC 10(1).
- (3) Replace section HC 33(2), other than the heading, with:
- (2) The person making the election—
- (a) ~~must satisfy the income tax liability of the trustee as if the trust had a New Zealand resident as settlor; and~~ 5
- (a) must satisfy the income tax liability that the trustee would have if the trust had a New Zealand resident as settlor and the trustee were a New Zealand resident; and
- (b) is not required to satisfy the income tax liability of the beneficiary that the trustee must satisfy as agent under section HC 32. 10
- (4) Replace section HC 33(3), other than the heading, with:
- (3) The election under subsection (1) applies—
- (a) for the purposes of section HC 30(3), from the date that it is made:
- (b) ~~for the purposes of sections **HC 10(1)(ab)** and HC 29(5), on and after the start of the income year in which a settlement was first made on the trust.~~ 15
- (b) for the purposes of sections **HC 10(1)(ab)** and HC 29(5), for an election arising under **subsection (1B)**, on and after the start of the income year in which the trust ceases to be a complying trust, as described in **subsection (1B)(b)**, and ending on the date of the distribution referred to in section HC 10(1). 20
- (5) In section HC 33, list of defined terms, insert “complying trust”, “distribution”, and “New Zealand resident”.
- (6) **Subsections (1), (2), (3), and (4)** apply for the 2008–09 and later income years. 25
- 171 Section HG 10 amended (Disposal of livestock)**
- (1) In section HG 10(1), replace “a person” with “a person (the **exiting partner**)”.
- (2) In section HG 10, list of defined terms, insert “entering partner”.
- 172 Section HM 42 amended (Exit calculation option)** 30
- (1) In section HM 42(1), replace “section 31B” with “section 31C”.
- (2) **Subsection (1)** applies for the 2010–11 and later income years.
- 173 Section HM 43 amended (Quarterly calculation option)**
- (1) In section HM 43(1), replace “section 31B” with “section 31C”.
- (2) **Subsection (1)** applies for the 2010–11 and later income years. 35

- 174 Section HM 44 amended (Provisional tax calculation option)**
- (1) In section HM 44(1), replace “section 31B” with “section 31C”.
- (2) **Subsection (1)** applies for the 2010–11 and later income years.
- 175 Section HR 3 amended (Definitions for section HR 2: group investment funds)** 5
- (1) In section HR 3(5), definition of **designated sources**, paragraph (b), replace “individual” with “individual, and”.
- (2) **Subsection (1)** applies for the 2008–09 and later income years.
- 176 Section HR 8 amended (Transitional residents)**
- (1) Replace section HR 8(2) to (4) with: 10
- Meaning of transitional resident*
- (2) A person is a **transitional resident** if—
- (a) they are a natural person; and
- (b) they are resident in New Zealand through acquiring a permanent place of abode as described in section YD 1(2) or through the 183-day rule set out in section YD 1(3); and 15
- (c) for a continuous period (the **non-residence period**) of at least 10 years immediately before they meet the requirements of section YD 1(2) or (3) for becoming resident in New Zealand, ignoring the rule in section YD 1(4), they— 20
- (i) did not meet the requirements of that section:
- (ii) were not resident in New Zealand; and
- (d) they were not a transitional resident before the non-residence period; and
- (e) the period described in **subsection (3)** has not ended.
- Period of transitional residence* 25
- (3) The period for a person—
- (a) begins on the first day of the residence required by **subsection (2)(b)**; and
- (b) ends on the earliest of— 30
- (i) the day they nominate under **subsection (4)**:
- (ii) the day before the person stops being a New Zealand resident:
- (iii) the last day of the 48th month after the month in which the non-residence period ends.
- Choosing not to be transitional resident*
- (4) A person who would otherwise be a transitional resident in an income year may choose by notice to the Commissioner or by notice under subsection (5) 35

- not to be a transitional resident on and after a date nominated by the person, which may be on or after the start of the income year.
- (2) **Subsection (1)** applies for the 2008–09 and later income years.
- 177 Section HZ 4B amended (Qualifying companies: transition into partnership)** 5
- (1) In section HZ 4B(3)(b), replace “tax position” with “tax situation”.
- (2) In section HZ 4B(3)(b), replace “**historical tax positions**” with “**historical tax situations**”.
- (3) In section HZ 4B(3)(c)(i), replace “historical tax positions” with “historical tax situations”. 10
- (4) In section HZ 4B(3)(c)(ii), replace “tax position” with “tax situation”.
- (5) In section HZ 4B(3)(c)(ii), replace “historical tax positions” with “historical tax situations”.
- (6) In section HZ 4B(3)(d), replace “tax position” with “tax situation”.
- 178 Section HZ 4D amended (Qualifying companies: transition into sole traderships)** 15
- (1) In section HZ 4D(3)(b), replace “tax position” with “tax situation”.
- (2) In section HZ 4D(3)(b), replace “**historical tax position**” with “**historical tax situation**”.
- (3) In section HZ 4D(3)(c)(i), replace “historical tax position” with “historical tax situation”. 20
- (4) In section HZ 4D(3)(c)(ii), replace “tax position” with “tax situation” in each place where it appears.
- (5) In section HZ 4D(3)(d), replace “tax position” with “tax situation”.
- 179 Section IQ 1A amended (When this subpart applies)** 25
- (1) In section IQ 1A(b), replace “attributed FIF income method” with “attributable FIF income method”.
- (2) In section IQ 1A, list of defined terms,—
- (a) delete “attributed CFC net income”, “attributed FIF income method”, and “group”: 30
- (b) insert “attributed CFC income” and “attributable FIF income method”.
- 180 Section LA 7 amended (Remaining refundable credits: tax credits under social policy schemes)**
- (1) In section LA 7, heading, replace “**under social policy schemes**” with “**for social policy and other initiatives**”. 35
- (2) After section LA 7(1)(a), insert:

- (ab) **section LB 4B** (Tax credit for R&D tax losses):
- (3) **Subsections (1) and (2)** apply for income years beginning on or after 1 April 2015.
- 181 New section LB 4B inserted (Tax credit for R&D tax losses)**
- (1) After section LB 4, insert: 5
- LB 4B Tax credit for R&D tax losses**
- A person has a tax credit for a tax year equal to their R&D loss tax credit under **subpart MX** (Tax credits for R&D tax losses) for the tax year.
- Defined in this Act: R&D loss tax credit, tax credit, tax year
- (2) **Subsection (1)** applies for income years beginning on or after 1 April 2015. 10
- 182 Section LD 1 amended (Tax credits for charitable or other public benefit gifts)**
- In section LD 1(5), replace “under social policy schemes” with “for social policy and other initiatives”.
- 183 Section LD 3 amended (Meaning of charitable or other public benefit gift)** 15
- (1) In section LD 3(1)(a), replace “gifts:” with “gifts) (the **entity**):”.
- (2) In section LD 3(1)(b),—
- (a) replace “a subscription paid to a society, institution, association, organisation, trust, or fund,” with “a subscription of \$5 or more paid to an entity”; and 20
- (b) replace “that” with “that entity”.
- (3) In section LD 3(2), before paragraph (a), replace “subsection (1)(a)” with “subsection (1)(a) and (b)”.
- (4) Replace section LD 3(2)(bc) with:
- (bc) a tertiary education institution: 25
- (5) In section LD 3, list of defined terms, insert “tertiary education institution”.
- (6) **Subsections (1), (2), (3), and (4)** apply for the 2008–09 and later income years.
- 184 Subpart LH repealed (Tax credits for expenditure on research and development)** 30
- (1) Repeal subpart LH.
- (2) **Subsection (1)** applies for the 2015–16 and later income years.
- 185 Heading after section LP 6 deleted (Supplementary dividend holding companies)**
- Repeal the heading after section LP 6. 35

- 186 Section LU 1 amended (Tax credits for mineral miners)**
- (1) In section LU 1(4)(b), replace “net mining income” with “net income”.
- (2) In section LU 1, list of defined terms,—
- (a) delete “net mining income”;
- (b) insert “net income”. 5
- 187 Section MA 1 amended (What this Part does)**
- (1) After section MA 1(b), insert:
- (bb) for R&D tax losses for an income year beginning on or after 1 April 2015, *see* **subpart MX** (Tax credits for R&D tax losses).
- (2) **Subsection (1)** applies for income years beginning on or after 1 April 2015. 10
- 188 Section MB 1 amended (Adjustments for calculation of family scheme income)**
- (1) In section MB 1(5D), replace “interest payable to the person under section EH 6 (Interest on deposits in main income equalisation account)” with “interest payable, under section EH 6 (Interest on deposits in main income equalisation account), to the person or a person described in section MB 9(b) to (d)”. 15
- (2) **Subsection (1)** applies for the 2011–12 and later income years.
- 188 Section MB 1 amended (Adjustments for calculation of family scheme income)**
- (1) Replace section MB 1(5D) with: 20
- Deposits in main income equalisation accounts*
- (5D) For the purposes of subsection (1), the person’s family scheme income is increased by the amount of a main income equalisation deposit the person makes for the income year.
- Refunds from main income equalisation accounts* 25
- (5E) For the purposes of subsection (1), the person’s family scheme income does not include the amount of a main income equalisation refund the person receives for the income year.
- (2) In section MB 1, in the list of defined terms, insert “main income equalisation deposit” and “main income equalisation refund”. 30
- 188B Section MB 4 amended (Family scheme income of major shareholders in close companies)**
- (1) Replace section MB 4(2), other than the heading, with:
- (2) The amount included in the person’s family scheme income is the greater of—
- (a) zero; and 35

- (b) the amount calculated using the formula in subsection (3), adjusted, if applicable, by **subsections (7) and (8)** for main income equalisation account amounts.
- (2) After section MB 4(6), insert:
Main income equalisation deposits 5
- (7) For the purposes of **subsection (2)(b)**, if the company makes a main income equalisation deposit for the company’s income year, the amount of the deposit is added to the item **income** in the formula in subsection (3).
Main income equalisation refunds
- (8) For the purposes of **subsection (2)(b)**, if the company receives a main income equalisation refund for the company’s income year, the amount of the refund is subtracted from the item **income** in the formula in subsection (3). 10
- (3) In section MB 4, in the list of defined terms, insert “main income equalisation account”, “main income equalisation deposit”, and “main income equalisation refund”. 15
- 188C Section MB 7 amended (Family scheme income of settlor of trust)**
- (1) After section MB 7(2), insert:
Income amount
- (2B) The amount included in the person’s family scheme income is the amount calculated using the formulas in subsections (3) and (5), adjusted, if applicable, by **subsections (7) and (8)** for main income equalisation account amounts. 20
- (2) In section MB 7(3), replace “The person’s family scheme income for the income year includes the amount” with “For the purposes of **subsection (2B)**, the relevant amount is”.
- (3) After section MB 7(6), insert: 25
Main income equalisation deposits
- (7) For the purposes of **subsection (2B)**, if the trustee or a company described in subsection (4)(b) makes a main income equalisation deposit for an income year, the amount of the deposit is added to—
(a) the item **trustee income** in the formula in subsection (3), if the trustee makes the deposit: 30
(b) the item **income** in the formula in subsection (5), if the company makes the deposit.
- Main income equalisation refunds*
- (8) For the purposes of **subsection (2B)**, if the trustee or a company described in subsection (4)(b) receives a main income equalisation refund for an income year, the amount of the refund is subtracted from— 35
(a) the item **trustee income** in the formula in subsection (3), if the trustee receives the refund:

(b)	<u>the item income in the formula in subsection (5), if the company receives the refund.</u>	
(4)	<u>In section MB 7, in the list of defined terms, insert “main income equalisation account”, “main income equalisation deposit”, and “main income equalisation refund”.</u>	5
188D Section MB 9 repealed (Family scheme income from deposits in main income equalisation accounts)		
Repeal section MB 9.		
189 Section MB 13 amended (Family scheme income from other payments)		
(1)	Replace section MB 13(2)(f) with:	10
(f)	an educational scholarship or educational bursary:	
(2)	Subsection (1) applies for the 2011–12 and later income years.	
190 Section MC 5 amended (Third requirement: residence)		
(1)	In section MC 5(2)(b), delete “, and has not made an election under section HR 8(4) (Transitional residents)”.	15
(2)	Subsection (1) applies for the 2008–09 and later income years.	
191 Section MF 6 amended (Overpayment or underpayment of tax credit)		
In section MF 6(3), replace “under social policy schemes” with “for social policy and other initiatives”.		
192 New subpart MX inserted (Tax credits for R&D tax losses)		
(1)	Before subpart MZ, insert:	20
Subpart MX—Tax credits for R&D tax losses		
MX 1 When subpart applies		
(1)	This subpart applies to a person for an income year when—	
(a)	the person chooses that the subpart apply to the person for the income year; and	25
(b)	the corporate eligibility criteria in section MX 2 are met; and	
(c)	ignoring this subpart, the person has a net loss for the corresponding tax year; and	
(d)	if the person is a member of a group of companies, the group of companies, in aggregate and ignoring this subpart, has a net loss for the corresponding tax year; and	30
(d)	<u>if the person is a member of a group of entities meeting the requirements of subsection (2), the R&D group, in aggregate and ignoring this subpart, has a net loss for the corresponding tax year; and</u>	35

- ~~(e) the person has R&D expenditure relating to research or development; and~~
- ~~(e) the person incurs R&D expenditure in the income year; and~~
- ~~(f) the wage intensity criteria in **section MX 3** are met; and~~
- ~~(g) intellectual property and know-how that results from the research or development vests in the person, solely or jointly; and~~ 5
- ~~(g) intellectual property and know-how that results from the research or development vests in the person, solely or jointly.~~
- ~~(h) the person complies with all tax law obligations; and~~
- ~~(i) if the person is a member of a group of companies, all members of the group of companies comply with all tax law obligations.~~ 10

Meaning of R&D group

(2) **R&D group** means a group of entities for which—

- ~~(a) each member of the group is a company, look-through company, or limited partnership; and~~ 15
- ~~(b) all the members of the group that are companies are members of the same group of companies (the **company group**); and~~
- ~~(c) each member of the group that is a look-through company would be a member of the company group if the look-through company were treated as being a company; and~~ 20
- ~~(d) each member of the group that is a limited partnership would be a member of the company group if the partnership were treated as being a company and each partner were treated as holding a proportion of the total shares in the company equal to the proportion of the total capital contributions, as defined in section HG 11 (Limitation on deductions by partners in limited partnerships), to the partnership that is capital contributions made by the partner to the partnership.~~ 25

Defined in this Act: capital contribution, company, group of companies, income year, intellectual property, know-how, limited partnership, look-through company, net loss, partner, partnership share, R&D expenditure, R&D group, tax year 30

MX 2 Corporate eligibility criteria

For the purposes of **section MX 1(1)(b)**, a person meets the corporate eligibility criteria for an income year if, for the income year or for the part of the income year for which the person exists if that is not the whole income year,—

- ~~(a) the person is a company that is resident in New Zealand; and~~ 35
- ~~(b) there is no double tax agreement under which, and for the purposes of which, the person is treated as a resident of a foreign country or territory; and~~

- (b) there is no double tax agreement under which the person is treated as being resident in a foreign country or territory; and
- (e) if the person is a member of a group of companies, the group does not include—
- (i) a company that is not resident in New Zealand; 5
- (ii) a company that is treated under, and for the purposes of, a double tax agreement as a resident of a foreign country or territory; and
- (d) the person is not a special corporate entity; and
- (e) the person is not a qualifying company; and
- (f) the person is not an entity established by or subject to— 10
- (i) the Education Act 1989;
- (ii) the New Zealand Public Health and Disability Act 2000;
- (iii) the Crown Entities Act 2004; and
- (g) no special corporate entity or qualifying company directly or indirectly owns 50% or more of the shares in the person; and 15
- (g) a total of less than 50% of the shares in the person are held by entities that are each—
- (i) a public authority;
- (ii) a local authority;
- (iii) a Crown Research Institute; 20
- (iv) a State enterprise; and
- (h) the person is not a listed company or otherwise listed on a recognised exchange.
- Defined in this Act: company, Crown Research Institute, double tax agreement, ~~group of companies~~, income year, listed company, local authority, public authority, ~~qualifying company~~, recognised exchange, resident in New Zealand, ~~special corporate entity~~, State enterprise 25

MX 3 Wage intensity criteria

Wage intensity criteria

- (1) For the purposes of **section MX 1(1)(f)**, a person meets the wage intensity criteria for an income year if, for the income year or for the part of the income year for which the person exists (the part-year) if that is not the whole income year,— 30
- (a) the amount calculated for the person using the formula in **subsection (2)** is 0.2 or more; and
- (b) ~~if the person is a member of a group of companies, the amount calculated for the group in aggregate using the formula in **subsection (2)** is 0.2 or more.~~ 35

(b) if the person is a member of an R&D group, the amount calculated for the R&D group in aggregate using the formula in **subsection (2)** is 0.2 or more.

Formula

(2) The formula is— 5

$$\frac{\text{total R\&D labour expenditure}}{\text{total labour expenditure}}$$

$$\text{total R\&D labour expenditure} \div \text{total labour expenditure}.$$

Definition of items in formula

(3) In the formula,—

(a) **total R&D labour expenditure** is the total for the income year, or the part of the income year, of— 10

(i) ~~the total amount of contractor R&D consideration multiplied by 0.66:~~

(ii) ~~the amount of salary or wages paid to employees for R&D material provided by them:~~

(iii) ~~the amount paid to shareholder-employees, to which section RD 3(3) or (4) (PAYE income payments) apply, for R&D material provided by them:~~ 15

(b) **total labour expenditure** is the total for the income year, or the part of the income year, of—

(i) ~~the total amount of contractor R&D consideration multiplied by 0.66:~~ 20

(ii) ~~the amount of salary or wages paid to employees:~~

(iii) ~~the amount paid to shareholder-employees to which section RD 3(3) or (4) apply.~~

Definition of items in formula 25

(3) In the formula,—

(a) **total R&D labour expenditure** for a person, or an R&D group of which the person is a member, is the total, for amounts incurred in the income year or the part-year, of—

(i) the total amount of contractor R&D consideration multiplied by 0.66: 30

(ii) the amount of salary or wages paid to employees for providing R&D material:

(iii) if the person chooses to include the amounts referred to in **subsection (3B)**, the same proportion of those amounts, for each employee who provides R&D material, as the proportion of the 35

	<u>employee's salary or wages that is paid to the employee for providing R&D material:</u>	
	(iv) <u>the amount paid to shareholder-employees, to which section RD 3(3) or (4) (PAYE income payments) apply, for providing R&D material:</u>	5
(b)	total labour expenditure for a person, or an R&D group of which the person is a member, is the total, for amounts incurred in the income year or the part-year, of—	
	(i) <u>the total amount of contractor R&D consideration multiplied by 0.66:</u>	10
	(ii) <u>the amount of salary or wages paid to employees:</u>	
	(iii) <u>if the person makes the election referred to in paragraph (a)(iii), the total of amounts of expenditure referred to in subsection (3B) for employees:</u>	
	(iv) <u>the amount paid to shareholder-employees to which section RD 3(3) or (4) apply.</u>	15
	<i>Optional amounts for total R&D labour expenditure and total labour expenditure</i>	
(3B)	For the purposes of subsection (3)(a)(iii) and (b) , the expenditure of an employer for an employee that the person may choose to include in the items total R&D labour expenditure and total labour expenditure is—	20
	(a) <u>employer's superannuation cash contributions for the employee that are not salary or wages:</u>	
	(b) <u>tax on the employer's superannuation cash contributions for the employee:</u>	25
	(c) <u>fringe benefits provided by the employer and attributed to the employee:</u>	
	(d) <u>the employer's FBT liability in relation to the employee and fringe benefits attributed to the employee.</u>	
	<i>Meaning of contractor R&D consideration</i>	
(4)	In this Act, contractor R&D consideration means—	30
	(a) for a person, an amount, excluding GST, paid by the person to an external contractor as consideration for R&D material provided by the contractor:	
	(a) <u>for a person, an amount, excluding GST, paid by the person to another person (the contractor) who is not a member of an R&D group that includes the person and is not employed by the person or by a member of an R&D group that includes the person, as consideration for R&D material provided by the contractor to the person:</u>	35

(b) ~~for a group of companies, an amount, excluding GST, paid by a member of the group to an external contractor as consideration for R&D material provided by the contractor:~~

(b) for an R&D group, an amount, excluding GST, paid by a member of the R&D group to a person (the **contractor**) who is not a member of the R&D group and is not employed by a member of the R&D group, as consideration for R&D material provided by the contractor to a member of the R&D group.

Defined in this Act: contractor R&D consideration, employee, ~~group of companies~~, income year, R&D group, R&D material, salary or wages, shareholder-employee

MX 4 Tax credit for R&D tax losses

Amount of credit

- (1) For a tax year, the person has a tax credit equal to the least of the following:
- (a) ~~\$500,000 multiplied by 0.28, if the tax year is the 2015–16 tax year:~~
 - (b) ~~\$800,000 multiplied by 0.28, if the tax year is the 2016–17 tax year:~~
 - (c) ~~\$1,100,000 multiplied by 0.28, if the tax year is the 2017–18 tax year:~~
 - (d) ~~\$1,400,000 multiplied by 0.28, if the tax year is the 2018–19 tax year:~~
 - (e) ~~\$1,700,000 multiplied by 0.28, if the tax year is the 2019–20 tax year:~~
 - (f) ~~\$2,000,000 multiplied by 0.28, if the tax year is the 2020–21 or later tax year:~~
 - (g) ~~the person’s net loss for the tax year multiplied by 0.28:~~
 - (h) ~~the person’s total R&D expenditure for the tax year multiplied by 0.28:~~
 - (i) ~~1.5 multiplied by the person’s total R&D labour expenditure for the tax year, described in **section MX 3(3)(a)**, multiplied by 0.28:~~

Relationship with subject matter

- (2) **Section 70C** of the Tax Administration Act 1994 applies for a tax credit for R&D tax losses:

Defined in this Act: net loss, R&D expenditure, tax credit for R&D tax losses, tax year

MX 4 R&D loss tax credits

- (1) For a tax year, the person has a tax credit equal to the least of the following:
- (a) \$500,000 multiplied by the basic tax rate for a company, if the tax year is the 2015–16 tax year:
 - (b) \$800,000 multiplied by the basic tax rate for a company, if the tax year is the 2016–17 tax year:
 - (c) \$1,100,000 multiplied by the basic tax rate for a company, if the tax year is the 2017–18 tax year:
 - (d) \$1,400,000 multiplied by the basic tax rate for a company, if the tax year is the 2018–19 tax year:

- (e) \$1,700,000 multiplied by the basic tax rate for a company, if the tax year is the 2019–20 tax year:
- (f) \$2,000,000 multiplied by the basic tax rate for a company, if the tax year is the 2020–21 or later tax year:
- (g) the person’s net loss for the tax year multiplied by the basic tax rate for a company: 5
- (h) the person’s total R&D expenditure, incurred in the income year corresponding to the tax year, multiplied by the basic tax rate for a company:
- (i) 1.5 multiplied by the person’s total R&D labour expenditure, incurred in the income year corresponding to the tax year and described in **section MX 3(3)(a)**, multiplied by the basic tax rate for a company. 10

Related provision in Tax Administration Act 1994

- (2) **Section 70C** of the Tax Administration Act 1994 applies for an R&D loss tax credit.

Defined in this Act: basic tax rate, company, net loss, R&D expenditure, R&D labour expenditure, R&D loss tax credit, tax year 15

MX 5 Cancellation of R&D tax losses

~~The Commissioner must extinguish the person’s tax loss for a tax year to the extent of the amount given by dividing the amount of the tax credit for R&D tax losses for the tax year by 0.28.~~ 20

Defined in this Act: Commissioner, tax credit for R&D tax losses, tax loss, tax year

MX 5 Cancellation of R&D tax losses

The Commissioner must extinguish the person’s tax loss for a tax year to the extent of the amount calculated by dividing the amount of the R&D loss tax credits for the tax year by the basic tax rate for a company. 25

Defined in this Act: basic tax rate, Commissioner, company, R&D loss tax credit, tax loss, tax year

MX 5B Deduction if increase in basic tax rate for company

When this section applies

- (1) This section applies for a person who has an R&D loss tax credit for a tax year (the **credit year**) before a tax year (the **current year**) for which the basic tax rate for a company is increased (the **rate increase**) if the rate increase results in a basic tax rate for a company that is greater than the basic tax rate for— 30
- (a) the latest tax year, before the current year, corresponding to an income year for which the person received a deduction under this section relating to the R&D loss tax credit; or 35
- (b) the credit year, if the person has not received a deduction under this section relating to the R&D loss tax credit for an income year corresponding to a tax year before the current year.

Deduction

- (2) The person has a deduction, for the current year, of an amount calculated for each credit year using the formula:

$$\text{tax credits} \times (\text{new rate} - \text{old rate}) \div (\text{new rate} \times \text{old rate}).$$

Definition of items in formula

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- (3) In the formula,—

- (a) tax credits is the greater of zero and the amount calculated from the total amount of the company's R&D loss tax credits, for tax years before and including the credit year, minus the total amount of—

- (i) the company's terminal tax, plus tax credits giving rise to imputation credits, minus refundable tax credits giving rise to imputation debits, for the period beginning with the earliest credit year and ending with the tax year before the current year:

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- (ii) earlier payments of R&D repayment tax relating to the R&D loss tax credits for credit years before the current year:

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- (b) new rate is the basic tax rate for a company after the rate increase:

- (c) old rate is the greatest of—

- (i) the basic tax rate for a company before the rate increase:

- (ii) the basic tax rate for a company for the latest tax year, before the current year, corresponding to an income year for which the person received a deduction under this section relating to the credit year, if there is such a tax year:

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- (iii) the basic tax rate for a company for the credit year.

Defined in this Act: basic tax rate, company, income year, R&D loss tax credit, R&D repayment tax, tax year

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MX 6 Reinstatement of R&D tax losses and R&D repayment tax

When this section applies

- (1) ~~This section applies when a person (the **company**) has had a tax credit for R&D tax losses, and—~~

- (a) ~~in an income year (the **reinstatement year**), the company—~~

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- (i) ~~disposes of or transfers intangible property, core technology, intellectual property, or know-how:~~

- (ii) ~~fails to meet a corporate eligibility requirement in **section MX 2(a), (b), or (c)**:~~

- (iii) ~~is put into liquidation:~~

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- (iv) ~~is an amalgamating company:~~

- (b) ~~no group of persons exist that has, for a continuity period,—~~

- (i) ~~minimum voting interests in the company that add up to 10% or more; and~~
- (ii) ~~when a market value circumstance exists for the company in the continuity period, minimum market value interests in the company that add up to 10% or more.~~ 5
- (1) This section applies when a person (the **company**) has an R&D loss tax credit for a tax year (the **credit year**), and in an income year (the **reinstatement year**) corresponding to the credit year or a later tax year,—
- (a) the company—
- (i) disposes of or transfers intangible property, core technology, intellectual property, or know-how, other than to the amalgamated company as part of an amalgamation and other than for consideration that is assessable income of the company and has a value no less than the market value of the property transferred: 10
- (ii) fails to meet a corporate eligibility requirement in **section MX 2(a) or (b)**: 15
- (iii) has a liquidator appointed:
- (b) there is no group of persons that has, for the period (the **ownership period**) starting on the first day of the income year corresponding to the credit year and ending on the last day of the reinstatement year,— 20
- (i) lowest voting interests in the company of each person for the ownership period that add up to 10% or more; and
- (ii) when a market value circumstance exists for the company in the ownership period, lowest market value interests in the company of each person for the ownership period that add up to 10% or more. 25
- R&D repayment tax: transfer of intellectual property*
- (2) ~~If **subsection (1)(a)(i)** applies, and **subsection (1)(a)(ii) to (iv) and (b)** do not apply, the company is liable for an amount of R&D repayment tax equal to the lesser of—~~
- (a) ~~the total of the company's tax credits for R&D tax losses for income years before or including the reinstatement year minus the total amount of—~~ 30
- (i) ~~income tax paid by the company for income years later than the earliest income year to which the tax credits relate and before or including the reinstatement year:~~ 35
- (ii) ~~earlier payments of R&D repayment tax relating to the tax credits and for income years before or including the reinstatement year; and~~
- (b) ~~the amount calculated using the formula—~~
- ~~$\text{intangibles' market value} \times 0.28.$~~

- (2) If **subsection (1)(a)(i)** applies, and **subsection (1)(a)(ii) and (iii) and (b)** do not apply, the company is liable for an amount of R&D repayment tax equal to the lesser of—
- (a) the total of the company’s R&D loss tax credits for the tax year corresponding to the reinstatement year and earlier tax years minus the total amount of— 5
 - (i) the company’s terminal tax, plus tax credits giving rise to imputation credits, minus refundable tax credits giving rise to imputation debits, for tax years in the period beginning with the earliest credit year and ending with the tax year corresponding to the reinstatement year: 10
 - (ii) earlier payments of R&D repayment tax relating to R&D loss tax credits for the tax year corresponding to the reinstatement year or for an earlier tax year: 15
 - (b) the amount calculated using the formula— 15

intangibles’ market value × basic tax rate for a company.

Definition of item in formula
- (3) In the formula, **intangibles’ market value** is the market value of the company’s intangible property, core technology, intellectual property, or know-how disposed of or transferred in the income year other than for consideration that is assessable income of the company and that has a value no less than the market value of the property transferred for that consideration. 20
- R&D repayment tax: loss of continuity*
- (3B) If **subsection (1)(b)** applies, the company is liable for an amount of R&D repayment tax equal to the lesser of— 25
- (a) the total of the company’s R&D loss tax credits for the tax year corresponding to the reinstatement year and earlier tax years minus the total amount of—
 - (i) the company’s terminal tax, plus tax credits giving rise to imputation credits, minus refundable tax credits giving rise to imputation debits, for tax years in the period beginning with the earliest credit year and ending with the tax year corresponding to the reinstatement year: 30
 - (ii) earlier payments of R&D repayment tax relating to R&D loss tax credits for the tax year corresponding to the reinstatement year or for an earlier tax year: 35
 - (b) the amount calculated using the formula—

shares’ market value × basic tax rate for a company.

	<i>Definition of item in formula</i>	
(3C)	<u>In the formula, shares' market value is the market value of the company's voting interests or market value interests disposed of or transferred in the income year.</u>	
	<i>R&D repayment tax: eligibility and liquidation</i>	5
(4)	If subsection (1)(a)(ii) to (iv) or (b) apply, the company is liable for an amount of R&D repayment tax equal to the total of the company's tax credits for R&D tax losses for income years before or including the reinstatement year minus the total amount of—	
	(a) income tax paid by the company for income years later than the earliest income year to which the tax credits relate and before or including the reinstatement year:	10
	(b) earlier payments of R&D repayment tax relating to the tax credits and for income years before or including the reinstatement year.	
	<i>R&D repayment tax: eligibility loss or liquidation</i>	15
(4)	<u>If subsection (1)(a)(ii) or (iii) applies, the company is liable for an amount of R&D repayment tax equal to the total of the company's R&D loss tax credits for the tax year corresponding to the reinstatement year and earlier tax years minus the total amount of—</u>	
	<u>(a) the company's terminal tax, plus tax credits giving rise to imputation credits, minus refundable tax credits giving rise to imputation debits, for tax years in the period beginning with the earliest credit year and ending with the tax year corresponding to the reinstatement year:</u>	20
	<u>(b) earlier payments of R&D repayment tax relating to R&D loss tax credits for the tax year corresponding to the reinstatement year or for an earlier tax year.</u>	25
	<i>Reinstatement of R&D tax losses</i>	
(5)	The company <u>hasis allowed</u> a deduction under section DV 26 (Deduction for reinstatement of R&D tax losses) of an amount equal to the R&D repayment tax divided by 0.28the basic tax rate for a company.	30
	<i>Related provisions in Tax Administration Act 1994</i>	
(6)	Sections 70C and 97C of the Tax Administration Act 1994 apply for R&D repayment tax.	
	<i>Some definitions</i>	
(7)	In this section,—	35
	continuity period means a period that starts on the first day of the first income year for which the company has tax credits for R&D tax losses and ends on the last day of an income year in which, for the company, holdings of voting interests or market value interests change	

~~minimum market value interest~~ means the lowest market value interest that a person has in the company for the continuity period

~~minimum voting interest~~ means the lowest voting interest that a person has in the company for the continuity period.

Defined in this Act: ~~amalgamated company, amalgamation, assessable income, basic tax rate, company, continuity period, core technology, deduction, imputation credit, imputation debit, income tax, income year, intellectual property, know-how, liquidation, market value, market value circumstance, market value interest, minimum market value interest, minimum voting interest, R&D loss tax credit, R&D repayment tax, tax credits for R&D tax losses, refundable tax credit, tax credit, terminal tax, voting interest~~

(2) **Subsection (1)** applies for income years beginning on or after 1 April 2015.

193 Section OB 1 amended (General rules for companies with imputation credit accounts)

(1) Replace section OB 1(2)(a)(ii) with:

(ii) is acting in the capacity of trustee, other than a trustee of a group investment fund described in paragraph (c) of the definition of **company** in section YA 1 (Definitions); or

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

194 New section OB 47B inserted (Tax paid by recipients of R&D loss tax credits for R&D tax losses)

(1) After section OB 47, insert:

OB 47B Tax paid by recipients of R&D loss tax credits for R&D tax losses

When this section applies

(1A) This section applies for an ICA company and a tax year (the **current year**) when the company has an R&D loss tax credit under **section MX 4** (R&D loss tax credits) for the current year, or an earlier tax year, that does not give rise to R&D repayment tax under section MX 6 (Reinstatement of R&D tax losses and R&D repayment tax) before or in the income year corresponding to the current year.

Debit

(1) An ICA company having a tax credit under **section MX 4** (Tax credit for R&D tax losses) for a tax year (the **current year**) has an imputation debit for the current year equal to the lesser of the following:

(a) the imputation credit that the company has for the current year under section OB 4; and

(b) the total amount of the company's tax credits for R&D tax losses, for the period that begins with the earliest income year to which the tax credits relate and ends with the current year, minus the total amount of imputation debits under this section for tax years that are in that period and end before the current year.

(1) The ICA company has an imputation debit for the current year equal to the lesser of the following:

- (a) the imputation credit that the company has for the current year under section OB 4;
- (b) the total amount of the company’s R&D loss tax credits, for the period that begins with the earliest tax year to which the tax credits relate and ends with the current year, minus the total amount of imputation debits under this section for tax years that are in that period and end before the current year.

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Table reference

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(2) The imputation debit in **subsection (1)** is referred to in **table O2: imputation debits, row 20B** (recipients of R&D loss tax credits for R&D tax losses).

Debit date

(3) The debit date is the last day of the ~~tax~~current year.

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Defined in this Act: amount, ICA company, imputation credit, imputation debit, ~~tax credit for R&D tax losses~~R&D loss tax credit, tax year

(2) **Subsection (1)** applies for income years beginning on or after 1 April 2015.

195 Table O2 amended (Imputation debits)

(1) In table O2, after row 20, insert:

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20B	Recipients of tax credits for R&D tax losses Recipient of R&D loss tax credits	31 March	section OB 47B
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(2) **Subsection (1)** applies for income years beginning on or after 1 April 2015.

196 Section OP 27 amended (Consolidated ICA payment of schedular income tax)

(1) In section OP 27, heading, replace “**schedular income tax**” with “**schedular income tax liability**”.

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(2) In section OP 27(1), replace “schedular income tax” with “schedular income tax liability”.

(3) In section OP 27(2), replace “schedular income tax” with “schedular income tax liability”.

(4) In section OP 27(3), replace “schedular income tax” with “schedular income tax liability”.

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(5) In section OP 27, list of defined terms,—

- (a) delete “schedular income tax”;
- (b) insert “schedular income tax liability”.

- (6) **Subsections (2), (3), and (4)** apply for the 2008–09 and later income years.
- 197 Section OP 50 amended (Consolidated ICA refund of schedular income tax)** 5
- (1) In section OP 50, heading, replace “of schedular income tax” with “relating to schedular income tax liability”.
- (2) In section OP 50(1), replace “of schedular income tax” with “relating to a schedular income tax liability”.
- (3) ~~In section OP 50(2), replace “schedular income tax” with “schedular income tax liability” in each place where it appears.~~
- (3) In section OP 50(2),— 10
- (a) replace “refund of schedular income tax” with “refund relating to schedular income tax liability”:
- (b) replace “payment of schedular income tax” with “payment of schedular income tax liability”.
- (4) In section OP 50, list of defined terms,— 15
- (a) delete “schedular income tax”:
- (b) insert “schedular income tax liability”.
- (5) **Subsections (2) and (3)** apply for the 2008–09 and later income years.
- 198 Table O19 amended (Imputation credits of consolidated imputation groups)** 20
- (1) In table O19, row 22, second column, replace “Schedular income tax” with “Schedular income tax liability”.
- (2) **Subsection (1)** applies for the 2008–09 and later income years.
- 198B Table O20 amended (Imputation debits of consolidated imputation groups)** 25
- (1) In table O20, row 24, second column, replace “of schedular income tax to” with “relating to schedular income tax liability of”.
- (2) **Subsection (1)** applies for the 2008–09 and later income years.
- 199 Section RC 7 amended (Estimation method)**
- (1) Replace section RC 7(3), other than the heading, with: 30
- (3) On or before an instalment date, the person may choose to revise an estimate made under subsection (2). The amount last estimated is the amount taken into account under section RC 5(5).
- (2) **Subsection (1)** applies for the 2008–09 and later income years.
- 200 Section RC 17 amended (When GST ratio must not be used)** 35
- (1) After section RC 17(1)(b), insert:

- (bb) their residual income tax, as disclosed in a return of income filed in the tax year, means they no longer meet the requirements of section RC 16(2); or
- (2) In section RC 17, list of defined terms, insert “residual income tax” and “return of income”. 5
- (3) **Subsection (1)** applies for the 2016–17 and later income years.
- 201 Section RC 18 amended (Changing calculation method)**
- (1) After section RC 18(3)(b), insert:
- (bb) the date the person’s return of income referred to in section RC 17(1)(bb) is received by the Commissioner; or 10
- (2) In section RC 18(4), after “instalment A,”, insert “and section RC 3(3) does not apply.”
- (3) In section RC 18(5), after “instalment date,”, insert “and section RC 3(3) does not apply.”
- (4) In section RC 18(6), after “subsection (4) or (5),”, insert “and the change is not required by section RC 17(1)(bb),”. 15
- (5) In section RC 18, list of defined terms, insert “return of income”.
- (6) **Subsections (1), (2), (3), and (4)** apply for the 2016–17 and later income years.
- 202 Section RD 27 amended (Determining fringe benefit values)** 20
- (1) Replace section RD 27(3), other than the heading, with:
- (3) In subsection (2), **market value** means the price normally paid, at the time when the fringe benefit is received by the employee, for the fringe benefit in a sale—
- (a) in the open market; and 25
- (b) freely offered; and
- (c) made on ordinary trade terms; and
- (d) to a member of the public at arm’s length.
- (2) **Subsection (1)** applies for the 2008–09 and later income years.
- 203 Section RD 35 amended (Employment-related loans: value using market interest rates)** 30
- (1) Replace section RD 35(1), other than the heading, with:
- (1) An employer may choose to value a benefit provided to their employee in an employment-related loan using the market interest on the loan if—
- (a) the employer is in the business of lending money to the public: 35
- (b) the employer is in a group of companies that has a member which is in the business of lending money to the public.

- (2) After section RD 35(4), insert:
- Effectiveness of election in some cases*
- (4B) Despite subsections (3) and (4), the method chosen by an employer described in **subsection (1)(b)** takes effect for the first quarter beginning after the Commissioner receives the election, if the employer— 5
- (a) is not in the business of lending money; and
 - (b) does not pay FBT on an income year basis under section RD 60; and
 - (c) does not pay FBT on an annual basis under section RD 61; and
 - (d) notifies the Commissioner of the proposed change before 1 April 2016.
- Minimum period of use for method in some cases* 10
- (4C) Despite subsections (3) and (4), if **subsection (4B)** applies to the employer’s chosen method, the employer must use the method for a period beginning with the start of the first quarter to which the election applies under **subsection (4B)** and ending with or after the finish of the tax year after the tax year that ~~includes the first quarter~~ with the finish of the income year following the ~~income year that includes the start of the first quarter.~~ 15
- (3) In section RD 35, list of defined terms, insert “group of companies” and “year”.
- 204 Section RE 18B amended (Capital value increase under inflation-indexed instruments: RWT cap)** 20
- In section RE 18B(1), insert as a subsection heading, “*Calculation of amount of tax*”.
- 205 Section RF 2 amended (Non-resident passive income)**
- In section RF 2(8), replace “Sections 50, 55, 100,” with “Section 100”.
- 206 Section RM 10 amended (Using refund to satisfy tax liability)** 25
- In section RM 10(4), replace “under social policy schemes” with “for social policy and other initiatives”.
- 207 Section RP 17 amended (Tax pooling intermediaries)**
- Replace section RP 17(1), other than the heading, with:
- (1) A person (**person A**) may ask a person who maintains a tax pooling account to act as a tax pooling intermediary between person A and the Commissioner in using funds in the tax pooling account to meet an obligation of person A to pay— 30
- (a) provisional tax:
 - (b) terminal tax: 35
 - (c) an increased amount of tax described in section RP 17B(3):

- (d) interest under Part 7 of the Tax Administration Act 1994 on an increased amount of tax described in section RP 17B(3).

208 Section RP 17B amended (Tax pooling accounts and their use)

- (1) Replace section RP 17B(2), other than the heading, with:
- (2) An amount held in a tax pooling account on behalf of a person may be refunded, transferred, sold, or used to satisfy a person’s liability for— 5
- (a) provisional tax:
- (b) terminal tax:
- (c) an increased amount of tax described in subsection (3):
- (d) interest under Part 7 of the Tax Administration Act 1994 on an increased amount of tax described in subsection (3). 10
- (1B) After section RP 17B(3)(b), insert:
- (bb) includes an amount of tax (the **agreed delay tax**) for which the person has initiated a dispute under Part 4A of the Tax Administration Act 1994, if— 15
- (i) the facts and questions of law in the dispute closely resemble the facts and questions of law for an assessment that is at the time the subject of proceedings in a court or Taxation Review Authority; and
- (ii) the Commissioner and the person have agreed that the dispute will be determined by the final outcome of the proceedings; and 20
- (iii) the Commissioner and the person enter the agreement on or after the date on which the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act **2015** receives the Royal assent: 25
- (2) In section RP 17B(5), replace the heading with “*Transfer within 60 days for increased amounts and use of money interest*”.
- (3) In section RP 17B(5), replace “subsection (3)(a) to (ac)” with “subsection (3)(a) to (ac), or for interest under Part 7 of the Tax Administration Act 1994 on the increased amount of tax”. 30
- (4) In section RP 17B(6), replace the heading with “*Transfer within 60 days for deferrable tax, agreed delay tax, and use of money interest*”.
- (5) In section RP 17B(6), replace “subsection (3)(b)” with “subsection (3)(b), for agreed delay tax referred to in **subsection (3)(bb)**, or for interest under Part 7 of the Tax Administration Act 1994 on ~~the deferrable tax or agreed delay tax~~”. 35
- (6) Replace section RP 17B(7)(c) with:
- (c) for a transfer under subsection (5), the total of—
- (i) the increased amount of tax payable:

- (ii) interest payable under Part 7 of the Tax Administration Act 1994 on the increased amount of tax:
- (7) Replace section RP 17B(7)(d) with:
- (d) for a transfer under subsection (6), the total of—
- (i) the amount of deferrable tax or agreed delay tax payable: 5
- (ii) interest payable under Part 7 of the Tax Administration Act 1994 on the amount of deferrable tax or agreed delay tax.
- (8) Replace section RP 17B(10), other than the heading, with:
- (10) On application by the person, the Commissioner may agree in writing that the person may use funds in a tax pooling account for the increased amount of tax, or for interest under Part 7 of the Tax Administration Act 1994 on that increased amount of tax, if the Commissioner is satisfied that— 10
- (a) the increased amount of tax arises as a result of an event or circumstance beyond the person’s control; and
- (b) the person has a reasonable justification or excuse for not filing the return by the required date; and 15
- (c) the person has an otherwise good compliance history for the 2 income years before the income year in which the voluntary disclosure referred to in subsection (3)(ab)(ii) is made.
- 209 Section RP 19 amended (Transfers from tax pooling accounts) 20**
- In section RP 19(1B), before paragraph (a), replace “person” with “person for provisional tax or terminal tax”.
- 210 Section RP 19B amended (Transfers for certain expected tax liabilities)**
- Replace section RP 19B(5), other than the heading, with:
- (5) If an overpayment arises as a result of a transfer under this section, the amount of the overpayment is treated as follows: 25
- (a) first, the amount is transferred to meet a liability of the person for—
- (i) provisional tax and terminal tax referred to in section RP 17B(4)(a) or (b):
- (ii) an amount referred to in section RP 17B(5) consisting of an increased amount of tax and interest payable under Part 7 of the Tax Administration Act 1994 on the increased amount of tax: 30
- (iii) an amount referred to in section RP 17B(6) consisting of deferrable tax, or agreed delay tax, and interest payable under Part 7 of the Tax Administration Act 1994 on the deferrable tax or agreed delay tax: 35
- (b) secondly, the amount is transferred with an effective date that is no earlier than the date on which the Commissioner received the later request:

(c) thirdly, the amount is refunded to the person.

211 New cross-heading inserted (Refunds for life insurers)

After section RZ 10, insert, as a cross-heading, “*Refunds for life insurers*”.

212 New cross-heading (Tax pooling intermediaries) and section RZ 12 inserted (Adjustments to interest in requests made after commencement)

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After section RZ 11, insert:

Tax pooling intermediaries

RZ 12 Adjustments to interest in requests made after commencement

When this section applies

- (1) This section applies ~~to~~ when a tax pooling intermediary makes a request (the **original request**) made to the Commissioner for a person by a tax pooling intermediary under section RP 17B(5) or (6) (Tax pooling accounts and their use) after 2 July 2014 and before the date on which the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Act **2015** receives the Royal assent. 10
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Amendment request

- (2) The tax pooling intermediary, if authorised by the person, may make a request (the **amendment request**) to the Commissioner for the original request to be amended by adjusting the amount included to pay interest under Part 7 of the Tax Administration Act 1994. 20

Permitted changes

- (3) The amendments to the original request are limited to changes in—
(a) the details required by section RP 19(4)(a) (Transfers from tax pooling accounts);
(b) the details required by section RP 19(4)(b). 25

Maximum amount unchanged

- (4) The original request as amended must not request the transfer of an amount exceeding the maximum amount specified in section RP 17B(7).

Time limit for amendment request

- (5) The amendment request must be received by the Commissioner within 60 days from the date on which the Commissioner notifies the person of the amount of interest payable under Part 7 of the Tax Administration Act 1994. 30

Timing of effect

- (6) The original request as amended is treated as being made on the date on which the original request was made. 35

Defined in this Act: Commissioner, interest, tax pooling intermediary

213 Section YA 1 amended (Definitions)

- (1) This section amends section YA 1.
- (2) In the definition of **acquire**,—
 - (a) replace paragraph (b) with:
 - (b) be granted, for a patent, design registration, or plant variety rights: 5
 - ~~(bb) apply an artistic work industrially, as provided by section 75 of the Copyright Act 1994, for the copyright in the artistic work to which that section applies:~~
 - (bb) apply an artistic work industrially, as provided by section 75 of the Copyright Act 1994, for industrial artistic copyright: 10
 - (b) in paragraph (c), replace “patent application” with “patent application, design registration application,”.
- (3) Repeal the definition of **attributed repatriation**.
- (4) Repeal the definition of **conduit company**.
- (5) ~~In the definition of **continuity period**, after paragraph (b), insert:~~ 15
 - ~~(e) is defined in **section MX 6(7)** (Reinstatement of R&D tax losses and R&D repayment tax) for the purposes of that section~~
- (6) In the definition of **continuity provisions**, after paragraph (f), insert:
 - (fb) section MX 6** (Reinstatement of R&D tax losses and R&D repayment tax); and 20
- (7) Insert, in appropriate alphabetical order:

contractor R&D consideration is defined in **section MX 3(4)** (Wage intensity criteria)
- (8) Insert, in appropriate alphabetical order:

core technology means technology which is used as a basis for research or development 25
- (9) Insert, in appropriate alphabetical order:

design registration means a registration of a design under the Designs Act 1953, and includes a similar registration and protection of a design under the laws of a country or territory other than New Zealand 30
- (10) Insert, in appropriate alphabetical order:

design registration application means an application for a design registration
- (11) In the definition of **development**, replace “and section DB 34 (Research or development)” with “, section DB 34, and **subpart MX** (which relate to research and development)” 35
- (12) In the definition of **dispose**, after paragraph (f)(i), insert:

- (ib) for a design registration application, conclude the design registration application because a design registration is granted in relation to the design registration application:
- (13) In the definition of **distant workplace**, delete “the definition of **distant workplace**,”. 5
- (14) In the definition of **distinctive work clothing**, replace “that section” with “that section and section CW 17CC (Payments for distinctive work clothing)”.
- (15) Repeal the definition of **emergency event**.
- (16) In the definition of **employee**, paragraph (b), replace “CW 17 and CW 17B to CW 18B” with “CW 17, CW 17B, CW 17C, CW 17CB, CW 17CC, and CW 18”. 10
- (17) In the definition of **employee**, paragraph (c)(i), replace “(6)(b) and (c)” with “(6)(b), (bb), (bc), and (c)”.
- (18) In the definition of **employer**, paragraph (c)(i), replace “(6)(b) and (c)” with “(6)(b), (bb), (bc), and (c)”. 15
- (19) Insert, in appropriate alphabetical order:
fair dividend rate annual method means the method of calculating FIF income or loss under section EX 52 (Fair dividend rate annual method)
- (20) Replace the definition of **fair dividend rate method** with:
fair dividend rate method means the method of calculating FIF income or loss under— 20
(a) section EX 52 (Fair dividend rate annual method); or
(b) section EX 53 (Fair dividend rate periodic method)
- (21) Insert, in appropriate alphabetical order:
fair dividend rate periodic method means the method of calculating FIF income or loss under section EX 53 (Fair dividend rate periodic method) 25
- (22) In the definition of **FIF superannuation interest**, before paragraph (a), replace “foreign superannuation scheme” with “foreign superannuation scheme, other than a scheme referred to in **section EX 33** (Exemption for Australian regulated superannuation savings),”. 30
- (23) In the definition of **FIF superannuation interest**, paragraph (a), before subparagraph (i), replace “when a resident of New Zealand” with “when being a resident of New Zealand and treated under all double tax agreements as resident in New Zealand,”. 30
- (23) Replace the definition of **FIF superannuation interest** with: 35
FIF superannuation interest means, for a person and an income year (the **current year**), the rights in a foreign superannuation scheme held by the person as a beneficiary or member that the person acquires under an arrangement with the foreign superannuation scheme, if—

- (a) the person enters the arrangement—
- (i) when the person is a resident of New Zealand and is treated under no double tax agreement as being resident in a foreign country or territory; and
- (ii) other than by a transaction described in section CF 3(21)(b) or (d) (Withdrawals from foreign superannuation scheme) and from a person who acquired the rights when being a non-resident or treated under a double tax agreement as being resident in a foreign country or territory; or 5
- (b) the person enters the arrangement when the person is a non-resident, or is treated under a double tax agreement as being resident in a foreign country or territory, and— 10
- (i) the rights held by the person in an income year (the **qualifying year**) ending before 1 April 2014 are an attributing interest and are treated by the person as an attributing interest in a return of income for the qualifying year filed before 20 May 2013; and 15
- (ii) the rights held by the person for the period (the **qualifying period**) from the end of the qualifying year to the beginning of the current year are treated by the person as an attributing interest in returns of income for the income years in the qualifying period 20
- (24) ~~In the definition of **FIF superannuation interest**, paragraph (a)(i), replace “when a non-resident” with “when being a non-resident or treated under a double tax agreement as not resident in New Zealand,”.~~
- (25) ~~In the definition of **FIF superannuation interest**, paragraph (a)(ii), replace “section CF 3(21)(d)” with “section CF 3(21)(b) or (d) (Withdrawals from foreign superannuation scheme)”.~~ 25
- (26) ~~In the definition of **FIF superannuation interest**, paragraph (b), before subparagraph (i), replace “when a non-resident” with “when being a non-resident or treated under a double tax agreement as not being resident in New Zealand,”.~~ 30
- (27) In the definition of **goods**,—
- (a) replace “in sections” with “in **subpart MX** (Tax credits for R&D tax losses), sections”; and
- (b) replace “in the definition” with “in the definitions of **R&D expenditure, R&D material**, and”. 35
- (28) Replace the definition of **group of companies** with:
- group of companies—**
- (a) is defined in section IC 3 (Common ownership: group of companies):
- (b) for the purposes of **subpart MX** (Tax credits for R&D tax losses), includes 2 or more entities that would meet the requirements of the defin- 40

- ition in section IC 3 if look-through companies and limited partnerships were treated as companies
- (29) Insert, in appropriate alphabetical order:
- indirect attributing interest**, for a person with an income interest in a FIF, means the income interest that the person has in a foreign companysecond FIF if—
- (a) the FIF has an income interest in the foreign companysecond FIF; and
- (b) the income interest in the foreign companysecond FIF would be an attributing interest for the person if the person held the income interest directly
- (29B) Insert, in appropriate alphabetical order:
- industrial artistic copyright** means the copyright in an artistic work, if—
- (a) the artistic work has been applied industrially, as provided by section 75 of the Copyright Act 1994; and
- (b) section 75 of the Copyright Act 1994 provides for a special exception from copyright protection for the copyright in the artistic work; and
- (c) the relevant period for the special exception, in section 75(1)(c) to (e) of the Copyright Act 1994, has not started
- (30) In the definition of **insurance**, paragraph (b), replace “section YD 8(4)(a)” with “section YD 8(4)”.
- (31) Insert, in appropriate alphabetical order:
- intellectual property** includes—
- (a) anything that results from research or development (for example, ~~proto-~~typesa prototype):
- (b) rights related to intellectual property (for example, a right to distribute an item for which there is a patent):
- (c) intellectual property of a category that is set out in Part 4~~2~~ of the *Agreement on Trade-Related Aspects of Intellectual Property Rights*, also known as the *TRIPS Agreement*
- (32) In the definition of **international tax rules**, paragraph (a), repeal subparagraphs (i), (ii), and (iv).
- (33) Insert, in appropriate alphabetical order:
- know-how** includes trade secrets, confidential information, and information with commercial value
- (33B) Insert, in appropriate alphabetical order:
- main income equalisation deposit**, in subpart MB (Adjustment of net income for family scheme), means a payment under section EH 4 (Main deposit) made to the Commissioner on or after 1 April 2011 for which a deduction is allowed under section DQ 1 (Main income equalisation scheme)

- (33C) Insert, in appropriate alphabetical order:
- main income equalisation refund**, in subpart MB (Adjustment of net income for family scheme), means a refund under sections EH 8 to EH 26 (which relate to refunds from main income equalisation accounts), to the extent to which the refund—
- (a) relates to a deposit made on or after 1 April 2011; and
- (b) is not interest payable under section EH 6 (Interest on deposits in main income equalisation account)
- (34) Insert, in appropriate alphabetical order:
- mineral miner** is defined in section CU 6 (Meaning of mineral miner)
- (35) In the definition of ~~minimum market value interest~~, after paragraph (b), insert:
- (e) is defined in ~~section MX 6(6)~~ (Reinstatement of R&D tax losses and R&D repayment tax) for the purposes of that section
- (36) In the definition of ~~minimum voting interest~~, after paragraph (b), insert:
- (e) is defined in ~~section MX 6(6)~~ (Reinstatement of R&D tax losses and R&D repayment tax) for the purposes of that section
- (37) Replace the definition of **minister of religion** with:
- minister of religion** is defined in **section CZ 33(8)** (Transitional exception for accommodation provided to ministers of religion) for the purposes of that section
- (38) Replace the definition of **minister of religion** with:
- minister of religion** is defined in—
- (a) section CE 1E(6) (Exception: accommodation provided to ministers of religion) for the purposes of that section:
- (b) **section CZ 33(8)** (Transitional exception for accommodation provided to ministers of religion) for the purposes of that section
- (39) In the definition of **net loss**, replace “section 177C(5)” with “**section MX 5** (Cancellation of R&D tax losses) and section 177C(5)”.
- (40) Repeal the definition of **new start grant**.
- (41) Repeal the definition of **New Zealand repatriation amount**.
- (42) In the definition of **non-filing taxpayer**, paragraph (a), before subparagraph (i), replace “section 33A(1)” with “section 33A(1) or (1B)”.
- (43) In the definition of **non-filing taxpayer**, paragraph (a), before subparagraph (i), replace “section 33AA(1)” with “section 33AA(1) or 33D”.
- (44) In the definition of **non-IFRS designated FX hedge**, paragraph (c), replace “(2E)” with “(2E) (Consideration for agreement for sale and purchase (ASAP))”.

- of property or services, hire purchase agreement, specified option, or finance lease)”).
- (45) In the definition of **old reporting standard**, replace “section DB 34 (Research or development)” with “section DB 34 and **subpart MX** (which relate to research and development)”. 5
- (46) In the definition of **out-of-town secondment**, replace “and CZ 29” with “CZ 29, and CZ 30”.
- (47) In the definition of **period of continuous work**, replace “and CZ 29” with “CZ 29, and CZ 30”.
- (48) In the definition of **permit area**, paragraph (b), replace “section 106” with “section 2(1)”. 10
- (49) In the definition of **petroleum exploration expenditure**, paragraph (a)(iii), after “existing privilege”, insert “that is a prospecting licence granted under Part 1 of the Petroleum Act 1937”.
- (50) Replace the definition of **petroleum permit** with: 15
- petroleum permit** means—
- (a) an exploration permit for petroleum:
 - (b) a prospecting permit for petroleum:
 - (c) a petroleum mining permit:
 - (d) an existing privilege that is a prospecting licence or mining licence granted under Part 1 of the Petroleum Act 1937 20
- (51) In the definition of **prescribed investor rate**, replace “table 1” with “tables 1 and 1B”.
- (52) In the definition of **project of limited duration**, replace “and CZ 29” with “, CZ 29, and CZ 30”. 25
- (53) ~~In the definition of **property**, after paragraph (a), insert:~~
- ~~(ab) in subpart FB (Transfers of relationship property), is defined in **section FB 1B(b)** (Meaning of settlement of relationship property and property):~~
 - ~~(ac) in subpart FC (Distribution, transmission, and gifts of property), is defined in section FC 1(2) (Disposals to which this subpart applies):~~ 30
- (54) In the definition of **property**, replace paragraphs (ab) and (ac) with:
- (ab) in subpart FB (Transfers of relationship property), is defined in **section FB 1B(b)** (Meaning of settlement of relationship property and property):
 - (ac) in subpart FC (Distribution, transmission, and gifts of property), is defined in section FC 1(2) (Disposals to which this subpart applies): 35
- (55) In the definition of **public unit trust**,—
- (a) in paragraph (a), delete “in respect of which regulated offers are made under the Financial Markets Conduct Act 2013 and”; and

- (b) replace paragraphs (b)(vi) and (vii) with:
- (vi) a person with an interest of 5% or less in the unit trust, treating all associated persons as 1 person:
 - (vii) a person with an interest of 5% or more in the unit trust, treating all associated persons as 1 person, if their interest is 5% or more because of unusual or temporary circumstances, such as the recent establishment or forthcoming termination of the unit trust, and if the unit trust would meet the requirements of any of paragraphs (a), (c), (d), and (e); or
- (56) In the definition of **research**, replace “and section DB 34 (Research or development)” with “, section DB 34, and **subpart MX** (which relate to research and development)”.
- (57) Insert, in appropriate alphabetical order:
- ~~**R&D expenditure** means expenditure for goods and services to the extent to which they relate to research or development, but does not include—~~
- ~~(a) expenditure for goods and services to the extent to which they relate to an activity described in **schedule 22** (Proscribed R&D activities):~~
 - ~~(b) expenditure on goods and services used to provide a service of research or development to an external contractee, or used to further another person’s research or development activities:~~
 - ~~(c) expenditure that corresponds to a payment for which the person has made an election under section CX 47(4) (Government grants to businesses):~~
 - ~~(d) expenditure for which no deduction is available for the income year:~~
 - ~~(e) expenditure for or under a financial arrangement:~~
 - ~~(f) expenditure for the acquisition or transfer of intangible property, core technology, intellectual property, or know-how~~
- R&D expenditure**, for a person, means expenditure incurred by the person for goods and services to the extent to which the goods and services relate to research or development and the intellectual property and know-how resulting from the research or development vests in the person, solely or jointly, but does not include—
- (a) expenditure for goods and services to the extent to which they relate to an activity described in **schedule 22** (Proscribed R&D activities):
 - (b) expenditure for goods and services used by the person to—
 - (i) provide a service of research or development to a person who is in the business of providing services of research or development:
 - (ii) further another person’s research or development activities:
 - (c) expenditure for which no deduction is available for the income year:

- (d) expenditure for or under a financial arrangement:
- (e) expenditure for the acquisition or transfer of intangible property, core technology, intellectual property, or know-how
- (57B) Insert, in appropriate alphabetical order:
- R&D group** means a group of entities that meets the requirements of **section MX 1(2)** (When this subpart applies) 5
- (57C) Insert, in appropriate alphabetical order:
- R&D loss tax credit** means a credit of tax under **subpart MX** (Tax credits for R&D tax losses)
- (58) Insert, in appropriate alphabetical order: 10
- ~~**R&D material** means goods or services to the extent to which they relate to providing a service of research or development, but does not include goods and services to the extent to which they—~~
- (a) ~~relate to activity described in **schedule 22** (Proscribed R&D activities):~~
- (b) ~~are used to provide a service of research or development to an external contractor~~ 15
- R&D material**, for a person, means goods or services provided to the person, to the extent to which the goods and services are provided to the person as part of a service of research or development and the intellectual property and know-how resulting from the research or development will vest in the person, solely or jointly, but does not include goods and services to the extent to which they— 20
- (a) relate to activity described in **schedule 22** (Proscribed R&D activities):
- (b) are used by the person to—
- (i) provide a service of research or development: 25
- (ii) further another person’s research or development activities
- (59) Insert, in appropriate alphabetical order:
- R&D repayment tax** means a tax liability payable under **section MX 6** (Reinstatement of R&D tax losses and R&D repayment tax)
- (60) In the definition of **right**, replace “agreement for sale and purchase” with “agreement for sale and purchase (ASAP)”. 30
- (61) In the definition of **services**,—
- (a) in paragraph (a), replace “EA 3 (Prepayments)” with “EA 3 (Prepayments), and **subpart MX** (Tax credits for R&D tax losses)”:
- (b) in paragraph (b), replace “and DB 2 (Goods and services tax)” with “, DB 2 (Goods and services tax), **subpart MX**, and in the definitions of R&D expenditure and R&D material”. 35

- (62) In the definition of ~~settlement of relationship property~~, replace “section FB 1(3) (What this subpart does)” with “**section FB 1B(a)** (Meaning of settlement of relationship property and property)”.
- (62) Insert, in appropriate alphabetical order:
settlement of relationship property is defined in **section FB 1B** (Meaning of settlement of relationship property) for the purposes of subpart FB (Transfers of relationship property) 5
- (62B) Insert, in appropriate alphabetical order:
settlement of relationship property is defined in **section FB 1B(a)** (Meaning of settlement of relationship property and property) for the purposes of subpart FB (Transfers of relationship property) 10
- (63) Insert, in appropriate alphabetical order:
shareholding is defined in—
 (a) section EX 52(15) (Fair dividend rate annual method) for the purposes of that section: 15
 (b) section EX 53(17) (Fair dividend rate periodic method) for the purposes of that section:
 (c) section EX 56(19) (Cost method) for the purposes of that section
- (64) Insert, in appropriate alphabetical order:
~~tax credit for R&D tax losses~~ means a credit of tax under ~~subpart MX~~ (Tax credits for R&D tax losses) 20
- (65) Replace the definition of **tax position** with:
tax position is defined in section 3(1) of the Tax Administration Act 1994
- (66) Insert, in appropriate alphabetical order:
tax situation means, for the purposes of sections HZ 4B and HZ 4D (which relate to the transition of a qualifying company into a partnership or sole tradership), a status, right, obligation, liability, asset, or other thing authorised or arising under, required or imposed by, or necessary to comply with an Inland Revenue Act, and debts payable to the Commissioner 25
- (67) Insert, in appropriate alphabetical order: 30
tertiary education institution means an institution that is—
 (a) established under Part 14 of the Education Act 1989 and has not been disestablished under that Act; and
 (b) not carried on for the private pecuniary profit of any individual
tertiary education subsidiary is defined in **section CW 55BA(2)** (Tertiary education institutions and subsidiaries) for the purposes of that section 35
- (68) Insert, in appropriate alphabetical order:

- time of the disposal**, for a disposal of a business or of part of a business, means the date on which the agreement for the disposal is settled by the exchange of the seller’s business or part of the business for the buyer’s consideration
- (69) Repeal the definition of **time of the sale**. 5
- (70) **Subsection (42)** applies for the 2008–09 and later income years.
- (71) **Subsection (43)** applies for income years beginning on or after 1 April 2016.
- (72) **Subsection (49)** applies for the 2008–09 and later income years. However, **subsection (49)** does not apply to a person in relation to a tax position taken by the person— 10
- (a) for an arrangement entered into before the date of introduction of the Taxation (Annual Rates 2015–16, Research and Development, and Remedial Matters) Bill; and
- (b) relying upon the definition of **petroleum exploration expenditure** as it was before the amendment made by **subsection (49)**. 15
- ~~(73) **Subsection (50)** applies for the 2008–09 and later income years. However, **subsection (50)** does not apply to a person to which the exception in **subsection (72)** applies in relation to a tax position and an arrangement, to the extent that **subsection (50)** would otherwise modify the effect of section DT 2 in relation to the person and the arrangement. 20~~
- (73) **Subsection (50)** applies for the 2008–09 and later income years except, for the purposes of applying section DT 2 (Arrangement for petroleum exploration expenditure and sale of property), for a person and for an arrangement—
- (a) to which the exception in **subsection (72)**, relating to the meaning of **petroleum exploration expenditure**, applies in relation to the person and a tax position; and 25
- (b) for which the Commissioner has not issued to the person a binding ruling that is consistent with the definition of **petroleum permit** in **subsection (50)**.
- ~~(74) **Subsections (53) and (62)** apply for the 2008–09 and later income years. 30~~
- ~~(74) **Subsection (62)** applies for the 2008–09 and later income years.~~
- ~~(74B) **Subsections (54) and (62B)** apply for income years beginning on or after 1 April 2011.~~
- (75) **Subsection (67)** applies for the 2008–09 and later income years.
- 214 **Section YC 10 amended (Shareholders holding less than 10% direct interests) 35**
- In section YC 10(1)(a), replace “applied.” with “applied; and”.

- 215 Schedule 6 amended (Prescribed rates: PIE investments and retirement scheme contributions)**
- (1) In schedule 6, table 1B, row 1, replace “double tax agreement” with “double tax agreement that provides a rate for withholding an amount of NRWT for dividends that is less than that provided by section RF 8(2)”. 5
- (2) In schedule 6, table 1B, row 3, replace “double tax agreement” with “double tax agreement that provides a rate for withholding an amount of NRWT for dividends that is less than that provided by section RF 8(2)”. 5
- (3) **Subsections (1) and (2)** apply for the 2012–13 and later income years, unless **subsection (4)** applies. 10
- (4) **Subsections (1) and (2)** do not apply for a dividend attributed to an investor by a PIE before the date of introduction for the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Bill, if the PIE takes, before that date, a tax position for the dividend relying on the table amended by this section as it was immediately before the amendments made by this section. 15
- 216 Schedule 14 amended (Depreciable intangible property)**
- (1) In schedule 14, after item 13, insert:
- | | |
|----|---|
| 14 | a design registration |
| 15 | a design registration application |
| 16 | the copyright in an artistic work to which section 75 of the Copyright Act 1994 applies, if the artistic work has been applied industrially, as provided by that section of that Act |
| 16 | <u>industrial artistic copyright</u> |
- (2) **Subsection (1)** applies for the 2015–16 and later income years.
- 217 New schedule 22 inserted (Proscribed R&D activities)** 20
- (1) After schedule 20, insert new **schedule 22** as provided in **schedule 1** of this Act.
- (2) **Subsection (1)** applies for the 2015–16 and later income years.
- 218 Schedule 32 amended (Recipients of charitable or other public benefit gifts)** 25
- (1) In schedule 32, insert, in appropriate alphabetical order, the item “ADC Incorporated (Aotearoa Development Cooperative)”.
- (2) In schedule 32, delete the item “Aotearoa Development Cooperative”.
- (3) In schedule 32, insert, in appropriate alphabetical order, the items “Adullam Humanitarian Aid Trust”, “Bicycles for Humanity, Auckland”, “Face Nepal Charitable Trust Board New Zealand”, “Hagar Humanitarian Aid Trust”, “Himalayan Trust”, “International Needs Humanitarian Aid Trust”, “Mercy Ships” 30

New Zealand”, “Orphans Aid International Charitable Trust”, “ShelterBox New Zealand Charitable Trust”, and “So They Can”.

- (4) **Subsection (3)** applies for the 2015–16 and later income years.

219 Amendments to certain sale-related terms and definitions

- (1) Amendments are made at the locations specified in **schedule 2**, column 1, as indicated in the corresponding rows in **schedule 2**, columns 2 and 3. 5
- (2) **Subsection (1)** applies for the 2015–16 and later income years.

220 Amendments to lists of defined terms

The amendments specified in **schedule 3**, column 2, are made to the lists of defined terms in the sections indicated in the corresponding rows in **schedule 3**, column 1. 10

Part 4

Amendments to other enactments

Amendments to Tax Administration Act 1994

- 221 Tax Administration Act 1994 amended** 15
- Sections 222 to 247** amend the Tax Administration Act 1994.

222 Section 3 amended (Interpretation)

- (1A) In section 3(1), replace the definition of **deferrable tax** with:
- deferrable tax**, for a person who is a taxpayer or disputant, means—
- (a) an amount of tax, assessed under a tax law as payable by the person, in relation to which the person makes a competent objection under Part 8 or that the person challenges under Part 8A: 20
- (b) goods and services tax, payable (as defined in section 20A(1) of the Goods and Services Act 1985) by the person on a due date, in relation to which the person makes a competent objection under Part 8 or that the person challenges under Part 8A: 25
- (c) an amount of tax assessed under a tax law as payable by the person and described in **section RP 17B(3)(bb)** of the Income Tax Act 2007
- (1) In section 3(1), repeal the definition of **IR5 taxpayer**.
- (2) In section 3(1), definition of **late payment penalty**, repeal paragraph (b)(i), (ii), and (iii). 30

223 Section 15E amended (Revocation of approval)

In section 15E(2), replace “subsection (1)(b)” with “subsection (1)”.

- 224 Section 24O repealed (Certain information required from agricultural, horticultural, or viticultural employers)**
- (1) Repeal section 24O.
 - (2) **Subsection (1)** applies for the 2008–09 and later income years.
- 225 Section 33AA amended (Exceptions to requirement for return of income) 5**
- (1) Replace new section 33AA(1)(a) with:
 - (a) derives no assessable income other than income meeting the requirements of **subsection (2)**; and
 - (2) In section 33AA(1)(c), replace “has total income of \$200 or less or derives no schedular payment other than” with “derives from schedular payments a total amount of \$200 or less, not including” 10
 - (3) Replace section 33AA(1)(d) with:
 - (d) derives no beneficiary income or has assessable income of \$200 or less; and
 - (4) After section 33AA(1)(n), insert: 15
 - (o) is not issued a family notice of entitlement for any part of the tax year; and
 - (p) is not living in a marriage, civil union, or de facto relationship, with a person who—
 - (i) is issued with a family notice of entitlement for any part of the tax year: 20
 - (ii) is paid by the chief executive of the administering department a family assistance credit for which the amount of family credit abatement under section MD 13 of the Income Tax Act 2007 is greater than zero. 25
 - (5) Replace section 33AA(2) with:
 - (2) A person’s assessable income meets the requirements of this subsection if the assessable income,—
 - (a) except for a total of \$200 or less, consists of—
 - (i) income from employment that is subject to the PAYE rules: 30
 - (ii) interest or a dividend that is subject to the RWT rules:
 - (iii) interest or a dividend that does not have a New Zealand source:
 - (iv) a taxable Maori authority distribution:
 - (v) a schedular payment; and
 - (b) includes a total of \$200 or less of amounts referred to in **subsection (3)**. 35

- (6) In section 33AA(3), before paragraph (a), replace “subsection (1)(a)(i)” with “**subsection (2)(b)**”.
- (7) Replace section 33AA(3)(a) with:
- (a) an amount of income for which the obligations under the PAYE rules of the person are not met: 5
- (8) Repeal section 33AA(4) to (6).
- (9) **Subsections (1), (2), (3), (4), (5), (6), (7), and (8)** apply for the 2016–17 and later tax years.
- 226 Section 33A amended (Annual returns of income not required)**
- (1) Replace section 33A(1)(a)(iiic) with: 10
- (iiic) a schedular payment; or
- (2) Replace section 33A(2)(d) with:
- (d) derives from schedular payments a total amount of more than \$200 that is not—
- (i) an amount or proportion of a schedular payment for which the Commissioner has made a determination under section RD 8(3) of the Income Tax Act 2007: 15
- (ii) income that is a personal service rehabilitation payment for a claimant under the Accident Compensation Act 2001; or
- (dba) derives assessable income of more than \$200 that includes beneficiary income; or 20
- 227 Section 41 amended (Annual returns by persons who receive family assistance credit)**
- Repeal section 41(4)(a).
- 228 ~~Section 68C repealed (Tax credit relating to KiwiSaver and complying superannuation fund members: member credit form)~~** 25
- ~~Repeal section 68C.~~
- 229 Sections 68D, 68E, and 68F repealed**
- Repeal sections 68D, 68E, and 68F.
- 230 New section 70C inserted (Statements in relation to R&D loss tax credits for ~~R&D tax losses~~ and R&D repayment tax)** 30
- After section 70B, insert:

70C Statements in relation to R&D loss tax credits for R&D tax losses and R&D repayment tax

- (1) A person must file by electronic means, in the form and electronic format prescribed by the Commissioner, a statement in relation to—
 - (a) R&D loss tax credits for R&D tax losses ofunder the Income Tax Act 2007 that they claim for a tax year: 5
 - (b) R&D repayment tax that they must pay for a tax year.
- (2) The statement described in **subsection (1)** must be filed with the Commissioner no later than the earliest of the following:
 - (a) the day ~~that is 14 days after~~on which the person files a return of income for the relevant tax year: 10
 - (b) ~~the day that is 14 days after~~the last day for filing a return of income for the relevant tax year under section 37.
- (3) ~~A person who must file the statement described in **subsection (1)** must file a return of income, for the relevant tax year, by electronic means.~~ 15
- (4) R&D repayment tax is due on the terminal tax date for the relevant tax year.

231 Section 80D amended (Commissioner must issue income statement)

In section 80D(1)(c)(iii), replace “who is required” with “who, because the person’s employer is not required to withhold an amount of tax for a PAYE income payment to the person, is required”. 20

232 Section 80KV replaced (Statement of family scheme income)

Replace section 80KV with:

80KV Statement of family scheme income

- (1) This section applies for a notice of entitlement ~~for a tax year~~that the Commissioner has given to a person for a tax year. 25
- (2) The person must, in the time within which the person is required to file the person’s return of income for the tax year, give the Commissioner a complete statement of the person’s family scheme income for the tax year.
- (3) The person must include in the statement described in **subsection (2)** the family scheme income of the person’s spouse, civil union partner, or de facto partner, as applicable, unless that other person gives a statement of their own family scheme income under **subsection (4)**. 30
- (4) The person’s spouse, civil union partner, or de facto partner, as applicable, may give a separate complete statement of their own family scheme income, in the time within which the person is required to file the person’s return of income. 35

232B Section 81 amended (Officers to maintain secrecy)

- (1) In section 81(4)(u), replace “section.” with “section:”.

- (2) After section 81(4)(u), insert:
- (v) communicating to an officer, employee, or agent of Callaghan Innovation, information for the purpose of administering **subpart MX** of the Income Tax Act 2007:
- (w) communicating to an officer, employee, or agent of the department that is, with the authority of the Prime Minister, for the time being responsible for the administration of the Research, Science, and Technology Act 2010, information for the purpose of administering **subpart MX** of the Income Tax Act 2007. 5
- 233 Section 81A amended (Disclosure of information under approved information sharing agreement)** 10
- In section 81A, replace—
- (a) “section 81” with “any other enactment in the Inland Revenue Acts”;
and
- (b) “this Act” with “an Inland Revenue Act”. 15
- 234 Section 89AB amended (Response periods)**
- (1) In section 89AB(2), after “issue of the notice”, insert “, unless section 89AC applies”.
- (2) In section 89AB(5), after “issue of the initiating notice”, insert “, unless section 89AC applies”. 20
- 235 New section 89AC inserted (Response period when initiating notice filed late)**
- After section 89AB, insert:
- 89AC Response period when initiating notice filed late**
- When the initiating notice is a notice of proposed adjustment referred to in section 89AB(2) or a statement of position referred to in section 89AB(5), and the disputant issues the initiating notice outside the applicable response period but the notice is treated as being issued within that period, the response period for the response to the initiating notice is a 2-month period beginning on the earlier of— 25
- (a) the day on which the Commissioner issues a notice in favour of the disputant in accordance with section 89K(1): 30
- (b) the day on which a challenge to the Commissioner’s refusal under section 89K(4) is finally judged successful by the Taxation Review Authority or by a court, or the day on which the Commissioner concedes. 35
- 236 Section 89M amended (Disclosure notices)**
- Replace section 89M(6BA) with:

- (6BA) The Commissioner must issue a statement of position, described in subsection (4), in response to the disputant’s statement of position, unless—
- (a) the Commissioner issued a statement of position when issuing a disclosure notice:
 - (b) ~~the disputant and the Commissioner have reached an agreement in writing in accordance with section 89N(1)(c)(viii).~~ 5
 - (b) on or before the date on which the Commissioner is required to issue the statement of position—
 - (i) section 89N(1)(c)(viii) applies:
 - (ii) any of section 89N(1)(c)(i) to (vi) and (ix) apply. 10
- 237 Section 92AAA repealed (Determination on cost of timber)**
- (1) Repeal section 92AAA.
 - (2) **Subsection (1)** applies for the 2015–16 and later income years.
- 238 New section 97C inserted (Assessment of R&D repayment tax)**
- After section 97B, insert: 15
- 97C Assessment of R&D repayment tax**
- (1) The Commissioner may, for a company chargeable with R&D repayment tax, make an assessment of R&D repayment tax that the Commissioner considers should be imposed on the company.
 - (2) The company is liable to pay the R&D repayment tax assessed except to the extent to which the company establishes in proceedings challenging the assessment that the assessment is excessive or that the company is not chargeable with the R&D repayment tax. 20
 - (3) Sections 109, 111, and 113 apply to an assessment made under this section as if— 25
 - (a) the references to **taxpayer** in those sections included a company chargeable with R&D repayment tax; and
 - (b) the references to **tax already assessed** in section 113 included an amount of R&D repayment tax already assessed under this section.
 - (4) An assessment made under this section is subject to challenge in the same manner as an assessment of income tax imposed under section BB 1 of the Income Tax Act 2007, and Part 7 of this Act applies accordingly. 30
- 239 Section 113C repealed (Amended assessments for attributed repatriation dividends)**
- Repeal section 113C. 35

- 240 Section 120B amended (Persons excluded)**
Repeal section 120B(aa).
- 241 Section 138G amended (Effect of disclosure notice)**
(1) In section 138G(1), replace “(2) applies”, with “**(1B)** or (2) apply”.
(2) After section 138G(1), insert: 5
- ~~(1B) Subsection (1) does not apply to limit the issues or the propositions of law that may be raised by the Commissioner if **section 89M(6BA)(b)** applies and the Commissioner has not issued a statement of position in response to the disputant’s statement of position.~~
- (1B) If the Commissioner did not issue a statement of position in response to the disputant’s statement of position on or before the required date, and did not issue a statement of position when issuing a disclosure notice, subsection (1) does not apply to limit the issues or propositions of law that may be raised by— 10
- (a) the Commissioner, if **section 89M(6BA)(b)(i)** applies;
(b) the Commissioner or the disputant, if **section 89M(6BA)(b)(ii)** applies. 15
- 242 Section 139AA amended (Non-electronic filing penalty)**
After section 139AA(1)(ab), insert:
(ac) a portfolio investor proxy; and
- 243 Section 139B amended (Late payment penalty)**
In section 139B(1), replace the words before paragraph (a) with “This section 20
applies to a taxpayer if and to the extent to which the taxpayer does not pay by the due date (the **default date**) an amount of tax (the **unpaid tax**), calculated by the taxpayer as payable or for which the taxpayer is assessed, and”.
- 244 Section 141A amended (Not taking reasonable care)**
Repeal section 141A(5). 25
- 245 Section 177D repealed (Relief to taxpayers to whom new start grants payable)**
Repeal section 177D.
- 246 Section 183ABA amended (Remission in circumstances of emergency event)** 30
In section 183ABA(1)(a) replace “emergency event” with “emergency event, declared in an Order in Council under this section,”.
- 247 Section 185 amended (Payment out of Crown Bank Account)**
(1) In section 185(1)(c), replace “this Act” with “this Act or the Income Tax Act 2007”. 35

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

Amendments to Goods and Services Tax Act 1985

248 Goods and Services Tax Act 1985 amended

Sections 249 to 254 amend the Goods and Services Tax Act 1985.

249 Section 2 amended (Interpretation)

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- (1) In section 2, insert, in appropriate alphabetical order:

~~**body corporate** has the same meaning as in the Unit Titles Act 1972~~

- (2) In section 2, replace the definition of **body corporate** with:

~~**body corporate** has the same meaning as in the Unit Titles Act 2010, but does not include a body corporate of a retirement village registered under the Retirement Villages Act 2003~~

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- (3) In section 2, insert, in appropriate alphabetical order:

common property has the same meaning as in the Unit Titles Act 2010

- (4) In section 2, insert, in appropriate alphabetical order:

unit title body corporate means a body corporate as defined in the Unit Titles Act 1972

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- (5) In section 2, replace the definition of **unit title body corporate** with:

unit title body corporate means a body corporate under the Unit Titles Act 2010, other than a body corporate of a retirement village registered under the Retirement Villages Act 2003

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250 Section 5 amended (Meaning of term supply)

- (1) Before section 5(8), insert:

(8A) ~~For the purposes of this Act, a levy or other amount paid by a body corporate's member to the body corporate is treated as being consideration received for services supplied by the body corporate to the member.~~

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(8A) For the purposes of this Act, a levy or other amount paid to a unit title body corporate by a member of the body corporate is treated as being consideration received for services supplied by the body corporate to the member.

- (2) After section 5(8A), insert:

(8AB) ~~For the purposes of this Act, the total value of a body corporate's funds on the day it becomes a registered person (the **registration day**) is treated as being consideration received for a service supplied by the body corporate in the course or furtherance of its taxable activity, and the supply of the service is treated as being performed on the registration day.~~

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(8AB) For the purposes of this Act, a unit title body corporate is treated as receiving, on the day when the body corporate becomes a registered person (the **registration day**), consideration for a service, supplied on the registration day by the

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- body corporate in the course of its taxable activity, equal in value to the total value held by the body corporate on the registration day of money and of assets that are not common property and were received by the body corporate as exempt supplies.
- (3) In section 5(11GA), replace “subsection (11G)(b)” with “subsection (11G)(a)”. 5
- 251 Section 10 amended (Value of supply of goods and services)**
- (1) In section 10(7A), replace “5(3) and 5(3B)” with “5(3) or 5(3B)”.
- (2) In section 10(7A), replace “value of the supply” with “value of the supply. A supply of common property by a unit title body corporate has a zero value”.
- 251B Section 21B amended (Adjustments when person or partnership becomes registered after acquiring goods and services)** 10
- In section 21B(1)(a), replace the words before subparagraph (i) with “before becoming a registered person, a person that is not a unit title body corporate acquires”.
- 251C Section 21HB amended (Transitional rules relating to treatment of dwellings)** 15
- Replace section 21HB(4) and (5) with:
- (4) A person may choose that a supply of accommodation in premises not be a taxable supply if the premises—
- (a) met the requirements of the definition of **dwelling** immediately before section 4(3) and (4) of the Taxation (GST and Remedial Matters) Act 2010 amended the definitions of **commercial dwelling** and **dwelling**; and 20
- (b) do not meet the requirements of the definition of **dwelling** because of the amendments referred to in **paragraph (a)**. 25
- (5) **Subsection (4)** does not apply if the value of the person’s supplies of accommodation in premises affected by the amendments exceeds the threshold value given by section 51(1)(a).
- 252 Section 48A repealed (Relief from tax where new start grant made)**
- Repeal section 48A. 30
- 253 Section 51 amended (Persons making supplies in course of taxable activity to be registered)**
- (1) After section 51(1), insert:
- (1B) For the purposes of determining under subsection (1) the liability of a unit title body corporate to be registered, the value of a supply of a service made by the body corporate to a member is not included in the total value of supplies made in New Zealand by the body corporate. 35

- (2) After section 51(5), insert:
- (5B) A unit title body corporate that is registered under this Act as a result of an application under subsection (3) made on a date (the **application date**) on or after the date of introduction of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Bill must be registered with effect from a date after the application date. 5

254 Section 52 amended (Cancellation of registration)

After section 52(7), insert:

- (8) ~~If a body corporate is a registered person on the date of introduction of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Bill and the registration is later cancelled after an application under subsection (2), the cancellation must take effect on or after the date on which the body corporate applies for cancellation of the registration.~~ 10
- (8) If a unit title body corporate is a registered person on the date of introduction of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Bill and the registration is later cancelled after an application under subsection (2), the cancellation must take effect on or after the date on which the unit title body corporate applies for cancellation of the registration. 15
- (9) ~~If a body corporate is registered under this Act with effect from a date (the **registration date**) after the date of introduction of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Bill and the registration is later cancelled after an application under subsection (2), the cancellation must take effect on or after the later of—~~ 20
- (a) ~~the date on which the body corporate applies for cancellation of the registration.~~ 25
- (b) ~~the day that is 4 years after the registration date.~~
- (9) If a unit title body corporate is registered under this Act with effect from a date (the **registration date**) after the date of introduction of the Taxation (Annual Rates for 2015–16, Research and Development, and Remedial Matters) Bill and the registration is later cancelled after an application under subsection (2), the cancellation must take effect on or after the later of— 30
- (a) the date on which the unit title body corporate applies for cancellation of the registration.
- (b) the day that is 4 years after the registration date. 35

Amendments to Income Tax Act 2004

255 Income Tax Act 2004 amended

Sections 256 to 258~~258B~~ amend the Income Tax Act 2004.

256 New section CF 4 inserted (Person deriving pension from foreign superannuation scheme and returning as income before 1 April 2014)

After section CF 3, insert:

CF 4 Person deriving pension from foreign superannuation scheme and returning as income before 1 April 2014

When this section applies

(1) This section applies when a person has, before 1 April 2014, an interest in a foreign superannuation scheme and—

(a) the interest would, in the absence of this provision, be an attributing interest; and

(b) on and after 1 April 2014 the interest is not an attributing interest; and

(c) the person—

(i) does not derive from the foreign superannuation scheme, in the period beginning with 1 January 2000 and ending before 1 April 2014, a payment that is a withdrawal:

(ii) derives payments, each of which is a pension, from the foreign superannuation scheme in the period beginning with 1 January 2000 and ending before 1 April 2014 and includes each payment in a return of income, for the income year of the payment, that is received by the Commissioner by the due date for the return of income.

No FIF income or FIF loss from interest

(2) The person is treated as having no FIF income or FIF loss from the interest for the period beginning with the start of the 2005–06 income year and ending with the finish of the 2007–08 income year.

Defined in this Act: attributing interest, Commissioner, FIF income, FIF loss, foreign superannuation scheme, income year, pension, return of income

257 Section DB 23 amended (Bad debts)

(1) Replace section DB 23(6)(b)(iii) with:

~~(iii) the general limitations still apply, except that subsection (3) overrides the capital limitation for a financial arrangement entered into in the ordinary course of business.~~

(iii) the general limitations still apply, except that subsection (3) overrides the capital limitation for a financial arrangement held as part of a business that includes dealing in or holding financial arrangements.

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

257B Section HH 4 amended (Trustee income)

(1) After section HH 4(7), insert:

(7B) In relation to any trust and a distribution, a trustee is treated as electing to satisfy the income tax liability (other than income tax payable in the capacity of agent) of the trustee, determined as if the trustee were a New Zealand resident and the trust had a settlor who is a New Zealand resident, if— 5

(a) the trust is a qualifying trust for the period beginning at the start of the income year in which a settlement is first made to, for the benefit of, or on the terms of, the trust and ending before the date on which the trust ceases to be a qualifying trust as described in **paragraph (b)**; and 10

(b) the trust ceases to be a qualifying trust because the trust does not meet the requirements in **paragraph (a)(i) and (ii)** of the definition of **qualifying trust**; and

(c) the trustee indicates that the trust is a qualifying trust in the return of income for each income year ending after the trust ceases to be a complying trust, as described in **paragraph (b)**, and before the distribution. 15

(7C) A trustee who is treated under **subsection (7B)** as choosing to satisfy an income tax liability has the income tax liability referred to in that subsection for the income years in the period beginning at the start of the income year in which the trust ceases to be a complying trust, as described in **subsection (7B)(b)**, and ending on the date of the distribution. 20

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

258 Section NG 1 amended (Application of NRWT rules)

In section NG 1(4)(b), replace “sections 50, 55, and 100, and Part 9” with “section 100 and Part 9”. 25

258B Section OB 1 amended (Definitions)

(1) In section OB 1, replace the definition of **qualifying trust** with:

qualifying trust, for a distribution and a time, means a trust—

(a) that is not a superannuation fund and, for the period starting with the tax year in which a settlement was first made to, for the benefit of, or on the terms of, the trust and ending with the tax year in which the distribution is made,— 30

(i) the tax obligations at the time, relating to the trustee’s income tax liability for each tax year, have been satisfied at the time; and

(ii) no trustee income derived before or at the time includes an amount of non-resident withholding income, or non-residents’ foreign-sourced income, or exempt income under section HH 4(3B) (Trustee income): 35

- (b) that is not a superannuation fund and, for the period starting with the tax year in which a settlement was first made to, for the benefit of, or on the terms of, the trust and ending with the tax year in which the distribution is made, at the time—
- (i) for each tax year, the trust has met the requirements of **paragraph (a)** or a person has made an election under **section HH 4(7B)**; and 5
- (ii) the tax obligations at the time, relating to the trustee’s income tax liability for each tax year, have been satisfied:
- (c) that is a superannuation fund 10
- (2) **Subsection (1)** applies for the 2005–06 and later income years.

Amendments to Income Tax Act 1994

259 Income Tax Act 1994 amended

Sections 260 and 261, 260B, 261, and 261B amend the Income Tax Act 1994. 15

260 New section CC 5 inserted (Person deriving pension from foreign superannuation scheme and returning as income before 1 April 2014)

After section CC 4, insert:

- CC 5 Person deriving pension from foreign superannuation scheme and returning as income before 1 April 2014** 20
- (1) This section applies when a person has, before 1 April 2014, an interest in a foreign superannuation scheme and—
- (a) the interest would, in the absence of this provision, be an attributing interest; and
- (b) on and after 1 April 2014, the interest is not an attributing interest; and 25
- (c) the person—
- (i) does not derive from the foreign superannuation scheme, in the period beginning with 1 January 2000 and ending before 1 April 2014, a payment that is a withdrawal:
- (ii) derives payments, each of which is a pension, from the foreign superannuation scheme in the period beginning with 1 January 2000 and ending before 1 April 2014 and includes each payment in a return of income, for the income year of the payment, that is received by the Commissioner by the due date for the return of income. 30
- (2) The person is treated as having no FIF income or FIF loss from the interest for the period beginning with 1 January 2000 and ending with the finish of the 2004–05 income year. 35

260B Section HH 4 amended (Trustee income)

(1) After section HH 4(7), insert:

(7B) In relation to any trust and a distribution, a trustee is treated as choosing to satisfy the income tax liability (other than income tax payable in the capacity of agent) of the trustee, determined as if the trustee were a New Zealand resident and the trust had a settlor who is a New Zealand resident, if— 5

(a) the trust is a qualifying trust for the period beginning at the start of the income year in which a settlement is first made to, for the benefit of, or on the terms of, the trust and ending before the date on which the trust ceases to be a qualifying trust as described in **paragraph (b)**; and 10

(b) the trust ceases to be a qualifying trust because the trust does not meet the requirements in **paragraph (a)(i) and (ii)** of the definition of **qualifying trust**; and

(c) the trustee indicates that the trust is a qualifying trust in the return of income for each income year ending after the trust ceases to be a complying trust, as described in **paragraph (b)**, and before the distribution. 15

(7C) A trustee who is treated under **subsection (7B)** as choosing to satisfy an income tax liability has the income tax liability referred to in that subsection for the income years in the period beginning with the income year in which the trust ceases to be a complying trust, as described in **subsection (7B)(b)**, and ending with the income year that includes the date of the distribution. 20

(2) After section HH 4(7), insert:

(7B) In relation to any trust and a distribution, a trustee is treated as choosing to satisfy the income tax liability (other than income tax payable in the capacity of agent) of the trustee, determined as if the trustee were a New Zealand resident and the trust had a settlor who is a New Zealand resident, if— 25

(a) the trust is a qualifying trust for the period beginning at the start of the income year in which a settlement is first made to, for the benefit of, or on the terms of, the trust and ending before the date on which the trust ceases to be a qualifying trust as described in **paragraph (b)**; and 30

(b) the trust ceases to be a qualifying trust because the trust does not meet the requirements in **paragraph (a)(i) and (ii)** of the definition of **qualifying trust**; and

(c) the trustee indicates that the trust is a qualifying trust in the return of income for each income year ending after the trust ceases to be a complying trust, as described in **paragraph (b)**, and before the distribution. 35

(7C) A trustee who is treated under **subsection (7B)** as choosing to satisfy an income tax liability has the income tax liability referred to in that subsection for the period beginning with the income year in which the trust ceases to be a complying trust, as described in **subsection (7B)(b)**, and ending with the income year that includes the date of the distribution. 40

- (3) **Subsection (1)** applies for the 1995–96 and later income years.
 (4) **Subsection (2)** applies for the 1997–98 and later income years.

261 Section NG 1 amended (Application of NRWT rules)

In section NG 1(4)(b), replace “sections 50, 55, and 100, and Part 9” with “section 100 and Part 9”.

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261B Section OB 1 amended (Definitions)

- (1) In section OB 1, replace the definition of **qualifying trust** with:

qualifying trust, for a distribution and a time, means a trust—

- (a) that is not a superannuation fund and, for the period starting with the tax year in which a settlement was first made to, for the benefit of, or on the terms of, the trust and ending with the tax year in which the distribution is made,— 10
- (i) the tax obligations at the time, relating to the trustee’s income tax liability for each tax year, have been satisfied at the time; and
- (ii) no trustee income derived before or at the time includes an amount of non-resident withholding income, or non-residents’ foreign-sourced income, or exempt income under section HH 4(3B): 15
- (b) that is not a superannuation fund and, for the period starting with the tax year in which a settlement was first made to, for the benefit of, or on the terms of, the trust and ending with the tax year in which the distribution is made, at the time— 20
- (i) for each tax year, the trust has met the requirements of **paragraph (a)** or a person has made an election under **section HH 4(7B)**; and
- (ii) the tax obligations at the time, relating to the trustee’s income tax liability for each tax year, have been satisfied: 25
- (c) that is a superannuation fund

- (2) In section OB 1, replace the definition of **qualifying trust** with:

qualifying trust, for a distribution and a time, means a trust—

- (a) that is not a superannuation fund and, for the period starting with the tax year in which a settlement was first made to, for the benefit of, or on the terms of, the trust and ending with the tax year in which the distribution is made,— 30
- (i) the tax obligations at the time, relating to the trustee’s income tax liability for each tax year, have been satisfied at the time; and 35
- (ii) no trustee income derived before or at the time includes an amount of non-resident withholding income, or non-residents’ foreign-sourced income, or exempt income under section HH 4(3B):

- (b) that is not a superannuation fund and, for the period starting with the tax year in which a settlement was first made to, for the benefit of, or on the terms of, the trust and ending with the tax year in which the distribution is made, at the time—
- (i) for each tax year, the trust has met the requirements of **paragraph (a)** or a person has made an election under **section HH 4(7B)**; and 5
- (ii) the tax obligations at the time, relating to the trustee’s income tax liability for each tax year, have been satisfied:
- (c) that is a superannuation fund 10
- (3) **Subsection (1)** applies for the 1995–96 and later income years.
- (4) **Subsection (2)** applies for the 1997–98 and later income years.

Amendments to Income Tax Act 1976

261C Income Tax Act 1976 amended

Sections 261D and 261E amend the Income Tax Act 1976. 15

261D Section 226 amended (Interpretation)

- (1) In section 226(1), replace the definition of **qualifying trust** with:
- qualifying trust**, for a distribution and a time, means a trust—
- (a) that is not a superannuation fund and, for the income years commencing with the income year in which a settlement was first made to, for the benefit of, or on the terms of, the trust until the income year in which the distribution is made,— 20
- (i) the tax obligations at the time, relating to the trustee’s income tax liability for each tax year, have been satisfied at the time; and
- (ii) no trustee income derived before or at the time includes an amount of non-resident withholding income: 25
- (b) that is not a superannuation fund and, for the period starting with the tax year in which a settlement was first made to, for the benefit of, or on the terms of, the trust and ending with the tax year in which the distribution is made, at the time— 30
- (i) for each tax year, the trust has met the requirements of **paragraph (a)** or a person has made an election under **section 228(8)**; and
- (ii) the tax obligations at the time, relating to the trustee’s income tax liability for each tax year, have been satisfied: 35
- (2) In section 226(1), definition of **qualifying trust**, after **paragraph (b)**, insert:
- (c) that is a superannuation fund:

- (3) **Subsection (1)** applies for the income year commencing 1 April 1988 and later income years.
- (4) **Subsection (2)** applies for the income year commencing 1 April 1990 and later income years.

261E Section 228 amended (Trustee income)

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- (1) After section 228(7), insert:
- (8) In relation to any trust and a distribution, a trustee is treated as choosing to satisfy the income tax liability (other than income tax payable in the capacity of agent) of the trustee, determined as if the trustee were a New Zealand resident and the trust had a settlor who was a New Zealand resident, if—
- (a) the trust is a qualifying trust for the period beginning at the start of the income year in which a settlement is first made to, for the benefit of, or on the terms of, the trust and ending before the date on which the trust ceases to be a qualifying trust as described in **paragraph (b)**; and
- (b) the trust ceases to be a qualifying trust because the trust does not meet the requirements in **paragraph (a)(i) and (ii)** of the definition of **qualifying trust** in section 226(1); and
- (c) the trustee indicates that the trust is a qualifying trust in the return of income for each income year ending after the trust ceases to be a complying trust, as described in **paragraph (b)**, and before the distribution.
- (9) A trustee who is treated under **subsection (8)** as choosing to satisfy an income tax liability has the income tax liability referred to in that subsection for the period beginning with the income year in which the trust ceases to be a complying trust, as described in **subsection (8)(b)**, and ending with the income year that includes the date of the distribution.
- (2) **Subsection (1)** applies for the income year commencing 1 April 1988 and later income years.

Amendments to Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014**262 Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014 amended** 30

Sections 263 to 265 amend the Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014.

263 Section 2 amended (Commencement)

In section 2(30), delete “(10),”.

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263B Section 32 amended (New section CW 42B inserted)

In section 32(2), section CW 42B(2)(aa), replace “the trust and its trustee or the company, as the case may be, are” with “the entity is”.

264 Section 129 amended (New section HR 12 inserted)

Replace section 129(2) with:

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(2) Subsection (1) applies—

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

(b) ~~on and after 14 April 2014, if—~~

~~(i) the person’s activities are not predominantly the provision of housing; and~~

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~~(ii) the person is removed from the register of charitable entities before 1 April 2015 because section 32(1)(f) of the Charities Act 2005 applies;~~

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

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~~(e) on and after 1 April 2017, if the person’s activities are predominantly the provision of housing.~~

(c) on and after 1 April 2017, if the person’s activities involve the provision of housing as part of achieving the person’s objectives and purposes and **paragraph (b)** does not apply.

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265 Section 144 amended (Section YA 1 amended)

(1) Repeal section 144(10).

(2) Repeal section 144(27).

Amendment to Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013

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265B Section 104 amended (Schedule 20 amended (Expenditure on farming, horticultural, aquacultural, and forestry improvements))

Replace section 104(2) of the Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013 with:

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(2) Subsection (1) applies for an improvement made on or after the first day of the 2013–14 income year.

*Amendment to Finance Act (No 2) 1990***266 Section 3 of the Finance Act (No 2) 1990 amended (Meaning of approved unit trust)**

In section 3(1) of the Finance Act (No 2) 1990, replace “(within the meaning of section YA 1 of the Income Tax Act 2007)” with “(within the meaning of section YA 1 of the Income Tax Act 2007, but ignoring paragraph (b)(x) of the definition of **unit trust**)”.

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*Amendment to Goods and Services Tax (Grants and Subsidies) Order 1992***267 Schedule to Goods and Services Tax (Grants and Subsidies) Order 1992 amended (Non-taxable grants and subsidies)**

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In the schedule to the Goods and Services Tax (Grants and Subsidies) Order 1992, after item 7 of that schedule, insert:

- 8 The Commissioner of Inland Revenue crediting, transferring, refunding, dealing with, or otherwise paying, a person’s tax credit under the Income Tax Act 2007 or the Tax Administration Act 1994, if that tax credit is one which the person has under **section MX 4** of the Income Tax Act 2007.

Schedule 1
New schedule 22 inserted

s 217

Schedule 22
Proscribed R&D activities

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s YA 1, definition of R&D material

- 1 An activity performed outside of New Zealand.
- 2 Acquiring or disposing of land, and related activities, except if the land is used exclusively for housing research or development facilities.
- 3 Acquiring, disposing of, or transferring intangible property, core technology, intellectual property, or know-how, and related activities (for example, drafting sale and purchase agreements for patents).
- 4 Prospecting for, exploring for, or drilling for, minerals, petroleum, natural gas, or geothermal energy.
- 5 Research in social sciences, arts, or humanities.
- 6 Market research, market testing, market development, or sales promotion, including consumer surveys.
- 7 Quality control or routine testing of materials, products, devices, processes, or services.
- 8 Making cosmetic or stylistic changes to materials, products, devices, processes, or services.
- 9 Routine collection of information.
- 10 Commercial, legal, and administrative aspects of patenting, licensing, or other activities.
- 11 Activities involved in complying with statutory requirements or standards.
- 12 Management studies or efficiency surveys.
- 13 Reproduction of a commercial product or process by a physical examination of an existing system or from plans, blueprints, detailed specifications, or publicly available information.
- 14 Pre-production activities, such as a demonstration of commercial viability, tooling-up, and trial runs.

Schedule 2
**Amendments to sale-related terms and definitions in Income Tax Act
2007**

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Section in Income Tax Act 2007 and location	Replace	With
CB 6(3), heading	“ <i>sold</i> ” in each place where it appears	“ <i>disposed of</i> ”
CB 23B, heading	“ sold ” in each place where it appears	“ disposed of ”
CB 30, heading	“ Sale ”	“ Disposal ”
CB 30	“sale” in each place where it appears	“disposal”
CB 31, heading	“ Sale ”	“ Disposal ”
CB 31(1)	“Sale”	“Disposal”
CD 29B(1)	“sell”	“sell or otherwise dispose of”
CD 34B(8)(a)	“sale and purchase”	“disposal and acquisition”
CD 43(19), heading	“ <i>sales</i> ”	“ <i>disposals</i> ”
CE 6(2)(a)	“buy”	“acquire”
CE 7	“sell”	“dispose of”
CW 1, heading	“ buying ”	“ acquiring ”
CW 1(1)	“buys”	“acquires”
CW 1(2), heading	“ <i>sold</i> ”	“ <i>disposed of</i> ”
CW 1(2)(a)	“sold” in each place where it appears	“disposed of”
CW 1(2)(b)	“sold” in each place where it appears	“disposed of”
CW 1(4)	“bought”	“acquired”
CZ 7(1), heading	“ <i>sale</i> ”	“ <i>disposal</i> ”
DB 13, heading	“ sold ”	“ disposed of ”
DB 13(1)	“sold”	“disposed of”
DB 25(1)	“repurchasing”	“reacquiring”
DB 31(4), heading	“ <i>services sold</i> ”	“ <i>services</i> ”
DB 38(3)	“sells”	“disposes of”
DB 38(4)	“sells”	“disposes of”
DB 38(4)	“sale” in each place where it appears	“disposal”
DB 39(1)	“sells”	“disposes of”

Section in Income Tax Act 2007 and location	Replace	With
DB 39(2)	“sale”	“disposal”
DB 39(3)	“sale”	“disposal”
DB 40(1)	“sells”	“disposes of”
DB 40(2)	“sale”	“disposal”
DC 10, heading	“Sale”	“Disposal”
DC 10(1)(a)	“sells”	“disposes of”
DC 10(1)(b)	“sale”	“disposal”
DC 10(1)(c)	“sale”	“disposal”
DC 10(2), before paragraph (a)	“sale”	“disposal”
DC 10(2)(a)	“sale”	“disposal”
DC 10(2)(b)	“time of sale”	“time of the disposal”
DC 10(3), before paragraph (a)	“sale”	“disposal”
DC 10(3)(a)	“sold”	“disposed of”
DC 10, list of defined terms	“time of the sale”	“time of the disposal”
DC 11(1)(d)	“sale”	“disposal”
DP 8, heading	“bought”	“acquired”
DP 9, heading	“bought”	“acquired”
DP 9(1)	“buys”	“acquires”
DP 9(2)(a)	“sold” in each place where it appears	“disposed of”
DP 9(2)(b)	“sold” in each place where it appears	“disposed of”
DP 9(3)(a)	“sale”	“disposal”
DT 2, heading	“sale”	“disposal”
DT 6, before paragraph (a)	“buying”	“acquiring”
DT 6, before paragraph (a)	“bought”	“acquired”
DT 6(a)	“bought”	“acquired”
DW 2(2)(b)	“sale”	“disposal of”
DX 1(3)(a)	“bought”	“acquired”
DX 1(5)(a)(ii)	“buy”	“acquire”
DZ 8, heading	“Buying”	“Acquiring”
DZ 8(1)	“buys”	“acquires”

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Section in Income Tax Act 2007 and location	Replace	With
DZ 8(1)	“buying”	“acquiring”
DZ 8(2)	“Buying”	“Acquiring”
EA 4(4), heading	“ <i>Sale</i> ”	“ <i>Disposal</i> ”
EA 4(4), before paragraph (a)	“sells”	“disposes of”
EA 4(4), before paragraph (a)	“sale”	“disposal”
EA 4(4)(a)	“sale”	“disposal”
EA 4(4)(b)	“time of sale”	“time of the disposal”
EA 4(4)(c)	“sale”	“disposal”
EA 4(4)(d), before subparagraph (i)	“sale”	“disposal”
EA 4(5), subsection heading	“ <i>Sale</i> ”	“ <i>Disposal</i> ”
EA 4(5), before paragraph (a)	“sale”	“disposal”
EA 4(5)(a)	“sale”	“disposal”
EA 4(5)(b)	“sale”	“disposal”
EA 4(5)(c)	“Sale”	“Disposal”
EA 4(6), heading	“ <i>sale</i> ”	“ <i>disposal</i> ”
EA 4(6)(a)	“sale”	“disposal”
EA 4(6)(b)	“sale”	“disposal”
EA 4(7), before paragraph (a)	“sale”	“disposal”
EA 4, list of defined terms	“time of the sale”	“time of the disposal”
EB 8(2)	“sold”	“sold or exchanged”
EB 17(3)	“sold”	“sold or exchanged”
EB 18(2)(a)	“purchase price”	“acquisition cost”
EC 24(2)(c)	“bought”	“acquired other than by way of being homebred”
EC 24(2)(c)	“purchase”	“acquisition”
EC 34(1), heading	“ <i>purchase</i> ”	“ <i>acquisition</i> ”
EC 34(1)	“bought”	“acquired”
EC 36, heading	“ bought ”	“ acquired ”
EC 36(1)	“bought”	“acquired”
EC 36(2), heading	“ <i>bought</i> ”	“ <i>acquired</i> ”

Section in Income Tax Act 2007 and location	Replace	With
EC 36(2)	“bought”	“acquired”
EC 39(1)(c)	“buys”	“acquires”
EC 39(2)(c)	“buys”	“acquires”
EC 46(1)	“sale”	“sale or exchange”
EC 46(2)	“sale”	“sale or exchange”
EC 46(3)	“sale” in each place where it appears	“sale or exchange”
EC 47(1)	“sale”	“sale or exchange”
EC 47(2)	“sale”	“sale or exchange”
EC 47(2)	“bought”	“acquired”
EC 47(2)	“purchase”	“acquisition”
EC 48(1)(a)(i)	“sale”	“sale or exchange”
EC 48(1)(a)(ii)	“buys”	“acquires”
EC 48(1)(b)(i)	“sale”	“sale or exchange”
EC 48(1)(b)(i)	“bought”	“acquired”
EC 48(1)(b)(ii)	“buys”	“acquires”
EC 48(2)	“buying”	“acquiring”
EC 48(8)	“bought”	“acquired”
EE 28(6)	“purchase”	“acquisition”
EE 31(2A)(b), before subparagraph (i)	“purchase”	“acquire”
EE 31(2A)(b)(i)	“purchase”	“acquisition”
EE 31(2A)(b)(ii)	“to purchase”	“to acquire”
EE 31(2A)(b)(ii)	“its purchase”	“its acquisition”
EE 31(3A)(b), before subparagraph (i)	“purchase”	“acquire”
EE 31(3A)(b)(i)	“purchase”	“acquisition”
EE 31(3A)(b)(ii)	“purchase”	“acquisition”
EE 31(4)(a)	“purchase”	“acquire”
EE 31(4)(b)	“purchase”	“acquire”
EE 64(1)(a)	“purchase”	“acquisition”
EH 34(1)(a)	“sales”	“disposals”
EH 34(2), heading	“Sales”	“Disposals”
EH 34(2), before paragraph (a)	“sales”	“disposals”

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Section in Income Tax Act 2007 and location	Replace	With
EH 34(2)(a)	“sale”	“disposal”
EH 34(2)(b)	“sale”	“disposal”
EH 34(3)(b)	“sale”	“disposal”
EH 37(1)(b)	“sells”	“disposes of”
EH 38(1)	“sell”	“dispose of”
EH 61(2)(a)	“selling”	“disposing of”
EH 61(2)(b)	“sold”	“disposed of”
EH 61(3), heading	“ <i>sold</i> ”	“ <i>disposed of</i> ”
EH 61(3), before paragraph (a)	“sold”	“disposed of”
EH 61(4), heading	“ <i>sold</i> ” in each place where it appears	“ <i>disposed of</i> ”
EH 61(4)	“sold” in each place where it appears	“disposed of”
EH 61(4)	“unsold”	“not disposed of”
EH 61(5), heading	“ <i>sold</i> ”	“ <i>disposed of</i> ”
EH 61(5), before formula	“sold”	“disposed of”
EH 61(6)(a)	“sold” in each place where it appears	“disposed of”
EH 61(6)(b)	“sold” in each place where it appears	“disposed of”
EH 61(6)(b)	“buys”	“acquires”
EH 61(6)(b)	“sale”	“disposal”
EI 4(1)	“Sale”	“Disposal”
EJ 2(6), definition of fishing business	“sale”	“sale or exchange”
EJ 3(1)(b)	“buying”	“acquiring”
EW 29(8), heading	“ <i>Sale</i> ”	“ <i>Disposal</i> ”
EW 29(8)	“sells”	“disposes of”
EW 43, heading	“ sold ”	“ disposed of ”
EW 43(1)	“sells”	“disposes of”
EW 43(2)	“sells” in each place where it appears	“disposes of”
EW 49, heading	“ sold ”	“ disposed of ”
EW 49(1)	“sells”	“disposes of”
EW 49(2)	“sells” in each place where it appears	“disposes of”

Section in Income Tax Act 2007 and location	Replace	With
EW 49(5)(b)	“sold”	“disposed of”
EX 60(4), heading	“sales”	“disposals”
EX 61(4), heading	“sales”	“disposals”
EX 63(2), heading	“sale”	“disposal”
EX 64(2), heading	“sale”	“disposal”
EX 64(2)(a)	“sold”	“disposed of”
EX 64(4), heading	“purchase”	“acquisition”
EX 64(4)(a)	“bought”	“acquired”
EX 65(2)(c)	“sale”	“disposal”
EX 65(2)(c)	“repurchase”	“reacquisition”
EX 65(6)(c)	“sale”	“disposal”
EX 65(6)(c)	“repurchase”	“reacquisition”
EX 66(2), heading	“sale”	“disposal”
EX 66(2), heading	“repurchase”	“reacquisition”
EX 66(2)(b)	“repurchased”	“reacquired”
EX 66(2)(c)	“sale”	“disposal”
EX 66(2)(c)	“repurchase”	“reacquisition”
EX 66B(2), heading	“sale”	“disposal”
EX 66B(2), heading	“repurchase”	“reacquisition”
EX 66B(2)(b)	“repurchased”	“reacquired”
EX 66B(2)(c)	“sale”	“disposal”
EX 66B(2)(c)	“repurchase”	“reacquisition”
EZ 7, heading	“Buying”	“Acquiring”
EZ 7(1)	“Buying”	“Acquiring”
EZ 7(2)	“buying”	“acquiring”
EZ 7(3)	“purchase” in each place where it appears	“acquisition”
EZ 7(4)	“purchase”	“acquisition”
EZ 23C, heading	“deemed sale and purchase”	“treatment as disposal and reacquisition”
EZ 23C(2), heading	“Deemed sale and repurchase”	“Treatment as disposal and reacquisition”
EZ 38(8)(d)(iv)	“sold”	“disposed of”
EZ 41, heading	“Sale”	“Disposal”

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Section in Income Tax Act 2007 and location	Replace	With
EZ 41(1)	“sold”	“disposed of”
EZ 41(2)	“sold” in each place where it appears	“disposed of”
EZ 41(3), before paragraph (a)	“sold”	“disposed of”
EZ 41(3)(a)	“sale”	“disposal”
EZ 41(3)(b)	“sale”	“disposal”
EZ 41(5)	“sold”	“disposed of”
FA 4, heading	“ repurchasing ”	“ reacquiring ”
FE 16(1E)(b)(i)	“purchased”	“acquired”
FM 15(5)(a)	“purchase price”	“acquisition cost”
FM 15(5)(b)(i)	“purchasing”	“acquiring”
FO 10(4)(b)	“buying”	“acquiring”
GB 27(1)(a)	“purchases”	“acquires”
GB 27(2)(a)	“sale”	“supply”
GB 29(1)(c)	“selling”	“supplying”
HB 11(5)(a)	“purchases”	“acquires”
HD 29, heading	“ buying ”	“ acquiring ”
HD 29(1), before paragraph (a)	“a purchase”	“an acquisition”
HD 29(2), subsection heading	“ <i>buying</i> ”	“ <i>acquiring</i> ”
HD 29(2), before paragraph (a)	“purchase of goods”	“purchase or other acquisition of goods”
HM 38(3)(a)	“bought”	“acquired”
IZ 1(12), definition of specified activity , paragraph (c)(i)	“sale”	“disposal”
LH 17, definition of internal software development , paragraph (b)(i)	“selling, renting, licensing, hiring, or leasing”	“selling, exchanging, renting, licensing, hiring, or leasing”
LH 17, definition of internal software development , paragraph (b)(ii)	“sold, rented, licensed, hired, or leased”	“sold, exchanged, rented, licensed, hired, or leased”
MB 1(5C), heading	“ <i>sale</i> ”	“ <i>disposal</i> ”
MB 1(5C)	“sale”	“disposal”

Section in Income Tax Act 2007 and location	Replace	With
RD 40(1)(b)	“bought them, or paid for them to be bought”	“otherwise acquired them, or paid for them to be acquired”
RD 42(1), before paragraph (a)	“sells”	“disposes of”
RD 42(1)(c)	“sale”	“disposal”
RD 43(1), before paragraph (a)	“sells”	“disposes of”
RD 43(1), before paragraph (a)	“sale”	“sale or other disposal”
RD 43(1)(c)	“sale”	“disposal”
RD 43(1)(d)	“sale”	“disposal”
RD 44, heading	“sold”	“disposed of”
RD 44	“sells”	“disposes of”
RD 44	“sale”	“disposal”
RE 15(3), definition of alternative amount , paragraph (b)(ii)	“repurchase”	“reacquisition”
YA 1, definition of amortising property , paragraph (b)	“Buying”	“Acquiring”
YA 1, definition of cost , paragraph (a)	“purchase”	“acquisition”
YA 1, definition of fixed establishment , paragraph (c)(ii)	“purchasing”	“acquiring”
YA 1, definition of forestry company , paragraph (a)	“buying”	“acquiring”
YA 1, definition of high-priced livestock , paragraph (a), before subparagraph (i)	“buys”	“acquires”
YA 1, definition of high-priced livestock , paragraph (a), before subparagraph (i)	“purchase”	“acquisition”
YA 1, definition of high-priced live-	“purchase” in each place where it appears	“acquisition”

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Section in Income Tax Act 2007 and location	Replace	With
stock, paragraph (a)(ii)		
YA 1, definition of high-priced live-stock , paragraph (b), before subparagraph (i)	“buys”	“acquires”
YA 1, definition of Maori investment company	“unpaid purchase money”	“an unpaid purchase amount”
YA 1, definition of Maori investment company	“bought”	“acquired”
YA 1, definition of Maori owners , paragraph (a)	“bought”	“acquired”
YA 1, definition of other amortisation provision	“Buying”	“Acquiring”
YA 1, definition of qualifying debenture , paragraph (a)	“unpaid purchase money”	“an unpaid purchase amount”
YA 1, definition of qualifying debenture , paragraph (a)	“bought”	“acquired”
YA 1, definition of trading stock , paragraph (b), before subparagraph (i)	“sale”	“disposal”
Schedule 14(11)	“purchased”	“acquired”

Schedule 3
Amendments to lists of defined terms in Income Tax Act 2007

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Section	Amendment to list of defined terms
CQ 5	Insert “settlor”.
CZ 30	Insert “tax position”.
DN 6	Insert “settlor”.
EE 25	Delete “depreciation”.
EW 9	Insert “settlor”.
EX 43	Delete “matrimonial agreement”.
EX 43	Insert “relationship agreement”.
EX 46	Insert “gifting settlor”.
EX 52	Insert “shareholding”.
EX 53	Insert “shareholding” <u>Delete “unit valuation period” and insert “shareholding”.</u>
EX 54	<u>Delete “unit valuation period”.</u>
EX 56	Insert “shareholding” <u>Delete “unit valuation period” and insert “shareholding”.</u>
EY 24	<u>Delete “mortality profit”.</u>
EZ 23BB	Insert “settlor”.
EZ 32E	Delete “tax position”.
EZ 52C	Insert “tax position”.
EZ 52D	Insert “tax position”.
EZ 56	Replace “payment” with “pay”.
EZ 57	Delete “payment”.
EZ 60	Replace “payment” with “pay”.
FB 12	Insert “partner” and “partnership”.
FB 13	Insert “dispose”.
FB 17	Insert “dispose”.
FB 21	Insert “property”.
FC 2	Insert “property”.
FC 3	Insert “property”.
FC 7	Insert “property”.
FC 8	Insert “property”.
FE 21	<u>Delete “CTR credit”.</u>
FE 36B	Replace “resident” with “resident in New Zealand”.

Section	Amendment to list of defined terms
<u>FM 11</u>	Delete “ <u>excluded income loss</u> ” and insert “ <u>excluded income</u> ” and “ <u>loss</u> ”.
<u>FO 12</u>	Delete “ <u>consolidated group</u> ”.
GC 3B	Replace “disposal” with “dispose”.
GZ 1	Delete “petroleum mining expenditure” and insert “petroleum exploration expenditure”.
HG 2	Delete “CTR additional dividend”.
HG 3	Delete “exiting partner”.
<u>HM 35C</u>	Delete “ <u>taxable amount</u> ”.
<u>HM 68</u>	Delete “ <u>taxable amount</u> ”.
<u>HM 69</u>	Delete “ <u>taxable amount</u> ”.
HZ 3	Replace “disposal” with “dispose”.
HZ 4B	Replace “tax position” with “tax situation”.
HZ 4D	Replace “tax position” with “tax situation”.
IQ 2	Replace “attributable FIF income” with “attributable FIF income method”.
<u>LA 8</u>	Delete “ <u>non-resident withholding tax</u> ”.
<u>LB 3</u>	Delete “ <u>resident withholding tax</u> ”.
<u>LB 5</u>	Delete “ <u>non-resident withholding tax</u> ”.
<u>LJ 6</u>	Delete “ <u>non-resident withholding tax</u> ”.
<u>LK 7</u>	Delete “ <u>non-resident withholding tax</u> ”.
<u>MA 8</u>	Delete “ <u>entitlement period</u> ”.
MB 9	Delete “close company”.
<u>OA 18</u>	Delete “ <u>basic rate</u> ”.
<u>OB 8</u>	Delete “ <u>resident withholding tax</u> ”.
<u>OB 19</u>	Delete “ <u>basic rate</u> ”.
<u>OB 27</u>	Delete “ <u>non-resident withholding tax</u> ”.
<u>OB 46</u>	Delete “ <u>basic rate</u> ”.
<u>OB 69</u>	Delete “ <u>basic rate</u> ”.
<u>OB 73</u>	Delete “ <u>basic rate</u> ”.
<u>OB 75</u>	Delete “ <u>basic rate</u> ”.
<u>OB 78</u>	Delete “ <u>basic rate</u> ”.
<u>OB 80</u>	Delete “ <u>basic rate</u> ”.
<u>OC 29</u>	Delete “ <u>basic rate</u> ”.
<u>RD 70</u>	Delete “ <u>basic rate</u> ”.
RE 2	Delete “attributed repatriation”.
RF 11B	Replace “fully-imputed dividend” with “fully imputed”.

Section **Amendment to list of defined terms**

RM 29 Delete “PCA return”.

YZ 3 Insert “tax position”.

Legislative history

26 February 2015

11 March 2015

Introduction (Bill 7–1)

First reading and referral to Finance and Expenditure Committee