

Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Bill

Government Bill

Explanatory note

General policy statement

This taxation omnibus Bill introduces amendments to the following enactments:

- Income Tax Act 2007
- Tax Administration Act 1994
- Goods and Services Tax Act 1985
- Stamp and Cheque Duties Act 1971
- Student Loan Scheme Act 2011
- Income Tax Act 2004
- Goods and Services Tax (Grants and Subsidies) Order 1992

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

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

The main policy measures within this Bill have been developed in accordance with the Generic Tax Policy Process (the *GTPP*). This is a very open and interactive

process between the public and private sectors, which helps ensure that tax and social policy changes are well thought through. This process is designed to ensure better, more effective policy development through early consideration of all aspects, and likely impacts, of proposals, and increased opportunities for public consultation.

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

The final stage is a post-implementation review of new legislation and identification of remedial issues that need correcting for the new legislation to have its intended effect. Further information on the GTPP can be found at <http://taxpolicy.ird.govt.nz/how-we-develop-tax-policy>.

The following is a brief summary of the policy measures contained in this Bill. A comprehensive explanation of all the policy items will be included in a Commentary on the Bill. The Commentary will be available, shortly after this Bill is introduced, at <http://taxpolicy.ird.govt.nz/publications/2016-commentary-archcrm/overview>.

Closely held companies

The Bill proposes changes to the look-through company (*LTC*) rules and the dividend rules as they apply to closely held companies. The changes are intended to simplify the rules to reduce compliance costs, while ensuring that the rules remain robust and in line with intended policy.

LTC eligibility

The Bill proposes amendments to the definitions of *look-through company* and *look-through counted owner*, to tighten the eligibility criteria for a company electing to become a LTC.

In particular, it is proposed to broaden the way that beneficiaries are counted when determining whether the requirement that there be 5 or fewer counted owners is met. The proposed new test would count any beneficiary who receives any distribution from a trust with a look-through interest, sourced from any income of the trust. Currently, the tests are limited to beneficiary income sourced from a look-through interest.

To bolster the current legislative prohibition on direct corporate ownership of LTCs, the Bill proposes that a LTC owned by a trust will lose its LTC status if the trust makes a distribution to a corporate beneficiary.

Charities and Māori authorities will be precluded from being LTC owners, directly or indirectly, under the proposed amendments. However, a trust that is a shareholder in a LTC will be able to make a distribution to a charity when the distribution is akin to a donation or is received by the charity as a residual beneficiary. Māori authorities that have ownership interests in LTCs immediately before the introduction of this Bill will be excluded from the prohibition.

The Bill proposes that the annual amount of foreign income earned by a foreign-controlled LTC be limited to the greater of \$10,000 and 20% of the LTC's gross income in the relevant income year.

The Bill also includes an amendment to the definition of *look-through interest*, enabling a LTC to have more than 1 class of shares, provided all shares have uniform entitlements to all distributions.

LTC entry tax

When companies convert to become LTCs the rules currently seek to tax any retained earnings, being income earned prior to conversion and retained by the converting company, using the entry tax formula. The entry tax formula calculates the income to be taxed at the company tax rate. Reliance on the company tax rate can produce over-taxation or under-taxation of the earnings, depending on a shareholder's personal tax rate and whether the company was a qualifying company (a QC) or an ordinary company prior to becoming a LTC.

Two amendments are proposed to correct the effect. The first amendment modifies the income adjustment formula to ensure the taxable income that arises is taxed at the shareholder's personal tax rate. The second applies to QCs converting to LTCs and ensures that the entry tax formula does not tax the owner of a QC more than the owner would have been taxed had they liquidated the QC instead.

Deduction limitation rule

The Bill proposes to remove, except for LTCs in a partnership or joint venture, the rule that limits an owner's LTC deductions to the amount that the owner has at risk economically. The change will apply from the 2017–18 income year, and deductions previously restricted under this rule will be available for offset from then onwards. The existing anti-avoidance rule that deems a partner's transactions to be at market value is proposed to be extended to owners of LTCs, in order to prevent excessive deductions.

Debt remission

Two retrospective changes to the debt remission rules in the context of LTCs and partnerships are proposed. The first change ensures that remission income does not arise to a person who is a LTC owner or partner and who remits a debt owed by the LTC or the partnership, which may be a limited partnership (referred to as self-remission). The second change clarifies that debt owed by a LTC upon liquidation or election out of the LTC regime must be adjusted for any credit impairment.

Qualifying companies

It is proposed that qualifying companies lose their QC status if there is a change in control of the company. A change in control will be measured using a continuity test requiring a group of persons that holds, for the continuity period, minimum voting interests in the company of at least 50% in total. The continuity period commences on

the date on which the Bill receives Royal assent and runs through to the relevant income year.

Tainted capital gains

The tainted capital gains rule, under which some capital gains made by companies are treated as taxable when distributed to shareholders on liquidation of the company, is proposed to be liberalised. The changes ensure that genuine capital profits made by ordinary companies are not tainted merely because there is a transaction involving an associated party. Instead it is proposed that a capital profit on the disposal of an asset is tainted only if the purchaser is a company and the shareholders of the company disposing of the asset retain an interest in the asset of at least 85% after the disposal. This could be through their being either direct or indirect shareholders in the purchaser company.

This 85% threshold test will be applied whether there is 1 sale, or a series of sales or transactions. Whether the gain is tainted will be determined when a distribution is made by the vendor company to its shareholders as a result of liquidation.

RWT on dividends

Two amendments to reduce over-taxation of dividends are proposed. The first would allow a company to opt out of deducting resident withholding tax (*RWT*) from a fully imputed dividend paid to corporate shareholders. The second proposes a new formula for determining the amount of RWT payable when cash and non-cash dividends are paid contemporaneously. The formula treats the 2 dividends as a single dividend and applies if the cash dividend is equal to or greater than the RWT calculated under the formula.

PAYE and shareholder-employees

The Bill proposes that when an employee of a close company who is also a shareholder in the company, receives regular salary or wages throughout the year and also receives a further amount of income that is later allocated to them in their capacity as an employee, the employee may split the income so that the base salary is subject to pay-as-you-earn (*PAYE*) and the variable amount is paid out with no tax being withheld. A taxpayer will need to make an irrevocable election to apply this approach.

NRWT: Related party and branch lending

The Bill proposes changes to the non-resident withholding tax (*NRWT*) and approved issuer levy (*AIL*) rules as they apply to interest paid on debt provided by non-residents. The amendments are necessary to ensure that the tax (whether *NRWT* or *AIL*) applies consistently to transactions that are economically similar and easily substitutable consistent with the underlying policy. In particular, the proposals address issues that arise on the boundary between the application of *NRWT* and *AIL*, which can at times result in different tax outcomes based on the legal form of a loan rather than the economic reality.

Capturing arrangements giving rise to non-resident passive income

A New Zealand borrower who obtains funds from a non-resident under a financial arrangement is entitled to a deduction for funding costs under the financial arrangement rules; however, NRWT will only be required to be withheld from the interest, or AIL paid, if that arrangement involves *money lent*. As these definitions do not exactly align it is possible for a deduction to be obtained where the lender does not derive non-resident passive income (NRPI). To address this inconsistency, the Bill proposes to extend the definition of *money lent* to include funding provided to a New Zealand resident by an associated non-resident under a financial arrangement that involves expenditure being incurred under the financial arrangement by the resident.

Correcting timing mismatches between NRPI and financial arrangement expenditure

The Bill contains proposals to correct mismatches between the time at which certain NRPI is subject to NRWT and the time when the corresponding expenditure becomes deductible under the financial arrangements rules. To achieve this, the Bill proposes introducing a new concept of *non-resident financial arrangement income (NRFAI)* as a new category of NRPI arising under certain financial arrangements between associated parties. The calculation of NRFAI is similar to a resident's calculation of financial arrangement income and expenditure. All other financial arrangements with non-residents continue to be taxed under the current NRWT rules, which operate on a payments basis.

Under the proposals, NRWT will be paid on NRFAI when a financial arrangement with an associated party has a sufficiently large degree of income deferral, measured by comparing cumulative payments under the arrangement (on which NRWT is ordinarily payable) with cumulative deductions. NRFAI does not arise for borrowers who make interest payments to related parties if the payments are less than a new *de minimis* threshold.

Applying NRWT when a third party has been interposed to access AIL

The policy intent has always been that AIL should not be available on interest payments made to an associated party lender. This restriction does not currently apply when the lender is equivalent to an associated party in substance or when the arrangement has been structured so the direct lender and borrower are not associated, although section BG 1, the general anti-avoidance provision, may apply to the situation.

Two examples of situations to which AIL is applicable, and that are in substance an interest payment to an associated party, are back-to-back loans and multi-party arrangements. A back-to-back loan occurs when an associated party lends to a third party who subsequently on-lends the funds to an associated borrower. A multi-party arrangement achieves the same result through a more complex structure. For example, the principal portion of funding originally provided by a third party may be sold to a person who is associated with the borrower.

The Bill proposes to introduce rules addressing the problem. The rules are to apply to arrangements that have the purpose or effect of qualifying for AIL on interest which

is effectively paid to an associated party. In the case of a back-to-back loan, the interposed third party is treated as having received interest payments as agent for the ultimate lender; both the borrower and the interposed third party jointly have a liability to withhold NRWT on interest attributable to the associated non-resident.

Acting together

AIL is currently available if 2 or more persons who are not associated with each other or with a New Zealand borrower act together to control, and in particular to fund, that borrower, which is typically a joint venture or private equity investment structure. The Bill proposes, in some circumstances, to subject this borrowing to NRWT instead, by introducing a non-resident owning body test. The test is similar to provisions introduced into the thin capitalisation rules in 2014.

Eligibility for AIL

The Bill also introduces restrictions on the ability to register a security, in order to prevent New Zealand borrowers from falsely claiming that the lender is not associated. Otherwise, such borrowers will pay AIL, when they should withhold NRWT.

Borrowing not attributed to an onshore branch

Under the current rules, interest paid by a New Zealand resident to a non-resident is not subject to NRWT or AIL if the non-resident operates a business in New Zealand through a fixed establishment, or branch. This is known as the onshore branch exemption. The onshore branch exemption currently applies even if the non-resident's branch has no involvement in the transaction.

Although income tax is payable on the margin earned by the non-resident, this is often much less than the NRWT or AIL that would be payable if the branch did not exist. The Bill proposes to narrow the exemption so that a payment of interest by a New Zealand resident to a non-resident will be covered by the exemption, and therefore not subject to withholding tax, only if the money lent is used by the non-resident for the purposes of a business carried on through the New Zealand branch.

The exemption will continue to apply to a New Zealand resident who borrows from a non-resident bank with a New Zealand branch if the borrower and the lender are not associated. Therefore, the proposed change will not impose NRWT or AIL on payments to acquire foreign property made by New Zealand borrowers who are not associated with a non-resident bank with a New Zealand branch.

Borrowing allocated to an onshore branch

A non-resident bank can borrow offshore for the purpose of funding its worldwide operations and allocate a portion of this funding to its New Zealand branch. When calculating its net income taxable in New Zealand, the bank can deduct, from the income generated by its New Zealand activities, an amount that is treated as interest attributable to the borrowing raised offshore and used to fund the New Zealand business.

However, New Zealand currently does not impose NRWT or AIL on any portion of the interest paid on the offshore borrowing by the bank or on the interest which the New Zealand branch is treated as paying to the non-New Zealand part of the bank that provides it with funding.

To correct this asymmetric tax outcome, the Bill proposes to make funding costs, of a New Zealand branch of a non-resident bank, subject to NRWT or AIL if the costs are deductible for income tax purposes in relation to a deemed loan to the branch by its head office.

Offshore branch exemption

The offshore branch exemption applies to interest derived from money lent outside New Zealand to a New Zealand resident using the money for the purposes of a business carried on through a fixed establishment offshore.

This exemption is intended to apply to a New Zealand resident operating an active business through a branch in another country so that the offshore branch of a New Zealand company is treated in the same way as a foreign incorporated subsidiary borrowing for an equivalent business.

However, this exemption currently also applies to a New Zealand company with an offshore branch that borrows money for the purpose of providing funding to New Zealand borrowers, who may or may not be associated with the New Zealand company. By using this exemption, a New Zealand company can borrow through an offshore branch of an associated New Zealand company without paying AIL on interest payments, whereas it would have to pay AIL if it borrowed directly from the ultimate lender.

The Bill proposes to impose AIL or NRWT on interest paid to a non-resident by an offshore branch of a New Zealand company to the extent that the money is then lent to New Zealand residents.

Replacement of NRWT with AIL on interest paid by a member of a New Zealand banking group to an associated non-resident

Using the branch exemptions discussed above, New Zealand banks are currently able to pay interest to non-residents without the imposition of NRWT or AIL, even when the non-resident is an associated party.

Imposing NRWT on the lending by a bank to an associated party would be inappropriate, as there are commercial reasons why a foreign bank may borrow from a third party and on-lend to its New Zealand bank subsidiary. Further, a likely result of imposing NRWT on such a loan would be that a New Zealand bank would borrow directly from third parties although, in the absence of tax, it would be economically efficient to borrow through an associate.

The proposed amendments will continue to allow a member of a New Zealand banking group to pay AIL on interest payments to an associated non-resident.

GST current issues

The Bill proposes several amendments to the Goods and Services Tax Act 1985 to address various issues.

Capital raising costs

Under current rules, input tax deductions will generally be unavailable for goods and services purchased to raise capital. The GST treatment depends on the use of the goods and services in making taxable supplies. Supplies of financial services to final consumers are exempt, and therefore do not give rise to deductions.

Amendments are proposed to enable businesses to recover GST incurred on goods and services purchased to raise capital. A deduction is available to the extent that the capital is raised to fund a taxable activity. The amendments recognise that the cost of raising the capital relates economically to the businesses' general business activities, rather than to the consumption of the financial services themselves.

Agreed alternative methods for applying the apportionment rules

The apportionment and adjustment rules determine the input tax deductions that businesses can claim for the goods and services they purchase. The rules match the deduction with the use of goods and services by the business in making taxable supplies. However, the legislated approach can be difficult to apply for certain businesses, in particular for providers of mixed taxable and exempt accommodation such as retirement villages, resulting in high compliance costs.

An amendment is proposed to include in the apportionment and adjustment rules an alternative method, which would be available to businesses with a turnover likely to exceed \$24 million in a 12-month period. The alternative method would be agreed with the Commissioner, and would be required to produce a fair and reasonable result that is similar to the outcome that would be reached if the legislative test were applied.

The amendment would also allow an industry association to agree a method with the Commissioner, which could apply to that industry or to a group of businesses within that industry. The benefit of such a method would then be extended to businesses with a lesser turnover that experience similar difficulties in applying the statutory method.

Secondhand goods and gold

Input tax deductions are available for secondhand goods acquired by a registered person, when GST is not charged on the supply but is treated as being embedded in the cost of the supply. The deduction addresses the fact that the supplier could not recover the GST incurred when the supplier purchased the good.

An exception to this rule exists to the extent that secondhand goods are composed of gold, silver, or platinum and the goods are not fine metal. The exception is intended to mitigate a potential fiscal risk that could arise if a deduction were allowed under the secondhand goods rules and an advantage could be gained by switching between supplies of fine metal and supplies of metal that is not fine metal. However, the exception

may cause tax to be imposed multiple times on the consumption of some goods, such as jewellery.

The Bill includes an amendment to narrow the exception, so that a deduction is available for goods of a kind manufactured for sale to the public.

Services connected with land

Supplies of services to non-residents outside New Zealand are generally treated as being consumed outside New Zealand, and are therefore not subject to GST. An exception to this treatment applies when the services are closely connected with land in New Zealand. Such services are treated as being consumed in New Zealand.

The current rules capture supplies of services that are described as being directly in connection with land in New Zealand. However, the test does not capture all supplies of services with a close economic connection to the land. The Bill proposes an amendment to expand the current test by ensuring that supplies of services are subject to GST if they are acquired to enable or assist a change in the physical or legal nature of land in New Zealand.

A rule expressed in similar terms applies to exclude supplies of services directly in connection with land outside New Zealand from GST. The Bill proposes a new test to similarly ensure that GST does not apply to supplies of services that enable or assist a change in the physical or legal nature of land outside New Zealand.

Other issues

The Bill also proposes several GST remedial amendments to:

- Ensure that the rules applying to business-to-business supplies of land apply as intended. The amendments ensure that the rules apply to lease surrender payments, the novation of an existing lease, and to supplies of land to non-profit bodies. Some technical issues have been corrected in the test that determines when a commercial lease is zero-rated.
- Allow businesses in certain situations to account for GST to the extent that consideration for a supply is paid, or an invoice issued, although the total consideration payable, and therefore the total GST charged, for the supply is not able to be determined at that time.
- Allow agents making purchases on behalf of their principals, and their principals, to treat a supply as being made between the agent and principal. The proposal is intended to reduce compliance costs incurred by agents who also make supplies on their own behalf and are currently required to distinguish between the 2 types of transaction.
- Ensure that services performed on, and goods that are incorporated into, newly purchased boats and aircraft that are exported under their own power, are zero-rated.

- Prevent goods that are imported into New Zealand and subsequently re-exported by a business from being effectively subjected to tax by the claw-back of deductions.
- Resolve technical issues with the rules that allow non-resident businesses outside New Zealand to register and recover GST. In particular, the amendments ensure GST is not incurred on business-to-business transactions, and correct an issue with a base maintenance rule to ensure consumption in New Zealand is taxed correctly.
- Fix a technical anomaly that prevents limited partnerships from being members of a GST group composed of companies and limited partnerships.
- Effectively extend the time period for the Commissioner to notify a person that their GST return is being investigated, or for the Commissioner to request additional information, thereby allowing the claimed refund to be withheld. The amendment replaces the requirement that the notice be received within 15 working dates from the date of the return, with a requirement that it be issued within this time frame.
- Fix technical issues with the Commissioner's discretion to allow certain taxpayers to file 6-monthly GST returns, by imposing a more objective test.
- Resolve a technical anomaly that creates an inconsistent time period for the Commissioner to refund overpaid tax.
- Better align the treatment of prizes won by registered persons, who enter a horse in a race as part of their taxable activity, with commercial practice.
- Extend the application of a savings provision that applies to GST-registered members of unregistered bodies corporate.

Related parties debt remission

The Bill proposes changes to the treatment of debt remission, including remission by the capitalisation of debt, when the lender and borrower are related.

The current rules can result in an asymmetric tax treatment because the borrower is obliged to pay tax on the debt remission income while the lender, as an associated person, is unable to claim a deduction for the bad debt. The debt remission income arises for tax purposes despite there being no economic gain to the persons involved when they are considered as a single economic group. The Bill proposes amendments to address this asymmetry by deeming remitted debt to be repaid in full. This ensures that the tax outcome matches the economic substance.

The amendments apply to persons who are effectively a single economic group, including:

- creditors and debtors within the same wholly-owned group of companies;
- a single non-corporate owner and their wholly-owned company;

- multiple shareholders and a company (or partners and a partnership or limited partnership), when the debt is remitted in the same proportion as equity (or ownership).

It is proposed that the rules also apply for a loan advanced by a relative of the owner. Both the creditor and debtor are not required to be within the New Zealand tax base; the amendments apply to inbound and outbound investment.

Debt remission and available subscribed capital

It is proposed that the remission of a company's debt to an associated creditor will increase the available subscribed capital of the company, and also increase the cost of the creditor's investment in the debtor. This proposal provides for the same outcome as if the debt were capitalised.

Bad debts and guarantees

The Bill also proposes amendments to the treatment of bad debts, and debt guarantees, involving related parties.

In particular, the change to the treatment of bad debts addresses a situation where a double deduction could be allowed to a creditor for unpaid interest, and to the debtor for the incurred interest, with only a single stream of income being recognised. It is proposed that a bad debt deduction be denied when the creditor and debtor are part of the same economic group.

The proposed amendment to the treatment of debt guarantee payments would apply when a person makes a payment to a third-party creditor under a guarantee of an associated person's borrowing. The defaulting debtor has remission income, and therefore a tax liability, but may be insolvent and unable to pay. In practice, allowing the guarantor a deduction would result in an asymmetric tax outcome that does not match the economic substance. Under the proposed amendment, the payments under the debt guarantee are instead treated as purchasing the debt, and the rules relating to sales of debts to associates apply (excluding the threshold value for the cost of the debt).

Loss grouping and imputation

A company that has benefited from loss grouping will pay less income tax and therefore generate fewer imputation credits. If the profit company is wholly-owned by its parent company, any dividends will not be taxable due to the exemption from tax for inter-corporate dividends. However, if the profit company and the loss company are not wholly-owned, the inter-corporate dividend exemption will not apply and the reduced level of imputation credits will mean that the dividend cannot be fully imputed.

When a shareholder of the profit company receives a partially imputed dividend, it will have to pay income tax to the extent the dividend is not fully imputed. This additional income tax effectively claws back the benefit of the loss grouping and may leave the owners of the profit company in a worse position than if the loss grouping had not occurred.

The Bill proposes to allow a loss company, or another company in a commonly owned group, to transfer imputation credits to a profit company in conjunction with a loss grouping transaction. The imputation credit transfer will allow the profit company to pay a fully imputed dividend despite engaging in loss grouping, thus removing the distortion created by the existing rules.

Existing anti-avoidance provisions relating to imputation credits will be extended to groups who undertake these transfers to prevent the inappropriate transfer of the value of imputation credits between different groups.

Remission income, insolvency, and bankruptcy

The proposed amendments seek to improve the consistency of income tax legislation with the fresh-start principle of insolvency law, under which a person released from all debt under insolvency law is encouraged to start afresh with minimal assets. The amendments also align with current administrative practice, and seek to improve the neutrality of the tax system in relation to investment decisions.

In particular, the proposed amendments will:

- cancel the full amount of carried-forward tax losses of an insolvent person who is released from all provable debts under insolvency law except debt released under subpart 1 of Part 5 of the Insolvency Act 2006;
- ensure that, on being declared bankrupt, assets vested in the Official Assignee are transferred at their tax values;
- clarify that a bankrupt is liable to satisfy income tax obligations for income derived during the period of bankruptcy, consistent with current practice;
- correct an inadvertent overreach relating to social policy legislation arising from an earlier amendment.

Aircraft overhaul reserves

The Bill introduces amendments relating to the timing of aircraft engine overhaul deductions to provide certainty and produce a better alignment of deductions and income arising from the use of aircraft. The amendments propose to treat the engine overhaul value inherent in the acquisition cost of an aircraft separately from the depreciation of an aircraft taken as a whole.

In particular, a deduction will be permitted when an engine is acquired, either separately or as part of the aircraft, for the overhaul value inherent in the cost of the engine. An amendment will also clarify that overhaul costs are an allowable deduction. Both deductions are proposed to be spread between periods according to the use of the engine during the periods. The appropriate use measures are given by the maintenance programme for the engine issued by the manufacturer, subject to changes regulated from time to time by the Civil Aviation Authority.

The Bill also provides for a transitional deduction for the proportion of the cost of an aircraft engine that relates to the overhaul value of the engine, to the extent that the

proportional cost is not fully depreciated by the beginning of the 2017–18 income year.

The proposed amendments also provide for the reversal of an accounting provision that has accrued at the end of the 2016–17 income year for a future overhaul of an aircraft engine. The reversal occurs either as a reduction in the cost of the first overhaul for that aircraft engine or as an increase in the consideration on the disposal of the aircraft or separate engine, depending on whether the overhaul or disposal occurs first. On disposal of the aircraft or the aircraft engine, disposal proceeds are to be apportioned between the aircraft or engine as an item of depreciable property (the depreciation rules apply) and unexpired deductions for aircraft engine overhauls. An income recovery provision applies to disposal proceeds apportioned to the unexpired deductions for aircraft engine overhauls, similar to the depreciation recovery provisions for depreciable assets.

To reduce compliance costs, it is also proposed that IFRS taxpayers may elect, with the agreement of the Commissioner, to adopt a tax accounting approach based on IFRS accounting that results in a similar outcome to that intended by the spreading approach. Similarly, a person in business who owns 1 aircraft may elect to be allowed the aircraft overhaul expenses as a deduction when they are incurred (although associated persons who together own more than 1 aircraft are not allowed this election). If this election is made, however, the proportional cost of the engine relating to overhaul must continue to be depreciated as part of the aircraft, taken as a whole.

Clarification of empowering provision for New Zealand DTAs

It is proposed that the Income Tax Act 2007 be amended to clarify that the empowering provision for New Zealand's double tax agreements (DTAs) does not prevent the anti-avoidance rules contained in income tax legislation from applying to a tax advantage arising under a DTA. A remedial change to this provision is also proposed to ensure that it operates as intended in relation to the process for bringing DTAs into force.

Schedule 32 donee status

The Bill proposes to amend the Income Tax Act 2007 by adding 14 charities to the list of donee organisations in schedule 32, and renaming an existing charity on the list. The Bill further proposes to remove Bicycles for Humanity, Auckland, from the list as this charity has ceased activities and has wound up.

The following New Zealand donee organisations with overseas purposes are proposed to be added to the list of donee organisations in schedule 32 of the Income Tax Act 2007:

- Astha Childrens Home (Nepal/New Zealand);
- Cambodia Trust (Aotearoa-New Zealand);
- Destiny Rescue Charitable Aid Trust;
- First Steps Himalaya;

- Fountain of Peace Children’s Foundation New Zealand;
- GC Aid;
- Hornsby Pacific Education Trust;
- Mercy Mission of New Zealand Trust Board;
- Microdreams Foundation New Zealand Humanitarian Trust;
- NPH New Zealand Charitable Trust;
- Orphans Refugees and Aid (ORA International) of New Zealand Charitable Trust;
- Siphala Foundation;
- Solomon Outreach Society;
- Toraja Rural Development Charitable Trust.

It is also proposed that The Destitute Children’s Home, Pokhara Charitable Trust, which has donee status, be renamed as the Youth Education and Training Initiatives (YETI) Nepal Trust.

Land tainting and council controlled organisations

The land tainting rules impose tax on certain disposals of land by an associate of a person who deals in, develops, subdivides, or improves land. Land held on capital account by an affected person is treated as being held on revenue account and any gains on sale are subject to income tax.

The rules, which were introduced to prevent tax avoidance, are overreaching in the context of council groups by taxing capital account land when tax avoidance is not a concern. The Bill proposes an exemption from the rules for organisations controlled by, or associated with a local authority.

This exemption does not apply to entities associated with a local authority under the tripartite relationship test in section YB 14 of the Income Tax Act 2007. The exemption also does not apply to entities outside the council group that are associated with a developer of land, unless that association occurs under section YB 14.

Loss offsets by mineral miners

The Bill proposes to effectively restore the position as it was prior to amendments effective from 1 April 2014, by allowing mineral miners to utilise the benefit of losses incurred by non-mining companies within the same group of companies. Mineral miners will continue to be unable to make losses available to, or receive subvention payments from, non-mining companies within the same group of companies.

The Bill also proposes to clarify that a mineral miner that was a loss-attributing qualifying company (*LAQC*), before the repeal of the LAQC rules in 2011 was required to attribute its loss to its shareholders. Owing to the ring-fencing of mineral mining losses, it was not clear whether a LAQC could attribute a mining loss to its shareholders, consistent with the broad policy objective of attributing losses to shareholders of a LAQC. A savings provision ensures that a LAQC that did not attribute a mining loss

to its shareholders, and does not request to amend its tax position, will not be required to do so.

Working for Families Tax Credits

Parental tax credit entitlement

A parental tax credit (PTC) rule was introduced on 1 April 2008 that was intended to ensure recipients who have a parental entitlement that overlaps 2 tax years can receive their PTC entitlement as a lump sum in the end of year assessment for the first tax year. However, the ability to receive the PTC as a lump sum for that first year is not explicitly provided for in the Working for Families tax credits (WFFTC) entitlement provisions. The proposed amendments will ensure that this PTC entitlement rule applies as intended.

Parental tax credit abatement

The PTC abatement formula was changed as part of Budget 2014 to better target the PTC rule and to align it with the way other WFFTC are abated. However, the new abatement formula and its related rules could mean that some PTC recipients, who have a parental entitlement period that overlaps 2 tax years, or whose WFFTC entitlement changes during their parental entitlement period, are subject to a larger amount of abatement than the Government intended. The Bill proposes amendments to ensure that PTC recipients in these situations are subject to the correct amount of abatement, as announced in Budget 2014.

FBT Vouchers

Employees who have received short-term charge facilities, such as vouchers, from their employer are required to include an amount for the facility in:

- their family scheme income, which is used to determine WFFTC, community services card, and student allowance entitlements; and
- in their adjusted net income, which is used to determine student loan repayment obligations.

The amount must include the amount of fringe benefit tax (FBT) paid by their employer, if any. However, an employer may refuse to, or be unable to, provide the information needed for the employee to include the correct FBT amount in their family scheme income or net adjusted income. The Bill proposes to enable employees in this situation to give a figure based on the maximum FBT rate on their short-term charge facilities.

Information sharing under an approved information sharing agreement

Section 81A of the Tax Administration Act 1994 provides for an exception to tax secrecy that allows the Commissioner of Inland Revenue to share personal information about an identifiable individual under an approved information sharing agreement (AISA) made under Part 9 of the Privacy Act 1993. The Bill proposes to extend this exception so that it allows the sharing of non-personal information under an AISA.

The change will allow for a fairer and more equitable enforcement of obligations and support the integrity of the public sector.

Ancillary taxes and time bar

The Bill proposes to clarify that the time bar applies to ancillary taxes including PAYE, fringe benefit tax, resident withholding tax and non-resident withholding tax, and the approved issuer levy. The time bar provides certainty for taxpayers in respect of their past tax positions by preventing the Commissioner from increasing an amount included in a relevant return four years after the tax year in which the return has been filed (subject to certain exceptions). Therefore, the amendment will provide certainty for taxpayers filing returns for ancillary taxes.

Confirmation of annual rates for the 2016–17 tax year

The Bill sets the annual rates of income tax for the 2016–17 tax year, at the same rates that apply for the 2015–16 tax year.

Remedial amendments

A number of remedial matters are addressed in the Bill. In addition to fixing minor faults of expression, readers' aids, and incorrect cross-references, the following specific issues are dealt with by:

- clarifying that the pay and allowances of Employment Relations Authority members are subject to PAYE;
- amending the taxable bonus issues rules to clarify that imputation credits attached to taxable bonus issues are not included in the available subscribed capital of a company;
- providing a cost base for shares in a company that are acquired by way of a taxable bonus issue;
- amending the imputation credit provisions relating to tax pooling transactions to ensure they work as intended;
- clarifying the priority of different methods for calculating foreign investment fund income;
- correcting cross-reference errors in the rules relating to calculation of depreciation recovery income and in the definition of *consideration*;
- correcting cross-reference errors in the depreciation rules relating to partial business use of an asset, and including a saving provision to preserve a tax position taken before the Bill is introduced;
- repealing redundant foreign dividend payment provisions;
- rationalising the foreign tax credit provisions;
- repealing a remaining reference to a new start grant in the Income Tax Act 2007 as it is no longer part of the suite of responses that Government uses for a primary sector adverse event;

- ensuring the Commissioner’s obligation to issue income statements does not include the issuing of statements to employees who do not have to file an income tax return when their employer fails to withhold and pay PAYE to Inland Revenue;
- providing ordering rules for the payment of R&D repayment tax when multiple loss reinstatement events take place in a single income year;
- clarifying that, when a taxpayer with a R&D loss tax credit has a loss reinstatement event for loss of continuity, the calculation of R&D repayment tax includes all share disposals and transfers that gave rise to the loss of continuity;
- amending the taxation rules for life insurance business that were introduced in 2010, including changes to clarify the treatment of investment management fees as they arise between the shareholder base and the policyholder bases for calculating tax, confirming the deductibility of interest expense in connection with reinsurance arrangements with a non-resident life reinsurer, making a number of technical changes to remove ambiguities in the current law, and dealing with other legislative housekeeping matters;
- confirming that the initial cost of repurchased shares is added to the remaining shares of the same class when shares are repurchased by a company;
- changing the formula that applies when a person changes their balance date, to ensure the calculation of the basic tax rate results in the person’s tax liability being neither understated nor overstated;
- clarifying that providing transport to an employee in a work vehicle is not a fringe benefit if the vehicle is a heavy goods vehicle;
- ensuring that a disposal of livestock on the sale of a business is taxable from the beginning of the 2005–06 income year, as intended, including a savings provision to protect tax positions taken before the amendment;
- clarifying the circumstances in which an amalgamated company is able to carry forward its own tax losses after an amalgamation;
- clarifying that the calculation of the available capital distribution amount does not include deductible depreciation losses arising on a disposal of a capital asset;
- clarifying that when a debit balance of a company’s imputation credit account is carried forward from one year to the next year, the debit balance is not subject to a second charge of further income tax;
- ensuring that the Commissioner is able to exercise a discretion to allow a late election by a company to make its tax losses available under the loss grouping rules;
- clarifying that a refund of income tax due to an imputation credit account company (ICA company) does not exceed the ICA company’s credit balance in its imputation credit account at the end of the previous tax year;

- ensuring that a company can elect to spread its excess foreign investor tax credits to any 1 or more of the 4 years prior to the year in which the foreign investor tax credit arises;
- removing an overlap between 2 provisions in the Income Tax Act 2007 relating to the treatment of land disposed of together with other land;
- correcting a cross-reference from the definition of non-filing taxpayer to operative provisions in subpart RB and making minor drafting improvements to those operative provisions;
- clarifying that for income derived by a non-resident from personal services income to be exempt from New Zealand tax, the person must not be present in New Zealand for more than 92 days in a 12-month period;
- preventing inappropriate interest deductions when a limited recourse loan matures.

Departmental disclosure statement

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

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2016&no=130>

Regulatory impact statement

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

Copies of these regulatory impact statements can be found at—

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

Clause by clause analysis

Clause 1 gives the title of the Act.

Clause 2 gives the dates on which the sections come into force.

Part 1

Annual rates of income tax

Clause 3 provides that income tax for the 2016–17 tax year is to be paid at the basic rates specified in schedule 1 of the Income Tax Act 2007.

Part 2

Amendments to Income Tax Act 2007

Clause 4 provides that Part 2 amends the Income Tax Act 2007

Clause 5 provides for the application of the provisions being introduced in this bill to apply to income that is non-resident financial arrangement income under *new section RF 2B(2)*.

Clause 6 amends section BH 1 to clarify when a double tax agreement comes into force and the relationship of a double tax agreement with the general tax avoidance provision.

Clause 7 amends section CB 6 by repealing subsection (3), which is duplicated by section CB 23B, from 1 April 2008.

Clause 8 amends section CB 6A by correcting a heading in a cross-reference, from 1 April 2008.

Clause 9 amends section CB 9(3) by inserting a cross-reference to *new section CB 15C* from 1 September 2015.

Clause 10 amends section CB 10(3) by inserting a cross-reference to *new section CB 15C* from 1 September 2015.

Clause 11 amends section CB 11(3) by inserting a cross-reference to *new section CB 15C* from 1 September 2015.

Clause 12 inserts a *new heading and new section CB 15C* coming into force on 1 September 2015. The new section provides an exemption for local authorities, and various associated organisations and entities, from provisions that impose income tax on proceeds of the disposal of land derived by a person who is associated with a dealer in land or a developer of land.

Clause 13 amends section CB 32B from 1 April 2017, by inserting a reference to *new HZ 8*.

Clause 14 replaces section CB 32C, which quantifies the income that a person with an ownership interest in a look-through company that has converted from a company is treated as receiving from that company as a result of the conversion. The amount of income corresponds to the income that the person would have received from the company in a liquidation.

Clause 15 amends section CC 4, which relates to income from interest, to provide that non-resident financial arrangement income is income of the person deriving it.

Clause 16 amends section CD 5, from 1 April 2008, to provide that a release of a company from debt by a member of the company's wholly-owned group is not subject to the usual rules relating to remission income. The amount treated as being provided as a result of the release is given by *new section EW 46C(2)*.

Clause 17 amends section CD 15, by removing a reference to FDP credits, from 1 April 2017.

Clause 18 amends section CD 16, by removing a reference to FDP credits, from 1 April 2017.

Clause 19 amends section CD 17, by removing a reference to FDP credits, from 1 April 2017.

Clause 20 amends section CD 39 from 1 April 2008 to correct the calculation of the dividend treated as arising from a loan made available by a company to a shareholder of the company. The amendment permits the payment of a fully-imputed dividend to be treated as reducing the balance of the loan. A transitional subsection precludes a change in position by a person who files a tax return before the date of introduction of this bill in which a different treatment is applied.

Clause 21 amends section CD 40, by removing references to FDP credits, from 1 April 2017.

Clause 22 amends section CD 43, which gives the available subscribed capital amount for a company. *Subclause (1)* inserts *new subsection (6)(bb)*, which provides that if the company is released from debt by a member of the company's wholly-owned group, the available subscribed capital amount is increased by the amount given for the debt by *new section EW 46C(2)*, from 1 April 2008. *Subclause (4)* inserts *new subsection (7)(ab)*, which provides that the subscriptions amount does not include the amount of an imputation credit attached to a dividend arising from some kinds of taxable bonus issue. *Subclauses (2) and (3)* make consequential amendments. *Subclauses (5) to (8)* remove references to FDP credits, from 1 April 2017.

Clause 23 amends section CD 44, which gives the available capital distribution amount for a company. *Subclause (1)* replaces subsection (9), so that the capital loss amount from a disposal of capital property by the company does not include depreciation loss for the property that is allowed as a deduction. The amendment comes into force on 1 April 2008 and corresponds to the amendment to section CD 33 of the Income Tax Act 2004. *Subclause (2)* corrects a cross-reference from 1 April 2010. *Subclause (3)* replaces subsections (10B) and (10C) with *new subsections (10B) to (10D)*, so that a disposal of property by a company to an associated company with 85% common ownership does not result in a capital gain under the section when the disposing company is liquidated if, when the disposing company is liquidated, more than 85% of the interests in the property are owned through companies by persons who own interests in the disposing company.

Clause 24 amends section CD 53, by removing a reference to FDP credits, from 1 April 2017.

Clause 25 amends section CE 5, which defines expenditure on account of an employee that is income of the employee. Subsection (2) is repealed, removing life insurance premiums from the definition. Subsection (3)(f) to (i), which list exceptions to subsection (2), are also repealed. The changes are linked to the amendments to section CX 16, relating to fringe benefit tax.

Clause 26 amends section CG 2, which gives the situations when a person who has a deduction for a liability is treated as deriving remission income when the liability is

remitted or cancelled. *Subclause (1)* inserts *new subsection (4)(ab)*, which provides that a person does not have remission income if the liability for all debts provable in a bankruptcy is cancelled by a discharge from bankruptcy or by a release under Part 5 of the Insolvency Act 2006. *Subclause (2)* removes a cancellation under the Insolvency Act 2006 from the scope of subsection (4)(b). *Subclause (3)* corrects cross-references. *Subclause (4)* is a transitional provision that applies the changes to cancellations after the day on which the Act receives the Royal assent.

Clause 27 repeals section CG 2B, which imposes a limit on the remission income under section CG 2 of a person who is discharged from bankruptcy.

Clause 28 inserts *new section CG 9*, which provides for income under *new section EJ 27* arising from the disposal of an aircraft engine and the recovery of deductions allowed for an aircraft engine overhaul of the aircraft engine, from 1 April 2017.

Clause 29 amends section CQ 5, which relates to FIF income, by inserting a clarifying reference to the defined term *non-attributing active FIF*, from 1 July 2011.

Clause 30 amends section CW 19, which provides an exemption for amounts derived in short-term visits, by replacing subsection (1)(b), so that a short-term visit is defined in terms of presence in New Zealand during 12-month periods, rather than during a tax year.

Clause 31 amends section CX 5 by repealing subsection (2)(a), under which payments of life insurance premiums by an employer for an employee could be fringe benefits even if they were exempt income of the employee. The amendment is linked with the amendment to section CX 16.

Clause 32 amends section CX 16 by replacing subsection (3), which gives the meaning of specified insurance premium for fringe benefit tax, and repealing subsections (4) to (6), which specified different types of insurance for the purposes of the old definition. The amendments rationalise the rules relating to life insurance premiums paid by employers for employees.

Clause 33 inserts *new section CX 19B*, which comes into force on 1 April 2008 and excludes an employer who provides an employee with transport in a vehicle from liability for fringe benefit tax if the vehicle is not a motor vehicle and is not designed principally for the carriage of passengers.

Clause 34 amends section CX 47 by replacing references to 2 abolished grants with a reference to a current grant.

Clause 35 repeals a heading and section CX 48D, which relates to tax credits for expenditure on research and development, from 1 April 2009 when subpart LH was repealed.

Clause 36 amends section CX 63, by removing references to FDP credits, from 1 April 2017.

Clause 37 inserts *new section CZ 33*, which provides for the effect on the income of an aircraft operator if the operator has a tax accounting provision, for expenditure on aircraft maintenance, that the operator has treated as a deduction, from 1 April 2017.

Clause 38 amends section DB 7 from 1 July 2010 so that exempt income derived from life reinsurance does not prevent a company from having a deduction for interest incurred.

Clause 39 amends section DB 13 from 1 April 2017 by inserting a cross-reference to *new section EW 49B(4)(b)*, which provides that if a debtor makes a payment to a guarantor for, but exceeding, a payment made by the guarantor under the guarantee, the debtor has a deduction for the excess.

Clause 40 amends section DB 19, by deleting a defined term in the list of defined terms.

Clause 41 amends section DB 31, which provides for the treatment of bad debts. *Subclause (1)* inserts *new subsection (2)(bb)* from 1 April 2017, which is a new limitation on the availability of a deduction from writing off a debt under a financial arrangement. The new paragraph refers to terms defined in *new section EW 46C* relating to creditors who have ownership, or other, interests in the debtor. *Subclauses (2) and (3)* insert an item in the formula in subsection (4B), from 20 May 2013, to include an accounting adjustment, arising from a bad debt, to the value of a limited-recourse arrangement for the debt.

Clause 42 inserts *new sections DW 5 and DW 6*, which come into force on 1 April 2017. *New section DW 5* concerns deductions allowed to the operator of an aircraft relating to the acquisition of an aircraft engine for or with an aircraft and to the aircraft engine overhauls that the operator is obliged to carry out. *New section DW 6* provides for deductions allowed to an operator who acquires an aircraft engine or aircraft under a finance lease.

Clause 43 inserts *new sections DZ 22 and DZ 23*, which come into force on 1 April 2017. *New section DZ 22* provides for a deduction or deductions to be allowed to an aircraft operator if the adjusted tax value of an aircraft engine, or of an aircraft including an aircraft engine, is reduced under *new section EZ 23BA* by removing the value of pieces required to be replaced in an aircraft engine overhaul. *New section DZ 23* provides for the effect on deductions allowed to an aircraft operator for expenditure on aircraft maintenance if the operator has a tax accounting provision, for such expenditure, that the operator has treated as a deduction.

Clause 44 amends section EC 26B, by inserting a new defined term in the list of defined terms.

Clause 45 amends section ED 1 by inserting *new subsection (4B)*, which provides that when a person disposes of a share acquired as a taxable bonus issue, the value of the share is treated as being the amount of the dividend from the issue of the share, not including imputation credits and withholding tax.

Clause 46 amends section EE 1 to correct a cross-reference, consistently with the amendments to section EE 44.

Clause 47 amends section EE 7 by inserting *new paragraph (hb)*, which comes into force on 1 April 2017 and removes, from the definition of *depreciable property*, pieces of an aircraft engine for which the aircraft operator receives a deduction when

acquiring the aircraft engine and which are required to be tested or replaced in an aircraft engine overhaul.

Clause 48 amends section EE 41 by correcting a cross-reference.

Clause 49 amends section EE 44, which provides for the application of various sections to consideration received from the disposal of an item of property or events relating to the item of property. The amendments remove references to section EE 52, which relates to an event but not to an event involving the item and which should be referred to separately in section EE 1.

Clause 50 amends section EE 47, removing references to section EE 52, consistently with the amendments to section EE 44.

Clause 51 amends section EE 49, with effect from 1 April 2008, to make more accurate a cross-reference to a description of the amount of depreciation recovery income to be used in a calculation.

Clause 52 amends section EJ 2 by inserting into subsection (1) a further cross-reference to the Maritime Rules, coming into force on 1 April 2014.

Clause 53 inserts a *new heading* and *new sections EJ 24, EJ 25, EJ 26, and EJ 27*, which come into force on 1 April 2017. *New section EJ 24* gives general rules for the allocation of expenditure on aircraft engine overhauls, which require the deductions for the expenditure to be spread over the scheduled overhaul period on the basis of the use of the aircraft engine during the period. *New section EJ 25* gives the rules for an operator electing to use IFRS accounting rules, who is allowed to use the figures in the operator's financial statements, using methods and adjustments agreed with the Commissioner. *New section EJ 26* gives the rules for an operator who uses a single aircraft in business. The person may allocate expenditure on an aircraft engine overhaul to the income year of the overhaul. *New section EJ 27* provides for recovery of allowed deductions if an aircraft engine or aircraft including an aircraft engine is disposed of for an amount that exceeds, for the aircraft engine or aircraft, the total of the adjusted tax value and depreciation recovery income.

Clause 54 amends section EW 5 by replacing references to 2 abolished grants with a reference to a current grant.

Clause 55 amends section EW 11, which sets out when the financial arrangements rules do not apply, to include a reference to the calculation of non-resident passive income that is either non-resident financial arrangement income or income that is treated under *new subpart FG* as being derived under a notional loan to a New Zealand branch of a foreign bank.

Clause 56 amends section EW 31, which gives the formula for the base price adjustment for a financial arrangement, from 1 April 2011. *Subclause (1)* replaces subsection (11) to exclude an amount that is a self-remission from being taken into account as an amount remitted. *Subclause (2)* inserts *new subsection (12)*, which defines *self-remission* to mean an amount owing under a debt that is remitted by a person as creditor when the person is also liable as debtor under the debt, in the capacity of owner or partner.

Clause 57 inserts, from 1 April 2008, *new section EW 46C*, which provides that if a debt is forgiven by a creditor and the creditor has a proportional ownership, or similar, interest in the debtor corresponding to the creditor's proportional share of the debtor's total debt, the debtor is treated as having paid the debt and the creditor is treated as having been paid the debt. The section defines the terms *creditor group*, *creditor's associate*, *creditor's interest*, and *pari passu debt*.

Clause 58 amends *section EW 49* from 1 April 2017, by amending a cross-reference heading to correspond to the amended heading for *section DB 13*.

Clause 59 inserts, from 1 April 2017, *new section EW 49B*, which provides that if a person guarantees a debt owed by an associated person and pays an amount under the guarantee, the person is treated as paying the amount to acquire a corresponding amount of the debt. The resulting effect on a base price adjustment for the debt is specified. If the debtor later repays the person an amount that exceeds the acquired debt, the person is treated as having income, and the debtor is allowed a deduction, equal to the excess.

Clause 60 amends *section EX 46*, which provides for the choice of a method for calculating FIF income or loss, by replacing subsection (1)(b) to insert cross-references to sections that limit the use of particular methods.

Clause 61 amends *section EY 2*, which relates to the policyholder base. *Subclause (1)* amends subsection (2) by inserting a cross-reference to *new section EY 16B* from 1 April 2015. *Subclause (2)* replaces subsection (5) to clarify its effect.

Clause 62 amends *section EY 3* from 1 April 2015 by inserting a cross-reference to *new section EY 19B*.

Clause 63 inserts *new section EY 16B* from 1 April 2015 to provide a deduction for a life insurer's policyholder base equal to an amount credited by the life insurer to the shareholder base for investment management services provided for savings product policies that are not profit participation policies. *Subclause (3)* is a transitional provision for earlier income years.

Clause 64 amends *section EY 17* by clarifying the way in which the value of future transfers is to be determined.

Clause 65 amends *section EY 19* from 1 April 2015, by excluding fees of the kind referred to in *new section EY 19B* from a reference to fees and commissions. *Subclause (3)* is a transitional provision for earlier income years.

Clause 66 inserts *new section EY 19B* from 1 April 2015 to provide that a life insurer's shareholder base has income of an amount credited by the life insurer to the shareholder base for investment management services provided for savings product policies that are not profit participation policies. *Subclause (3)* is a transitional provision for earlier income years.

Clause 67 amends *section EY 21* by clarifying the way in which the value of future transfers is to be determined for income years beginning after the date of introduction of this Bill.

Clause 68 amends section EY 23 to clarify that the section applies to life insurance policies that are non-participation policies and to clarify the definition of the term *PSR period*, which applies for the premium smoothing reserve.

Clause 69 amends section EY 25, which provides for the calculation of the premium smoothing reserving amount. *Subclause (1)* clarifies the relationship between items in a list, from 1 July 2010. *Subclause (2)* inserts *new subsection (3)*, which clarifies the principles that must be used in the calculation of the reserving amounts.

Clause 70 amends section EY 28 to clarify the requirements for calculating an amount relating to existing profit participation policies that is shareholder base income or a shareholder base allowable deduction.

Clause 71 amends section EY 29 to clarify the requirements for calculating an amount relating to new profit participation policies that is shareholder base income or a shareholder base allowable deduction.

Clause 72 inserts *new section EZ 23BA*, which comes into force on 1 April 2017 and provides that the adjusted tax value of an aircraft engine, or an aircraft including an aircraft engine, is reduced by the amount that has been included for the value of pieces that are required to be replaced as part of an aircraft engine overhaul.

Clause 73 amends section FA 4, which relates to the off-market cancellation of shares by a company, from 1 April 2008. *Subclause (1)* amends subsection (2)(b) so that the cost to the shareholder of the remaining shares is increased by the cost of the cancelled shares, rather than by the amount that the shareholder receives from the cancellation. *Subclause (2)* provides that the amendment does not apply to a tax position taken in a return of income before the date of introduction of this Bill and relying on the paragraph as it was before the amendment.

Clause 74 amends section FA 9, which relates to the treatment of a leased asset acquired by the lessee at the end of the lease, from 1 April 2017. The amendment excludes from the consideration paid for a leased aircraft an amount that is deductible under *new section DW 5 or DW 6*.

Clause 75 amends section FA 10, which relates to the treatment of a leased asset acquired by the lessor at the end of the lease, from 1 April 2017. The amendment excludes from the consideration paid for a leased aircraft an amount that is deductible under *new section DW 5 or DW 6*.

Clause 76 amends section FA 11, which relates to the treatment of a leased asset when the lease becomes a finance lease, from 1 April 2017. The amendment excludes from the consideration paid for a leased aircraft an amount that is deductible under *new section DW 5 or DW 6*.

Clause 77 amends section FC 1 by inserting a reference to *new section FC 10*.

Clause 78 amends section FC 2 to take into account the amendment to section FC 1.

Clause 79 inserts *new heading and new section FC 10*, which provides for the treatment of the transfer to the Official Assignee of property, and unallocated deductions, of a person who is adjudicated bankrupt.

Clause 80 amends section FE 2, by inserting a defined term in the list of defined terms.

Clause 81 amends section FE 9, from 1 April 2008, to clarify that a person making an election under section FE 30 is required to comply with the amended section.

Clause 82 amends section FE 28, which relates to identifying the members of a New Zealand group for the purposes of the interest apportionment rules. *Subclause (1)* corrects, from 1 April 2008, the description of the companies that can be members of a particular kind of New Zealand group by changing 1 of the requirements so that it is applicable to all of the members, rather than being an alternative requirement. *Subclause (2)* makes a corresponding correction, from 30 June 2009, to the current version of the section, which came into force on that date.

Clause 83 inserts *new subpart FG* applying to notional loans to New Zealand branches of foreign banks. *Section FG 1* describes the circumstances in which the subpart applies, namely, when an amount is made available by a bank to a branch which is allowed a deduction in relation to the amount. *Section FG 2* describes the nature of those loans, when money is lent, and when money is repaid. *Section FG 3* sets out the treatment of the notional interest as paid by the branch to the bank on the last day of the income year, incurred by the branch in the income year, and derived by the bank in the income year. Examples are included to illustrate the operation of the subpart.

Clause 84 amends section FM 6 by removing cross-references to repealed provisions, from 1 April 2017.

Clause 85 amends section FM 7 by removing cross-references to repealed provisions, from 1 April 2017.

Clause 86 repeals section FM 27, which relates to FDP, from 1 April 2017.

Clause 87 repeals section FM 28, which relates to FDP, from 1 April 2017.

Clause 88 repeals section FM 29, which relates to FDP, from 1 April 2017.

Clause 89 amends section FM 30, to correct a cross-reference.

Clause 90 repeals section FM 30, which relates to FDP, from 1 April 2017.

Clause 91 amends section FO 12, which applies to obligations under a financial arrangement passing from an amalgamating company to the amalgamated company. An amendment to subsection (1)(d), from 1 April 2008, clarifies the requirements for the section to apply that relate to a loss balance passing to the amalgamated company.

Clause 92 amends section FO 20 by correcting a cross-reference.

Clause 93 amends section FZ 6 by correcting a cross-reference.

Clause 94 amends section GB 35 by removing references to FDP credits and FDP ratios, from 1 April 2017.

Clause 95 amends section GB 36 by removing references to FDP credits and FDP accounts and replacing the definitions of *account advantage* and *tax credit advantage*, from 1 April 2017.

Clause 96 repeals section GB 41, which relates to FDP accounts, from 1 April 2017.

Clause 97 amends the *heading before section GB 50* and the heading of *section GB 50* and inserts references to look-through companies into section GB 50(1)(a) and (c), from 1 April 2017.

Clause 98 amends section HA 6 from 1 April 2017 by inserting *new subsections (3) and (4)*, which introduce a continuity requirement for shareholder interests in a qualifying company.

Clause 99 amends section HA 15 by removing references to various aspects of FDP, from 1 April 2017.

Clause 100 amends section HA 18 by removing references to FDP accounts, from 1 April 2017.

Clause 101 amends section HA 19 by removing references to FDP credits and FDP accounts, from 1 April 2017.

Clause 102 amends section HA 24, which relates to loss-attributing qualifying companies and came into force on 1 April 2008 before being repealed on 1 April 2011. For that period, *subclause (1)* replaces subsection (1) so that the section applies also to a loss-attributing qualifying company that has a net mining loss in a tax year. *Subclause (2)* amends subsection (3)(a) so that the net mining loss is included in the calculation using the formula in subsection (2). *Subclauses (4) and (5)* are transitional provisions and provide that the changes do not apply for a person who has adopted a tax position, for an affected income year, relying on the the provision as it was before the amendments.

Clause 103 amends section HA 41 by removing references to FDP credits, from 1 April 2017.

Clause 104 amends section HB 4, which provides that various events relating to a look-through company are treated as if the shareholders had disposed of their owner's interests for the company for a payment equal to the market value of the interests. *New subsection (7)*, inserted from 1 April 2017, provides that the market value of an owner's interest in debt owed by a look-through company is adjusted for any credit impairment associated with the debt.

Clause 105 amends section HB 11 from 1 April 2017 by replacing subsection (1), so that the application of the section is limited to a look-through company that is in a partnership or joint venture that includes another look-through company.

Clause 106 amends section HB 13, which provides for an election by a company to become a look-through company. *New subsection (6)*, inserted from 1 April 2011, provides for the effect of the election on the value for tax purposes of property owned by the company.

Clause 107 amends section HG 2 by removing references to FDP credits, from 1 April 2017.

Clause 108 amends section HG 5, to take into account the new definition of *exiting partner*.

Clause 109 amends section HG 6, to take into account the new definition of *exiting partner*.

Clause 110 amends section HG 7, to take into account the new definition of *exiting partner*.

Clause 111 amends section HG 8, to take into account the new definition of *exiting partner*.

Clause 112 amends section HG 9, to take into account the new definition of *exiting partner*.

Clause 113 amends section HG 11, to take into account the new definition of *exiting partner*.

Clause 114 amends section HM 3(2) from 2 November 2012 by changing the Australian statute referred to in a cross-reference, better reflecting the effect of the different statutes.

Clause 115 amends section HM 19 by removing references to FDP credits, from 1 April 2017.

Clause 116 amends section HM 52 by deleting a defined term from the list of defined terms.

Clause 117 amends section HM 70 by removing references to FDP credits, from 1 April 2017.

Clause 118 repeals section HM 76, which relates to FDP accounts, from 1 April 2017.

Clause 119 inserts *new section HZ 8* from 1 April 2017, which provides for a person with an owner's interest as debtor in financial arrangements to have an amount of income for the 2017–18 income year if section HB 4 applied to the financial arrangements for income years before the 2017–18 income year. The amount of income is the difference between the amount of income that arose under the application of section HB 4 to the financial arrangements for the earlier income years and the amount that would have arisen if the amendment to section HB 4 in *clause 104* applied to the earlier income years.

Clause 120 amends section IA 3. *Subclause (4)* updates a cross-reference to take *new section IA 3B* into account. The other subclauses remove references to FDP, from 1 April 2017.

Clause 121 inserts *new section IA 3B*, which provides that tax losses incurred by a person before being discharged from bankruptcy, or being otherwise released from all provable debts under the Insolvency Act 2006, cannot be used after the date of the discharge or release.

Clause 122 amends section IA 7, which relates to ring-fenced tax losses. *Subclause (1)* inserts a cross-reference to section HA 24, with effect from 1 April 2008, as a provision relating to the tax losses of a mineral miner. *Subclause (2)* repeals the reference with effect from 1 April 2011, when the provision was repealed. *Subclauses (3) and (4)* remove references to new start grants, which have been abolished. *Subclauses (5) and (6)* are transitional provisions.

Clause 123 amends section IC 9(2) from 1 April 2008 by clarifying that a reference to a later date allowed by the Commissioner is a reference to a later date allowed for a notice.

Clause 124 replaces section IE 3, which provides for the treatment of tax losses by an amalgamated company following an amalgamation. The new section comes into force on 1 April 2008 and clarifies the application of the rules by expressly distinguishing between the periods, of the income year in which an amalgamation takes place, that come before or after the amalgamation.

Clause 125 amends section IS 1, which applies to the tax losses of a mineral miner. *Subclause (1)* comes into force on 1 April 2014 and replaces subsection (1) so that a mineral miner may be included in a group of companies, although it may not make a tax loss available to another member of the group.

Clause 126 amends section LA 6 to remove a cross-reference to subpart LF, from 1 April 2017, and a cross-reference to subpart LH, from 1 April 2009.

Clause 127 amends section LE 1 to remove a reference to FDP credits, from 1 April 2017.

Clause 128 amends section LE 6 to remove references to FDP credits, from 1 April 2017.

Clause 129 amends section LE 8 to remove a reference to FDP credits, from 1 April 2017.

Clause 130 repeals section LE 9, which relates to FDP ratios, from 1 April 2017.

Clause 131 repeals subpart LF, which provides for tax credits for FDP credits, from 1 April 2017.

Clause 132 amends section LJ 1, which relates to tax credits for the payment of foreign income tax. *Subclause (1)* replaces subsection (4), which is a rule giving the source of a dividend paid by a company resident in a foreign territory, so that the subsection is applicable if the territory has a double tax agreement with New Zealand and if the territory does not. *Subclause (2)* repeals subsection (5), which is redundant.

Clause 133 amends section LJ 3, which defines *foreign income tax*, so that the meaning of the term depends on whether New Zealand has a double tax agreement with the territory in which tax is paid.

Clause 134 repeals section LJ 8, which relates to FDP liability, from 1 April 2017.

Clause 135 amends section LP 2, which gives the amount of a tax credit for a company that pays a supplementary dividend, by changing the term used to refer to the amount of a notional imputation credit.

Clause 136 amends section LP 3, which relates to the use of tax credits by a company that has paid a supplementary dividend, by replacing subsections (1) to (4) with effect from 1 April 2008. The subsections clarify when the company may make a tax credit available to another company in the same group, when a credit may be carried back to an earlier tax year, and when a credit may be carried forward.

Clause 137 amends section LP 5 from 1 April 2017 to remove a cross-reference relating to FDP credits.

Clause 138 amends section MB 7B, which relates to family scheme income from employment benefits, by inserting from 1 April 2014 *new subsection (3)*, which gives an alternative rate of fringe benefit tax that may be used in the calculation.

Clause 139 inserts *new section MB 14* from 1 April 2014, when section CG 2B came into force. The new section provides that remission income under section CG 2B is not included in the family scheme income of a person who is discharged from bankruptcy.

Clause 140 repeals *new section MB 14*, when this Act receives the Royal assent, coinciding with the repeal of section CG 2B.

Clause 141 amends section MD 1, which gives the amount of an abating WFF tax credit. *Subclause (1)* comes into force on 1 April 2008 and replaces subsection (3)(c) so that it refers to *new section MD 12B*, which provides for an additional tax credit amount if a parental entitlement period overlaps 2 tax years and the tax credit is paid in a lump sum. *Subclause (2)* comes into force on 1 April 2015 and replaces subsection (3)(d), correcting the description of the calculation of the credit abatement.

Clause 142 amends section MD 2 from 1 April 2015 by correcting the formula used for calculating the amount of family credit abatement for a period applied to reduce the amount of parental tax credit for an entitlement period. *Subclauses (1) and (2)* come into force on 1 April 2015, when the formula was changed to ensure the PTC is abated against each dollar of family scheme income earned above the annual WFFTC income threshold for the entire tax year.

Clause 143 amends section MD 11 to clarify the description in subsection (6) of the 2 ways in which a parental tax credit is paid.

Clause 144 amends section MD 12, to provide for the calculation of a parental tax credit paid in a lump sum for a parental entitlement period that overlaps 2 tax years and when the tax credit is paid in a lump sum. *Subclauses (1) to (3) and (6)* come into force on 1 April 2008 and make amendments allowing a calculation to be made for the part of a parental entitlement period falling in the tax year. *Subclauses (4) and (5)* come into force on 1 April 2015, when the parental entitlement period was increased to 70 days, and make corresponding amendments.

Clause 145 inserts *new section MD 12B*, which comes into force on 1 April 2008 and provides for an additional amount of parental tax credit if the parental entitlement period for a birth ends after the end of the tax year of the birth and the tax credit is paid in a lump sum. *Subclauses (2) and (3)* come into force on 1 April 2015, when the parental entitlement period was increased to 70 days, and make corresponding amendments.

Clause 146 amends section MD 13, to provide for the calculation of family credit abatement applied to reduce the amount of parental tax credit for a parental entitlement period that overlaps 2 tax years and a tax credit that is paid in a lump sum. *Subclauses (1), (2), (3), and (7)* come into force on 1 April 2014 and allow a calculation

to be made for the part of a parental entitlement period falling in the tax year. *Subclauses (4) and (5)* come into force on 1 April 2015, when the parental entitlement period was increased to 70 days, and make corresponding amendments.

Clause 147 amends the heading to section MD 16, reflecting the amendments made to this section on 1 April 2014. *Subclause (1)* comes into force on 1 April 2014 and specifies that this section calculates the additional parental tax credit abatement amount in tax year of birth if the parental entitlement period crosses 2 tax years and the credit is paid in a lump sum. *Subclause (2)* comes into force on 1 April 2015, when the parental entitlement period was increased to 70 days, and make corresponding amendments.

Clause 148 amends section MX 7 from 1 April 2016 to correct the descriptions of the situations in which a company that has had R&D loss tax credits is liable for amounts of R&D repayment tax and to clarify the amounts.

Clause 149 amends section OA 2 to remove references to FDP accounts, from 1 April 2017.

Clause 150 amends section OA 5. *Subclause (2)* repeals a reference to policyholder credit accounts and *subclause (3)* repeals subsection (3), which relates to FDP, from 1 April 2017.

Clause 151 amends section OA 6. *Subclause (1)* repeals subsection (3), which relates to FDP, from 1 April 2017.

Clause 152 amends section OA 7. *Subclause (1)* repeals subsection (2)(b), which relates to FDP, from 1 April 2017.

Clause 153 amends section OA 8 to remove references to FDP accounts, from 1 April 2017.

Clause 154 amends section OA 10. *Subclause (2)* repeals a reference to policyholder credit accounts. *Subclauses (1) and (3)* repeal references relating to FDP, from 1 April 2017.

Clause 155 repeals section OA 11, which relates to FDP accounts, from 1 April 2017.

Clause 156 repeals section OA 13, which is redundant following the abolition of policyholder credit accounts.

Clause 157 amends section OA 14 to correct a cross-reference referring to section OA 17.

Clause 158 amends section OA 15. *Subclause (2)* repeals a reference to policyholder credit accounts. *Subclauses (1) and (3)* repeal references relating to FDP, from 1 April 2017.

Clause 159 repeals section OA 16, which relates to FDP accounts, from 1 April 2017.

Clause 160 repeals section OA 17, which is redundant following the abolition of policyholder credit accounts.

Clause 161 amends section OA 18 to remove references to FDP credits and FDP ratios, from 1 April 2017.

Clause 162 amends section OB 4 to remove cross-references, relating to tax credits for research and development from 1 April 2009 and relating to FDP from 1 April 2017.

Clause 163 amends section OB 6, which relates to imputation credits arising from transfers from the tax pooling account of a company. The clause comes into force on 6 October 2009 and inserts *new subsection (3)(ab)*, which gives a credit date for a transfer to satisfy a liability for an increased amount of tax that is not income tax. The amendment corresponds to the amendment to section OP 9 for a consolidated imputation group.

Clause 164 repeals section OB 7C, which relates to expenditure on research and development, from 1 April 2009.

Clause 165 repeals section OB 10, which relates to FDP credits, from 1 April 2017.

Clause 166 repeals section OB 12, which relates to FDP debits, from 1 April 2017.

Clause 167 inserts *new section OB 19B* from 1 October 2016, providing for a company to have an imputation credit from a transfer of credits, if a company in the same group transfers a tax loss to the company and makes an election under *new section OB 83*.

Clause 168 amends section OB 24. *Subclauses (2) and (4)* repeal references to policy-holder credit accounts. *Subclauses (1) and (3)* repeal references relating to FDP, from 1 April 2017. Other subclauses remove repealed terms from the list of defined terms.

Clause 169 amends section OB 26, which eliminates double imputation debits for a company. *Subclause (2)* comes into force on 1 April 2008 and inserts *new subsection (2)(ab)*, which provides for a situation in which an entitlement to a deposit in the pool is transferred after there has been an imputation debit for loss of shareholder continuity. *Subclauses (1), (3), and (4)* make consequential changes. The amendments correspond to the amendments to section OP 23 for a consolidated imputation group.

Clause 170 repeals section OB 36, which relates to FDP refunds, from 1 April 2017.

Clause 171 amends section OB 37. *Subclause (2)* repeals subsection (1B), which relates to FDP credits, from 1 April 2017, and *subclauses (1) and (3)* repeal references to tax credits for research and development, from 1 April 2009.

Clause 172 repeals section OB 38, which relates to overpaid FDP, from 1 April 2017.

Clause 173 amends section OB 43 to remove references to FDP credits, from 1 April 2017.

Clause 174 amends section OB 45 to remove references to FDP credits, from 1 April 2017.

Clause 175 inserts *new section OB 46B*, which comes into force on 1 October 2016 and provides for a company to have an imputation debit from a transfer of credits to another company, if a company transferring a tax loss to the same company makes an election under *new section OB 83*.

Clause 176 amends section OB 53 to remove cross-references relating to FDP, from 1 April 2017, and cross-references relating to policyholder credit accounts.

Clause 177 amends section OB 60 to remove references to FDP credits, from 1 April 2017.

Clause 178 amends section OB 61 by inserting *new subsection (2)(bb)*, which excludes a dividend under *new section CB 32C* from the application of the section.

Clause 179 amends section OB 67, which relates to a company's liability for further income tax relating to the company's imputation credit account, from 1 April 2008. *Subclause (1)* corrects subsection (2), to provide that the calculation under the formula gives the company's liability, rather than giving the reduction of the company's liability. *Subclause (2)* clarifies the wording of *subsection (2B)(b)*.

Clause 180 amends section OB 71, which provides for imputation additional tax if a company leaves a wholly-owned group of companies, from 1 October 2016. *Subclause (2)* replaces subsection (1) so that the section applies to a company leaving a group of companies, as well as to a company leaving a wholly-owned group of companies. The other subclauses make consequential changes.

Clause 181 amends section OB 72, which provides for imputation additional tax if a company joins a wholly-owned group of companies, from 1 October 2016. *Subclause (1)* replaces subsection (2) so that the section applies to a company joining from a group of companies that is not wholly-owned, as well as to a company joining from a wholly-owned group of companies.

Clause 182 amends section OB 72B, which restricts the use of a refund received by a company after joining a wholly-owned group, from 1 October 2016. The amendments provide for the section's application to a company that is joining from a group of companies that is not a wholly-owned group of companies. *Subclause (6)* inserts *new subsections (5B) and (5C)*, which specify the ways in which a restricted refund may be used.

Clause 183 repeals section OB 76, which relates to FDP credits, from 1 April 2017.

Clause 184 repeals section OB 81, which relates to FDP credits, from 1 April 2017.

Clause 185 amends section OB 82 to remove cross-references to repealed sections, from 1 April 2017.

Clause 186 inserts *new heading and new sections OB 83 and OB 84*, which come into force on 1 October 2016. *New section OB 83* governs when an election can be made for a transfer of imputation credits to accompany the transfer of a tax loss by a loss company to a profit company in the same group of companies. *New section OB 84* governs how and when an election can be made.

Clause 187 amends table O1. *Subclause (1)* removes a reference to tax credits for research and development, from 1 April 2009. *Subclauses (2), (3), and (6)* remove references to FDP, from 1 April 2017. *Subclause (4)* inserts *new row 17B* from 1 October 2016, referring to an imputation credit under *new section OB 19B*. *Subclause (5)* removes a reference to a policyholder credit.

Clause 188 amends table O2. *Subclause (4)* inserts *new row 19B* from 1 October 2016, referring to an imputation debit under *new section OB 46B*. Other subclauses remove references to FDP from 1 April 2017.

Clause 189 repeals subpart OC, which relates to FDP accounts, from 1 April 2017.

Clause 190 repeals table O3, which relates to FDP credits, from 1 April 2017.

Clause 191 amends table O4 by repealing a reference to a repealed provision.

Clause 192 repeals table O4, which relates to FDP debits, from 1 April 2017.

Clause 193 amends section OE 19 by deleting a defined term from the list of defined terms.

Clause 194 amends section OK 1 to remove references to FDP, from 1 April 2017.

Clause 195 amends section OK 2 from 1 April 2009, by repealing a reference to credits for research and development.

Clause 196 repeals section OK 4B, which relates to credits for research and development, from 1 April 2009

Clause 197 repeals section OK 7, which relates to FDP credits, from 1 April 2017.

Clause 198 repeals section OK 14, which relates to FDP refunds, from 1 April 2017.

Clause 199 amends section OK 14B to remove references to credits for research and development, from 1 April 2009, and references to FDP, from 1 April 2017.

Clause 200 amends table O17 by removing a reference to credits for research and development, from 1 April 2009, and a reference to FDP credits, from 1 April 2017.

Clause 201 amends table O18 by repealing a reference to FDP, from 1 April 2017.

Clause 202 amends section OP 5 to repeal references to FDP, from 1 April 2017.

Clause 203 amends section OP 7 to repeal references to FDP credits, from 1 April 2017, and a reference to credits for research and development, from 1 April 2009.

Clause 204 amends section OP 9, which relates to imputation credits arising from transfers from tax pooling accounts of consolidated imputation groups. The clause comes into force on 6 October 2009 and inserts *new subsection (3)(ab)*, which gives a credit date for a transfer to satisfy a liability for an increased amount of tax that is not income tax. The amendment corresponds to the amendment to section OB 6 for a company.

Clause 205 repeals section OP 11B, which relates to credits for research and development, from 1 April 2009.

Clause 206 repeals section OP 13, which relates to FDP credits, from 1 April 2017.

Clause 207 repeals section OP 18, which relates to FDP debits, from 1 April 2017.

Clause 208 repeals section OP 19, which relates to FDP, from 1 April 2017.

Clause 209 amends section OP 23, which eliminates double imputation debits for a consolidated imputation group. *Subclause (3)* comes into force on 1 April 2008 and inserts *new subsection (2)(ab)*, which provides for a situation in which an entitlement

to a deposit in the pool is transferred after there has been an imputation debit for loss of shareholder continuity. *Subclauses (1), (2), (4), and (5)* make consequential changes. The amendments correspond to the amendments to section OB 26 for a company.

Clause 210 repeals section OP 34, which relates to FDP refunds, from 1 April 2017.

Clause 211 amends section OP 35. *Subclause (2)* repeals subsection (1B), which relates to FDP, from 1 April 2017, and *subclauses (1) and (3)* remove references to credits for research and development, from 1 April 2009.

Clause 212 repeals section OP 36, which relates to FDP overpayments, from 1 April 2017.

Clause 213 amends section OP 45 to remove references to FDP, from 1 April 2017.

Clause 214 amends table O19 by repealing a reference to credits for research and development, from 1 April 2009, and references to FDP, from 1 April 2017.

Clause 215 amends table O20 by repealing references to FDP, from 1 April 2017.

Clause 216 repeals sections OP 51 to OP 74 and associated cross-headings, which relate to FDP, from 1 April 2017.

Clause 217 repeals section OP 75, which is redundant following the abolition of policyholder credit accounts.

Clause 218 repeals sections OP 76 and OP 77, which relate to FDP, from 1 April 2017.

Clause 219 repeals table O21, which relates to FDP credits, from 1 April 2017.

Clause 220 amends table O22 by repealing a reference to repealed *section OP 75*.

Clause 221 repeals table O22, which relates to FDP debits, from 1 April 2017.

Clause 222 amends section OZ 3 to remove references to FDP, from 1 April 2017.

Clause 223 amends section OZ 5 by deleting a defined term from the list of defined terms.

Clause 224 amends section OZ 7B to remove references to FDP and cross-references to repealed provisions, from 1 April 2017.

Clause 225 amends section OZ 8 to remove references to FDP, from 1 April 2017.

Clause 226 amends section OZ 9 to remove references to FDP, from 1 April 2017.

Clause 227 amends section OZ 10 to remove references to FDP, from 1 April 2017.

Clause 228 amends section OZ 11 to remove references to FDP, from 1 April 2017.

Clause 229 amends section OZ 12 to remove references to FDP credit ratios, from 1 April 2017.

Clause 230 repeals section OZ 18, which relates to policyholder credit accounts.

Clause 231 amends section RA 15, by inserting a cross-reference in subsection (3)(b), from 1 April 2008.

Clause 232 amends section RA 19 to repeal references to FDP, from 1 April 2017.

Clause 233 repeals section RB 2, which is no longer a useful guide for finding relevant provisions of the Act.

Clause 234 amends section RD 3, which defines PAYE income payments. The current provision refers to *shareholder-employee*, which is a defined term and, except in this section, does not include shareholders who are also employees of companies with 25 or fewer shareholders. The wording is changed from 1 April 2008, to widen the wording of the provision, corresponding to an amendment to the definition of *shareholder-employee*.

Clause 235 replaces section RD 3(2) to (5), which give a shareholder and employee of a company, that is not a look-through company and is a close company or has 25 or fewer shareholders, a choice relating to the classification of payments from the company as PAYE income payments. The new subsections give 2 options for classifying payments, which are set out in *new sections RD 3B and RD 3C*.

Clause 236 inserts *new sections RD 3B and RD 3C*, as referred to in section RD 3. *New section RD 3B* gives a shareholder and employee, for whom less than 66% of the amount received from the company is paid in regular amounts for regular pay periods of a month or less, the option of having none of the payments from the company classified as PAYE income payments. *New section RD 3C* gives a shareholder and employee the option of having payments from the company classified as PAYE income payments if the payments are of regular amounts for regular pay periods of a month or less, and having other payments from the company not classified as PAYE income payments.

Clause 237 replaces section RD 5(5), to include members of the Employment Relations Authority in the list of office holders whose remuneration is subject to PAYE.

Clause 238 amends section RD 21, from 1 April 2008, to correct the description of a situation in which an employee is required to pay a shortfall in the PAYE that can be withheld by the employer. A reference to the amount of a PAYE income payment is changed to refer to the amount of money included in the PAYE income payment.

Clause 239 amends section RE 2, which defines *resident passive income*, from which resident withholding tax must usually be withheld. *Subclauses (1)* inserts *new subsection (5)(fb)*, from 1 April 2017. The amendment excludes fully-imputed dividends from being dividends under the section if they are paid to a company by a company that chooses to exclude the payments from the application of the section. *Subsection (2)* inserts *new subsection (5)(gb)* excluding amounts if they are dividends from a look-through company under *new section CB 32C*. *Subclause (3)* removes a reference to FDP ratios from 1 April 2017.

Clause 240 amends section RE 13, which gives the resident withholding tax for a payment of a dividend other than a non-cash dividend, from 1 April 2017. *Subclause (1)* inserts *new subsection (1B)*, which excludes the application of the section if the payment is made with a non-cash dividend by a person who chooses to apply *new section RE 14B*. The other subclauses remove references to FDP.

Clause 241 amends section RE 14, which gives the resident withholding tax for a payment of a non-cash dividend, from 1 April 2017. *Subclause (1)* inserts *new subsection (1B)*, which excludes the application of the section if the payment is made with a dividend other than a non-cash dividend by a person who chooses to apply *new section RE 14B*. The other subclauses remove references to FDP.

Clause 242 inserts *new section RE 14B*, from 1 April 2017. The section gives an optional method of calculating resident withholding tax if a dividend other than a non-cash dividend is paid at the same time as a non-cash dividend and is for an amount that is greater than the resident withholding tax calculated under the section for both dividends.

Clause 243 amends section RE 15 to remove references to FDP, from 1 April 2017.

Clause 244 amends section RE 17 to remove references to FDP credits, from 1 April 2017.

Clause 245 repeals section RE 23, which relates to FDP credits, from 1 April 2017.

Clause 246 amends section RF 1, which lists the provisions of the NRWT rules, to insert references to the new provisions for related-party and branch lending.

Clause 247 amends section RF 2. *Subclause (1)* replaces subsection (1)(d), the definition of *non-resident passive income*, for the changes to related-party and branch lending. The paragraph refines what is meant by interest for these purposes. *Subclauses (2) and (4)* make a consequential amendment related to the application of the financial arrangements rules, and insert a definition of *NRFAI due date* for the purposes of the new rules for related-party and branch lending. *Subclause (3)* amends subsection (4) to clarify the kinds of non-resident passive income for which a person's tax liability is equal to the amount that is required to be withheld from payments.

Clause 248 inserts *new section RF 2B*, which applies when a resident is party to a financial arrangement with a non-resident or is party to an indirect funding arrangement. The new section defines what is meant by *non-resident financial arrangement income*. An example illustrates the operation of the provision.

Clause 249 amends section RF 8 to remove references to FDP, from 1 April 2017.

Clause 250 amends section RF 9 to remove references to FDP, from 1 April 2017.

Clause 251 amends section RF 10 to remove references to FDP, from 1 April 2017.

Clause 252 amends section RF 12, which provides for a zero rate of NRWT to be payable on interest meeting the requirements of the section. *Subclause (1)* amends section RF 12(1)(a)(ii) to provide that the section applies to interest paid by an approved issuer who is a member of a New Zealand banking group, whether or not the interest is derived by a person who is not associated with the approved issuer. *Subclause (2)* inserts *new section RF 12(1)(a)(iv)* to provide that the interest paid by an approved issuer must not relate to related-party debt.

Clause 253 inserts *new heading and new sections RF 12D to RF 12I* which provide for the treatment of certain financial arrangements involving related-party debt. *Section RF 12D* describes how to calculate non-resident financial arrangement income.

Section RF 12E specifies when non-resident financial arrangement income is treated as being paid. *Section RF 12F* provides for a first-year adjustment when an arrangement falls within the new rules, by adding an amount to the income of the person deriving the non-resident financial arrangement income. *Section RF 12G* provides an election mechanism for persons who want to use the new rules although their expenditure, or the nature of the arrangement, does not meet the relevant thresholds. *Section RF 12H* defines *related-party debt*. *Section RF 12I* explains the terms used in the definition of *related-party debt*, in particular, *indirect associated funding* and *non-resident owning body*. Examples illustrate the operation of the provisions.

Clause 254 repeals section RF 14, which relates to FDP credits, from 1 April 2017.

Clause 255 amends section RM 1 to remove a reference to policyholder credit accounts.

Clause 256 repeals section RM 3, which relates to overpaid FDP, from 1 April 2017.

Clause 257 amends section RM 13 by replacing subsection (3) to clarify the limit on a refund relating to the imputation credit account of a company if the company has been given an extension of time to file an annual imputation credit account return. The limit is based on the most recent period for which a return has been filed.

Clause 258 repeals a heading and sections RM 18 to RM 21, which relate to FDP, from 1 April 2017.

Clause 259 repeals a heading and sections RM 28 to RM 31, which relate to policyholder credit accounts.

Clause 260 amends section RZ 6 to remove a reference to policyholder credit accounts.

Clause 261 inserts a *new heading* and *new section RZ 12*, which is a transitional provision for the new rules for the treatment of a prepayment of interest under an arrangement that would be a related-party debt if the rules had applied before the date of enactment. The provision specifies the date on which payment is treated as being made for existing arrangements. An example illustrates the operation of the provision.

Clause 262 amends section YA 1, which contains definitions. *Subclause (2)* inserts definitions of *aircraft engine* and *aircraft engine overhaul*, which come into force on 1 April 2017. *Subclause (3)* amends the definition of *ancillary tax*, to remove references to FDP from 1 April 2017. *Subclause (4)* repeals the definition of *annual FDPA return* from 1 April 2017. *Subclause (5)* repeals the definition of *annual PCA return*. *Subclause (6)* clarifies the definition of *asset base* from 1 July 2010. *Subclause (7)* repeals the definition of *associated internal software developer*, which is related to credits for research and development, from 1 April 2009. *Subclause (8)* amends the definition of *close company* by repealing paragraph (b), which is unnecessary because of the amendment to section RD 3. *Subclause (9)* amends the definition of *close relative* by correcting a cross-reference. *Subclause (10)* repeals the definition of *combined imputation and FDP ratio* from 1 April 2017. *Subclause (11)* amends a cross-reference in the definition of *consideration*, consistent with the amendments to section EE 44. *Subclause (12)* repeals the definition of *consolidated FDP group* from 1 April

2017. *Subclause (13)* amends the definition of *continuity provisions* by removing a cross-reference relating to FDP from 1 April 2017. *Subclause (14)* repeals the definition of *convertible credit* from 1 April 2017. *Subclause (15)* replaces the definition of *credit account continuity provisions*, removing a cross-reference relating to FDP, from 1 April 2017. *Subclause (16)* inserts a definition of *creditor group* by reference to *new section EW 46C*, from 1 April 2008. *Subclause (17)* inserts a definition of *creditor's associate* by reference to *new section EW 46C* from 1 April 2008. *Subclause (18)* inserts a definition of *creditor's interest* by reference to *new section EW 46C*, from 1 April 2008. *Subclause (19)* inserts a definition of *distant workplace*, coming into force on 4 September 2010, as an early version of a definition previously inserted on 1 April 2015. *Subclauses (20) and (21)* repeal the early version of the definition of *distant workplace* on 1 April 2015 and amend the current definition. *Subclause (22)* amends the definition of *dividend*, paragraph (c), by removing a reference to FDP credits from 1 April 2017. *Subclause (23)* amends the definition of *dividend*, paragraph (e), by removing a reference to policyholder credit accounts. *Subclause (24)* amends the definition of *dividend* by replacing paragraph (e) to remove references to FDP from 1 April 2017. *Subclause (25)* amends the definition of *dividend*, paragraph (f), by removing a reference to policyholder credit accounts. *Subclause (26)* amends the definition of *dividend* by replacing paragraph (f) to remove references to FDP from 1 April 2017. *Subclause (27)* amends the definition of *dividend treated as interest* to remove references to FDP from 1 April 2017. *Subclause (28)* repeals the definition of *excess credit amount*, which relates to FDP, from 1 April 2017. *Subclause (29)* amends the definition of *excluded ancillary tax* to remove a reference to FDP from 1 April 2017. *Subclause (30)* inserts a definition of *exiting partner*, a term which is already used in several provisions. *Subclause (31)* repeals the definition of *FDP* from 1 April 2017. *Subclause (32)* repeals the definition of *FDP account* from 1 April 2017. *Subclause (33)* repeals the definition of *FDP credit* from 1 April 2017. *Subclause (34)* repeals the definition of *FDP debit* from 1 April 2017. *Subclause (35)* repeals the definition of *FDP penalty tax* from 1 April 2017. *Subclause (36)* repeals the definition of *FDP ratio* from 1 April 2017. *Subclause (37)* repeals the definition of *FDP reference period* from 1 April 2017. *Subclause (38)* repeals the definition of *FDP rules* from 1 April 2017. *Subclause (39)* repeals the definition of *FDPA* from 1 April 2017. *Subclause (40)* repeals the definition of *FDPA company* from 1 April 2017. *Subclause (41)* amends the definition of *fixed-rate share* to remove a reference to FDP from 1 April 2017. *Subclause (42)* inserts a definition of *foreign bank* for the purposes of the rules relating to branch lending. *Subclause (43)* inserts a definition of *foreign LTC holder*, relating to look-through companies, from 1 April 2017. *Subclause (44)* repeals the definition of *foreign tax*. *Subclause (45)* amends the definition of *fully imputed* by inserting cross-references to *new sections CB 32C and CD 39* and amended section RE 2, and to amended section RF 9 from 1 April 2017. *Subclause (46)* amends the definition of *fully-imputed* by correcting a cross-reference heading to reflect an amendment, from 1 April 2017. *Subclause (47)* repeals the definition of *further FDP* from 1 April 2017. *Subclause (48)* inserts a definition of *grandparented Maori authority*, relating to a Maori authority that owns a look-through company,

from 1 April 2017. *Subclause (49)* amends the definition of *imputation additional tax* to reflect an amended cross-reference heading, from 1 October 2016. *Subclause (50)* amends the definition of *income interest* to remove a reference to FDP from 1 April 2017. *Subclauses (51) and (52)* insert 2 new paragraphs in the definition of *interest* for the purposes of the new rules for related-party and branch lending. *Subclause (53)* repeals the definition of *internal software development*, which relates to credits for research and development, from 1 April 2009. *Subclause (54)* repeals the definition of *internal software development controller*, which relates to credits for research and development, from 1 April 2009. *Subclause (55)* repeals the definition of *internal software development group*, which relates to credits for research and development, from 1 April 2009. *Subclause (56)* amends the definition of *look-through company* by inserting *new paragraphs (eb) to (eg)*, which impose additional requirements to be met by a look-through company, from 1 April 2017. *Subclause (57)* amends the definition of *look-through counted owner* for an entity by inserting *new paragraph (bb)*, which brings within the definition a person who receives a distribution from a trust with a look-through interest in the entity, from 1 April 2017. *Subclause (58)* makes a consequential amendment to the definition of *look-through counted owner*, paragraph (c)(ii), from 1 April 2017. *Subclause (59)* amends the definition of *look-through interest*, paragraph (a), to reduce the decision-making powers that must be distributed proportionally between interest holders, from 1 April 2017. *Subclause (60)* amends the definition of *look-through interest* by replacing paragraph (b), which is a requirement for rights relating to distributions, so that the requirement is for rights relating to all distributions, from 1 April 2017. *Subclause (61)* repeals the definition of *maximum deficit debit*, which relates to FDP, from 1 April 2017. *Subclause (62)* amends the definition of *maximum permitted ratio* by removing a reference to FDP from 1 April 2017. *Subclause (63)* inserts a definition of *minimum QC interest*, which relates to qualifying companies, by reference to *section HA 6(4)* from 1 April 2017. *Subclause (64)* inserts a new paragraph in the definition of *money lent* for the purposes of the new rules for related-party and branch lending. *Subclause (65)* inserts a definition of *non-attributing active FIF*, which has been used in the Act as if it were a defined term but has not had an appropriate definition, from 30 June 2009. *Subclause (66)* amends the definition of *non-filing taxpayer* by replacing paragraph (c) to correct a cross-reference. *Subclause (67)* amends the definition of *non-refundable tax credit* by removing a reference to policyholder credit accounts. *Subclause (68)* inserts a definition of *non-resident financial arrangement income* for the purposes of the NRWT rules. *Subclause (69)* repeals the definition of *novelty*, which relates to credits for research and development, from 1 April 2009. *Subclause (70)* inserts a definition of *NRFAI due date*, for the purposes of the NRWT rules. *Subclause (71)* inserts a definition of *out-of-town secondment*, coming into force on 4 September 2010, as an early version of a definition inserted on 1 April 2015. *Subclauses (72) and (73)* repeal the early version of the definition of *out-of-town secondment* on 1 April 2015 and amend the current definition to remove the cross-references limiting the application of the definition. *Subclause (74)* inserts a definition of *pari passu debt* by reference to *new section EW 46C*, from 1 April 2008. *Subclause (75)* inserts a new paragraph in the definition

of *pay* to add a cross reference to *section RF 12E* which deals with the timing of non-resident financial arrangement income. *Subclause (76)* repeals the definition of *PCA*. *Subclause (77)* repeals the definition of *PCA company*. *Subclause (78)* repeals the definition of *PCA person*. *Subclause (79)* inserts a definition of *period of continuous work*, coming into force on 4 September 2010, as an early version of a definition inserted on 1 April 2015. *Subclauses (80) and (81)* repeal the early version of the definition of *period of continuous work* on 1 April 2015 and amend the current definition to remove the cross-references limiting the application of the definition. *Subclause (82)* clarifies the first paragraph of the definition of *profit participation policy*, from 1 July 2010. *Subclause (83)* inserts a definition of *project of limited duration*, coming into force on 4 September 2010, as an early version of a definition inserted on 1 April 2015. *Subclauses (84) and (85)* repeal the early version of the definition of *project of limited duration* on 1 April 2015 and amend the current definition to remove the cross-references limiting the application of the definition. *Subclause (86)* inserts a definition of *QC continuity period* by reference to *section HA 6(4)*, from 1 April 2017. *Subclause (87)* repeals the definition of *reduced deficit debit*, which relates to FDP, from 1 April 2017. *Subclause (88)* amends the definition of *refundable tax credit* by removing a reference to FDP, from 1 April 2017. *Subclause (89)* amends the definition of *refundable tax credit* by removing a reference to credits for research and development from 1 April 2009. *Subclause (90)* inserts a definition of *related-party debt* for the purposes of the NRWT rules. *Subclause (91)* repeals the definition of *research and development activities* from 1 April 2009. *Subclause (92)* amends the definition of *residual income tax* by removing a reference to FDP credits, from 1 April 2017. *Subclause (93)* amends the definition of *residual income tax* by removing a reference to credits for research and development, from 1 April 2009. *Subclause (94)* amends the definition of *residual income tax*, by removing a reference to policyholder credit accounts. *Subclause (95)* inserts a definition of *scheduled overhaul period*, which comes into force on 1 April 2017 and relates to aircraft engine overhauls. *Subclause (96)* repeals the definition of *scientific or technological uncertainty*, which relates to credits for research and development, from 1 April 2009. *Subclause (97)* inserts a definition of *self-remission* by reference to *new section EW 31(12)*. *Subclause (98)* amends the definition of *shareholder* by removing a reference to policyholder credit accounts. *Subclause (99)* amends the definition of *shareholder* by removing a reference to FDP from 1 April 2017. *Subclause (100)* amends the definition of *shareholder-employee* by combining the first 2 paragraphs and removing the third paragraph, which relates to section RD 3 and is made superfluous by the amendment to that section. *Subclause (101)* repeals the definition of *shareholder FDP ratio* from 1 April 2017. *Subclause (102)* repeals the definition of *systematic, investigative, and experimental activities*, which relates to credits for research and development, from 1 April 2009. *Subclause (103)* amends the definition of *tax advantage* to remove references to FDP from 1 April 2017. *Subclause (104)* amends the definition of *tax-base property* by correcting a cross-reference heading. *Subclause (105)* repeals the definition of *technology*, which relates to credits for research and development, from 1 April 2009. *Subclause (106)* corrects a cross-reference in the definition of *trading*

stock, paragraph (a) as a consequence of the amendment by *subclause (107)*, which inserts *new paragraph (ab)*. The new paragraph provides for sections in which the term *trading stock* includes livestock. The new paragraph comes into force on 1 April 2008 and is amended by *subclause (108)*, which removes a cross-reference to a section that was repealed on 1 July 2009. *Subclause (109)* corrects a term used in the definition of *trading stock*, paragraph (b). *Subclause (110)* amends the definition of *trust rules* by inserting *new paragraph (gb)* to include the definitions of look-through company and look-through counted owner in the rules. *Subclause (111)* inserts a definition of *unpriced aircraft engine*, which comes into force on 1 April 2017 and relates to aircraft engine overhauls. *Subclauses (112) to (117)* provide for the application of the amendments to various definitions, including *subclause (116)*, which provides that the amendments made by *subclauses (106) and (107)* to the definition of *trading stock* do not apply for a person's tax position taken before 5 December 2014 and inconsistent with the amendment.

Clause 263 amends section YA 2 to remove references to FDP rules from 1 April 2017.

Clause 264 amends section YB 14 to remove a reference to credits for research and development from 1 April 2009.

Clause 265 amends section YC 10 to correct the punctuation of a list from 1 April 2008.

Clause 266 amends section YC 12 to remove references to FDP accounts from 1 April 2017.

Clause 267 amends section YC 17 to remove references to FDP accounts from 1 April 2017.

Clause 268 amends section YC 18 to remove a cross-reference to a repealed subpart from 1 April 2017.

Clause 269 amends section YD 4, which describes classes of income that are treated as having a source in New Zealand. The offshore branch exemption in section YD 4(11)(b)(i) is amended to provide that the amount of the described interest or redemption payment has a source in New Zealand to the extent to which the amount is apportioned to a source in New Zealand by the apportionment rule in *new section YD 5(4)*.

Clause 270 amends section YD 5 to provide for the apportionment of a new category of income between sources in New Zealand and sources outside New Zealand. Income from interest derived from money lent outside New Zealand to a New Zealand resident for the purposes of a business they carry on outside New Zealand through a fixed establishment outside New Zealand is apportioned to a New Zealand source by a formula in *new subsection (4)* if the resident on-lends any of the money to another resident. The formula relies on an item *loan ratio*, which is given by another formula in *new subsection (8)*. An example is included to illustrate the operation of the added provisions.

Clause 271 amends schedule 1, part E, to remove cross-references to repealed sections from 1 April 2017.

Clause 272 amends schedule 32, which lists donee organisations. A donation to a donee organisation is tax deductible for the donor. *Subclauses (1) and (2)* provide for a change of the name of a donee organisation. *Subclause (3)* removes a donee organisation. *Subclause (4)* adds several new donee organisations.

Part 3

Amendments to other enactments

Amendments to Tax Administration Act 1994

Clause 273 identifies the clauses that amend the Tax Administration Act 1994.

Clause 274 amends section 22 to remove references to FDP from 1 April 2017.

Clause 275 amends section 24K to remove references to FDP from 1 April 2017.

Clause 276 amends section 29 to remove references to FDP from 1 April 2017.

Clause 277 repeals section 30, which relates to FDP credits, from 1 April 2017.

Clause 278 amends section 30C to remove references to FDP credits from 1 April 2017.

Clause 279 amends section 32M by replacing subsection (2B), which describes how a person becomes an approved issuer. Subsection (2B) now provides that a person can elect to have approved issuer status or be treated by the Commissioner as being an approved issuer in some circumstances. *Subclause (2)* replaces subsection (3)(b) to ensure that a person who is treated by the Commissioner as an approved issuer cannot seek revocation of the approved issuer status.

Clause 280 amends section 39, which provides for the effects of a change in income year, which is the period that corresponds to a tax year for a person. *Subclauses (1) and (2)* amend subsections (1) and (2) to clarify that the period referred to in the subsections as a year is a calendar year. *Subclauses (3) and (4)* replace subsections (5), (6), and (7), which relate to the calculation of the basic tax rate for the person for the transitional year. The new subsections clarify that, where a person has a source of income that is affected by a change of income year and another source that is unaffected, the adjustments applying to income in the calculation are restricted to the income that is affected by the change of income year.

Clause 281 inserts *new section 42C*, which provides that a person who derives income in an income year while being a bankrupt must make a return of income for the income year.

Clause 282 amends section 43A to remove references to FDP accounts from 1 April 2017.

Clause 283 repeals section 68, which relates to FDP credits, from 1 April 2017.

Clause 284 amends section 69 to remove a reference to policyholder credit accounts.

Clause 285 repeals section 71, which relates to FDP, from 1 April 2017.

Clause 286 repeals a cross-heading from 1 April 2017.

Clause 287 repeals section 71B, which relates to FDP refunds, from 1 April 2017.

Clause 288 repeals section 72, which relates to FDP, from 1 April 2017.

Clause 289 repeals section 73, which relates to FDP, from 1 April 2017.

Clause 290 amends section 78D to remove a reference to FDP accounts from 1 April 2017.

Clause 291 amends section 80D to modify an amendment to subsection (1)(c)(iii) being made by an earlier amendment Act on 1 April 2016.

Clause 292 amends section 81A, which provides for information disclosure under approved information sharing agreements, so that the information that may be disclosed is not limited to personal information about an identifiable individual.

Clause 293 amends section 90AF to remove a reference to FDP, from 1 April 2017.

Clause 294 inserts *new heading and new section 91AAU* from 1 April 2017 to provide for the Commissioner to make a determination about the category of person who is eligible to register a security, or to lend money as a registered security to an approved issuer, or the sort of transaction that is eligible to be a registered security.

Clause 295 amends section 108, which provides for a time bar on the amendment of an income tax assessment, from the date of introduction of this bill. The clause inserts *new subsections (1C) to (1E)*, which provide that returns for ancillary tax and the approved issuer levy are treated as if they were income tax returns for the purposes of that section.

Clause 296 amends section 113B to remove a reference to FDP, from 1 April 2017.

Clause 297 amends section 125 to remove a cross-reference to a repealed provision, from 1 April 2017.

Clause 298 amends section 140B to remove a cross-reference to a repealed provision, from 1 April 2017.

Clause 299 amends section 166 to remove cross-references to repealed provisions, from 1 April 2017.

Clause 300 amends section 174AA to simplify the limit for the amount of tax that the Commissioner may refrain from collecting or refunding, from 1 April 2008.

Clause 301 amends section 180 to remove cross-references to repealed provisions, from 1 April 2017.

Clause 302 amends section 185 to remove a reference to FDP, from 1 April 2017.

Amendments to Goods and Services Tax Act 1985

Clause 303 identifies the clauses that amend the Goods and Services Tax Act 1985.

Clause 304 amends section 2, which contains definitions. *Subclause (2)* inserts a definition of *non-taxable use*, which is used in provisions relating to the apportionment

and adjustment of input tax relating to supplies of goods and services subject to changes in use. *Subclause (3)* replaces paragraph (b) of the definition of *secondhand goods* so that goods including metals that would be fine metal if sufficiently pure are not excluded from being secondhand goods if the goods are of a kind manufactured for sale to the public. *Subclause (4)* inserts a definition of *taxable use*, which is used in provisions relating to the apportionment and adjustment of input tax for supplies of goods and services that are subject to changes in use. *Subclauses (5) and (6)* are transitional provisions for registered persons who have previously applied the definition of *secondhand goods* as it reads before being amended by *subclause (3)*.

Clause 305 amends section 3 by expanding the definition of *financial services* relating to financial options.

Clause 306 amends section 5, which gives the meaning of *supply*. *Subclause (1)* amends subsection (2), which relates to the sale of goods by a person acting for a lender and provides that the person acting in the sale may be treated as making the supply if the debtor provides an appropriate notice. The amendment clarifies that the notice provided must be both full and correct. *Subclause (2)* inserts *new subsection (3C)*, relating to subsections (3) and (3B) which provide for supplies of goods and services when a person ceases to be a registered person. The new section provides that the supply is by a transfer of ownership if that form of supply is a financial service, coming into force on 1 October 1986. *Subclause (3)* inserts *new subsections (11CB) and (11CC)*, which provide that if a registered person receives a prize from entering a horse in a horse race as part of a taxable activity, the prize is treated as being consideration for a service provided to the racing club, and apply from 1 April 2012.

Clause 307 amends section 6(5) by correcting a cross-reference.

Clause 308 amends section 9, which relates to the time of a supply, by replacing subsection (6) so that it applies in all situations in which an invoice is issued for a part-payment, or a part-payment is made, when the whole of the consideration for a supply is not determined. *Subclause (2)* is a transitional provision for registered persons who have previously taken a tax position consistent with the newly inserted subsection.

Clause 309 amends section 10, which gives the value of a supply of goods or services. *Subclause (1)* corrects a cross-reference. *Subclause (2)* amends subsection (14)(b) to include the effects of *new section 5(11CB)*, which relates to prizes for horse races, in the calculation of the consideration received for a supply of gambling services, from 1 April 2012.

Clause 310 amends section 11, which relates to the zero-rating of supplies of goods. *Subclause (1)* inserts a cross-reference to *new section 11A(1)(ib)*. *Subclause (2)* replaces subsection (8), which relates to a boat or aircraft that is being exported and will leave the country within a 60-day period, allowing the 60-day period to be extended in circumstances relating to supplies to the boat or aircraft. *Subclauses (3) to (6)* amend subsection (8D). That subsection relates to subsection (1)(mb), which zero-rates a supply of land by a registered person to another registered person if the supply is for use in making taxable supplies and not as a principal residence. *Subclause (3)*

inserts *new paragraph (ab)*, which provides that a surrender of a right to a payment under an agreement for such a supply of land is also a zero-rated supply, from 1 April 2011. *Subclause (4)* replaces paragraph (b) to clarify the situation in which a supply of an interest in land for periodic payments is not zero-rated, from 1 April 2011. *Subclause (5)* replaces paragraph (c) to clarify the situation in which there is a zero-rated supply if a lessee surrenders a lease of land under an arrangement in which another person leases the land under a new lease, from 30 June 2014. *Subclause (6)* inserts *new paragraph (d)*, which provides that a resident non-profit body that acquires land other than for making exempt supplies is treated as acquiring the land for use in making taxable supplies.

Clause 311 amends section 11A, which relates to the zero-rating of supplies of services. *Subclause (1)* replaces subsection (1)(e) from 1 April 2017, expanding the zero-rated services relating to land or an improvement outside New Zealand to include services supplied in connection with the land or improvement that are intended to enable or assist a change in the physical condition or legal status of the land or improvement. *Subclause (2)* inserts *new subsection (1)(ib)*, under which a zero rate of tax applies to services supplied directly in connection with goods supplied to a boat or aircraft that is being exported. *Subclause (3)* amends subsection (1)(k) from 1 April 2017 so that the exclusion from zero-rating for services supplied in connection with land or an improvement in New Zealand includes services supplied in connection with the land or improvement that are intended to enable or assist a change in the physical condition or legal status of the land or improvement. *Subclause (4)* inserts *new subsection (1)(rb)*, which comes into force on 1 April 2017 and applies a zero rate of tax to financial services supplied by a registered person, who does not principally make supplies of financial services, in raising funds for expenditure in an activity of making taxable supplies.

Clause 312 amends section 15(2) so that a registered person with a seasonal taxable activity may have a taxable period of 6 months. The person must make most or all of the taxable supplies for a 12-month period during a period of 6 months or less that ends with or near the end of the 12-month period.

Clause 313 amends section 15C, which provides for changes in the taxable period of a registered person. *Subclause (1)* removes the need for a registered person to apply to the Commissioner for a change of taxable period to a 6-month period. *Subclause (2)* replaces subsection (2) and inserts *new subsection (2B)*. Subsection (2) gives the circumstances in which a registered person is required to change from a 6-month taxable period to another taxable period, which relate to *new section 15(2)* and the person's registered supplies in a 12-month period. *New subsection (2B)* provides an exception for a registered person with a seasonal activity if the registered person did not fail to meet the requirements for the previous 12-month period and is likely to meet the requirements in the following 12-month period.

Clause 314 amends section 20, which relates to the calculation of the tax payable by a registered person. *Subclause (1)* corrects a cross-reference in subsection (3)(e). *Subclause (2)* amends subsection (3D) to clarify that the exemption under that subsection,

from the obligation to apportion input tax on supplies, applies to apportionment between taxable and exempt supplies. *Subclause (3)* amends subsection (3E) by correcting a cross-reference. *Subclause (4)* inserts *new subsection (3EB)*, which allows a registered person to use a method of apportionment for input tax that is agreed with the Commissioner. *Subclause (5)* amends subsection (3F) by correcting a cross-reference. *Subclause (6)* amends subsection (3J) to clarify the calculation of an amount of output tax associated with the non-taxable use of goods and services. *Subclause (7)* amends subsection (3K) by correcting a cross-reference. *Subclause (8)* amends subsection (4)(c) by correcting a cross-reference.

Clause 315 amends section 21, which relates to the adjustment of input tax when the use of a supply of goods or services changes. *Subclause (1)* inserts *new subsection (2)(ab)*, which exempts a non-resident registered person from making adjustments if the person imports and pays tax on goods and then exports the goods and holds them overseas or disposes of them. *Subclause (2)* inserts *new subsection (4B)*, which allows a registered person to use a method of calculating adjustments that is agreed with the Commissioner.

Clause 316 amends section 21D by correcting a cross-reference in subsection (3)(b).

Clause 317 amends section 21HC, from 1 October 2011, to correct a savings provision for input tax, claimed by a registered member of an unregistered unit title body corporate, relating to supplies received by the unit title body corporate and used by the member. A small number of businesses would otherwise fall outside the savings provision, although they were intended to be included.

Clause 318 amends section 21I(4) by replacing a reference to *consideration*, which has a value that includes tax, with a reference to *value* of the supply, which does not include tax.

Clause 319 inserts *new section 25AB*, which provides for the situation in which a registered person receives a supply of secondhand goods and returns an amount of input tax that is later found to be excessive. An amount equal to the excess is treated as output tax.

Clause 320 amends section 26 by inserting *new subsection (4)* providing for a bad debt arising under an agreement between a principal and an agent, allowed by the amendment to section 60, relating to tax on supplies made to the agent acting for the principal.

Clause 321 amends section 45, which relates to refunds of excess tax by the Commissioner, by amending a cross-reference to expand the situations in which the Commissioner may make a refund after the usual deadline.

Clause 322 amends section 46, which relates to withholding of refunds by the Commissioner, to make the deadlines that the Commissioner must meet, when issuing notices and requests, independent of postal delivery times.

Clause 323 amends section 51B(1)(b) to produce consistency with the amendment to section 5(2).

Clause 324 amends section 54B, which specifies when the Commissioner can register a non-resident person who is not carrying on a taxable activity in New Zealand. *Subclause (1)* amends subsection (1)(b) to include a non-resident who imports goods that are received by another or delivered to another. *Subclause (2)* amends subsection (1)(c), which provides that if services supplied by the non-resident are received by a person in New Zealand, that person must be a registered person. The amended test is more precise, in that the person in New Zealand must not receive the supplies other than in making taxable or exempt supplies.

Clause 325 amends section 55, which relates to groups of companies or other persons for the purposes of goods and services tax. *Subclause (1)* amends subsection (7) to set out more fully the liabilities for tax of a member of a group of companies. *Subclause (2)* amends subsection (8) to provide that a group of registered persons that are companies under the Goods and Services Tax Act 1985 may include a limited partnership, which cannot be part of a group of companies under the Income Tax Act 2007.

Clause 326 amends section 60 by inserting *new subsection (2B)*, which allows a principal and agent to agree that supplies by persons to the agent, acting for the principal, be treated as being supplies by the persons to the agent and further supplies by the agent to the principal.

Clause 327 amends section 61, to clarify a term used in the provision by a cross-reference to the Tax Administration Act 1994.

Amendments to Stamp and Cheque Duties Act 1971

Clause 328 identifies the clauses that amend the Stamp and Cheque Duties Act 1971

Clause 329 amends section 86F to replace the definition of *registered security* for the purposes of the new rules for related-party and branch lending.

Clause 330 replaces section 86G to specify the types of persons and transactions and interest payments in relation to which an application to register a security may be made. The section also provides for the circumstance in which the Commissioner may cancel registration. *New section 86GB* is inserted to provide transitional provisions for securities registered before the date on which the new provisions come into force.

Clause 331 amends *new section 86GB* from 1 April 2017 by inserting *new subsections (1) and (2)*, which provide for securities that are registered under *new section 86G* before 1 April 2017.

Clause 332 amends section 86I. *Subclause (1)* inserts *new subsection (2)*, which provides that a payment made by a New Zealand branch of a foreign bank is treated as being a payment made by an approved issuer on a registered security. *Subclause (2)* inserts *new subsections (1B) to (1D)* from 1 April 2017 to exclude interest from being treated as having been paid on a registered security if the directors of the person paying knew, or could reasonably be expected to have known, that none of the requirements for registration were met at the time the interest was paid.

Clause 333 inserts *new section 86IC* to require an approved issuer to pay approved issuer levy on a payment of interest when a transaction is a notional loan under the new rules for related-party and branch lending or when interest is apportioned to a New Zealand source under *new section YD 5(4) of the Income Tax Act 2007*.

Amendments to Student Loan Scheme Act 2011

Clause 334 amends schedule 3 of the Student Loan Scheme Act 2011, which provides for adjustments to net income. *Subclause (1)* amends clause 12A by inserting *new subclause (4)*, which provides an alternative rate of fringe benefit tax for calculating an adjustment, from 1 April 2014. *Subclause (2)* inserts *new clause 14B* from 1 April 2014, when section CG 2B of the Income Tax Act 2007 came into force, and provides that remission income under that section is not included in the adjusted net income of a person who is discharged from bankruptcy.

Clause 335 repeals *schedule 3, new clause 14B* of the Student Loan Scheme Act 2011, when this Act receives the Royal assent.

Amendments to Income Tax Act 2004

Clause 336 identifies the clauses that amend the Income Tax Act 2004.

Clause 337 amends section CD 4(2) to provide that a release of a company from debt by a member of the company's wholly-owned group is not subject to the usual rules relating to remission income, from 1 April 2006. The amount treated as being provided as a result of the release is given by *new section EW 46B(2)*. The amendment corresponds to the amendment to section CD 5(2) of the Income Tax Act 2007.

Clause 338 amends section CD 32(6) from 1 April 2006, which provides that if the company is released from debt by a member of the company's wholly-owned group, the available subscribed capital amount is increased by the amount given for the debt by *new section EW 46B(2)*. The amendment corresponds to the amendment to section CD 43(6) of the Income Tax Act 2007.

Clause 339 amends section CD 33, which gives the available capital distribution amount for a company, by providing that the capital loss amount from a disposal of capital property by the company does not include depreciation loss for the property that is allowed as a deduction. The amendment comes into force on 1 April 2005 and corresponds to the amendment to section CD 44 of the Income Tax Act 2007.

Clause 340 inserts *new section CX 17B*, which comes into force on 1 April 2005 and corresponds to *new section CX 19B* of the Income Tax Act 2007. It excludes an employer who provides an employee with transport in a vehicle from liability for fringe benefit tax if the vehicle is not a motor vehicle and is not designed principally for the carriage of passengers.

Clause 341 amends section EE 42 from 1 April 2005, to make more accurate a cross-reference to a description of the amount of depreciation recovery income to be used in a calculation. Under *subclause (3)*, the change does not apply for a tax position that a person takes relying on the section as it is before the amendment. The amendments reflect the changes to section EE 49 of the Income Tax Act 2007.

Clause 342 inserts, from 1 April 2006, *new section EW 46B*, which provides that if a debt is forgiven by a creditor and the creditor has a proportional ownership, or similar, interest in the debtor corresponding to the creditor's proportional share of the debtor's total debt, the debtor is treated as having paid the debt and the creditor is treated as having been paid the debt. The section defines the terms *creditor group*, *creditor's associate*, *creditor's interest*, and *pari passu debt*. The amendment reflects the insertion of *new section EW 46C* in the Income Tax Act 2007.

Clause 343 amends section OB 1. *Subclause (2)* inserts a definition of *creditor group*, by reference to *new section EW 46B*, from 1 April 2006. *Subclause (3)* inserts a definition of *creditor's associate*, by reference to *new section EW 46B*, from 1 April 2006. *Subclause (4)* inserts a definition of *creditor's interest*, by reference to *new section EW 46B*, from 1 April 2006. *Subclause (5)* inserts a definition of *pari passu debt*, by reference to *new section EW 46B*, from 1 April 2006. *Subclause (6)* amends paragraph (a) of the definition of *trading stock* from 1 April 2005, by removing cross-references to provisions affected by the amendment in *subclause (7)*, which inserts *new paragraph (ab)* in the definition of *trading stock*, from 1 April 2005. The new paragraph provides for sections in which the term trading stock includes livestock, and corresponds to the new paragraph inserted into the definition of *trading stock* in section YA 1 of the Income Tax Act 2007. *Subclause (8)* provides that the amendments made by *subclauses (2) to (5)* apply for the 2006–07 and later income years. *Subclause (9)* provides that the amendments made by *subclauses (6) and (7)* do not apply for a person's tax position taken before 5 December 2014 and inconsistent with the amendments.

Amendment to Goods and Services (Grants and Subsidies) Order 1992

Clause 344 amends the schedule to the Goods and Services (Grants and Subsidies) Order 1992 by repealing a clause containing a cross-reference to a repealed statute.

Hon Michael Woodhouse

Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Bill

Government Bill

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters Act **2016**.

2 Commencement

- (1) This Act comes into force on the day on which it receives the Royal assent, except as provided in this section.
- (2) **Section 295** comes into force on the day on which the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Bill is introduced. 5
- (3) **Section 306(2)** comes into force on 1 October 1986.
- (4) **Sections 339, 340, 341, and 343(6), (7), and (9)** come into force on 1 April 2005.
- (5) **Sections 337, 338, 342, and 343(2), (3), (4), (5), and (8)** come into force on 1 April 2006. 10
- (6) **Sections 7, 8, 16, 20, 22(1) and (9), 23(1), (4), and (6), 33, 51, 57, 73, 81, 82(1) and (3), 91, 102, 122(1) and (5), 123, 124, 136, 141(1), 144(1), (2), (3), and (6), 145(1), 169, 179, 209, 231, 234, 238, 262(8), (16), (17), (18), (74), (106), (107), (114) and (116), 265, and 300** come into force on 1 April 2008. 15
- (7) **Sections 35, 126(2), 162(2), 164, 171(1) and (3), 187(1), 195, 196, 199(1) and (3), 200(1), 203(2), 205, 211(1) and (3), 214(1), 262(7), (53), (54), (55), (69), (89), (91), (93), (96), (102), and (105), and 264** come into force on 1 April 2009. 20
- (8) **Sections 82(2) and (4) and 262(65)** come into force on 30 June 2009.
- (9) **Section 262(108) and (117)** comes into force on 1 July 2009.
- (10) **Sections 163 and 204** come into force on 6 October 2009.
- (11) **Section 23(2)** comes into force on 1 April 2010.
- (12) **Sections 38, 69(1) and (4), and 262(6), (82), and (113)** come into force on 1 July 2010. 25
- (13) **Section 262(19), (71), (79), and (83)** comes into force on 4 September 2010.
- (14) **Sections 56, 106, 122(2) and (6), 262(97), and 310(3) and (4)** come into force on 1 April 2011. 30
- (15) **Section 29** comes into force on 1 July 2011.
- (16) **Section 317** comes into force on 1 October 2011.
- (17) **Sections 306(3) and 309(2)** come into force on 1 April 2012.
- (18) **Section 114** comes into force on 2 November 2012.
- (19) **Section 272(1) and (2)** comes into force on 1 April 2013. 35
- (20) **Section 41(2) and (3)** comes into force on 20 May 2013.
- (21) **Sections 52, 125, 138, 139, 146(1), (2), (3), and (7), 147(1), and 334** come into force on 1 April 2014.

- (22) **Section 310(5)** comes into force on 30 June 2014.
- (23) **Sections 61(1) and (3), 62, 63, 65, 66, 141(2) and (3), 142, 144(4), (5), and (7), 145(2), (3), and (4), 146(4), (5), and (8), 147(2), and 262(20), (21), (72), (73), (80), (81), (84), and (85)** come into force on 1 April 2015.
- (24) **Sections 9, 10, 11, and 12**, come into force on 1 September 2015. 5
- (25) **Section 272(3)** comes into force on 3 December 2015.
- (26) **Sections 148, 272(4) and (5), and 291** come into force on 1 April 2016.
- (27) **Sections 167, 175, 180, 181, 182, 186, 187(4) and (7), 188(4) and (6), and 262(49)** come into force on 1 October 2016.
- (28) **Sections 13, 17, 18, 19, 21, 22(5), (6), (7), and (8), 24, 28, 36, 37, 39, 41(1), (4), and (5), 42, 43, 47, 53, 58, 59, 72, 74, 75, 76, 84, 85, 86, 87, 88, 90, 94, 95, 96, 97, 98, 99, 100, 101, 103, 104, 105, 107, 115, 117, 118, 119, 120(1), (2), (3), and (5), 126(1), 127, 128, 129, 130, 131, 134, 137, 149, 150(3) and (4), 151(1) and (2), 152(1) and (2), 153, 154(1), (3), and (4), 155, 158(1), (3), and (4), 159, 161, 162(1), (3), and (4), 165, 166, 168(1), (3), and (5), 170, 171(2) and (4), 172, 173, 174, 176(1), (3), and (5), 177, 183, 184, 185, 187(2), (3), and (6), 188(1), (2), (3), and (5), 189, 190, 192, 194, 197, 198, 199(2) and (4), 200(2), 201, 202, 203(1) and (3), 206, 207, 208, 210, 211(2) and (4), 212, 213, 214(2), (3), and (4), 215, 216, 218, 219, 221, 222, 224, 225, 226, 227, 228, 229, 232, 239(1), (3), (4), and (5), 240, 241, 242, 243, 244, 245, 249, 250, 251, 254, 256, 258, 262(2), (3), (4), (10), (12), (13), (14), (15), (22), (24), (26), (27), (28), (29), (31), (32), (33), (34), (35), (36), (37), (38), (39), (40), (41), (43), (46), (47), (48), (50), (56), (57), (58), (59), (60), (61), (62), (63), (86), (87), (88), (92), (95), (99), (101), (103), (110), (111), (112), and (115), 263, 266, 267, 268, 271, 274, 275, 276, 277, 278, 282, 283, 285, 286, 287, 288, 289, 290, 293, 294, 296, 297, 298, 299, 301, 302, 311(1), (3), and (4), 331, and 332(2)** come into force on 1 April 2017. 10
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Part 1

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Annual rates of income tax

3 Annual rates of income tax for 2016–17 tax year

Income tax imposed by section BB 1 of the Income Tax Act 2007 must, for the 2016–17 tax year, be paid at the basic rates specified in schedule 1 of that Act.

Part 2

Amendments to Income Tax Act 2007

- 4 Income Tax Act 2007**
Part 2 amends the Income Tax Act 2007.
- 5 Application of provisions related to non-resident financial arrangement income** 5
- (1) This section provides for the application of—
- (a) **section 15**, which amends section CC 4:
 - (b) **section 55**, which amends section EW 11:
 - (c) **section 246**, which amends section RF 1: 10
 - (d) **section 247(1), (2), (4), (5), and (6)**, which amends section RF 2:
 - (e) **section 248**, which inserts **new section RF 2B**:
 - (f) **section 252**, which amends section RF 12:
 - (g) **section 253**, which inserts **new sections RF 12D to RF 12I**:
 - (h) **section 261**, which inserts **new section RZ 12**: 15
 - (i) **section 262(41), (64), (68), (70), (75), and (90)**, which amends, in section YA 1, the definitions of **foreign bank, money lent, non-resident financial arrangement income, NRFAI due date, pay, and related-party debt**:
 - (j) **section 269**, which amends section YD 4: 20
 - (k) **section 270**, which amends section YD 5.
- (2) Subject to **subsections (3) to (7)**, the provisions set out in **subsection (1)** apply, for a person and a financial arrangement,—
- (a) from the first day of the person’s income year that starts after the date on which this Act receives the Royal assent (the **date of enactment**), for an arrangement— 25
 - (i) that is entered into under a binding contract by all parties before the date of enactment; or
 - (ii) to which the person becomes a party before the date of enactment; or 30
 - (b) in all other cases, from the date of enactment.
- (3) **Subsections (4) to (6)** apply for a financial arrangement that is entered into under a binding contract by all parties before the date of enactment in relation to which there is no rollover, extension, or further advance made under the arrangement after the date of enactment, other than under a binding contract entered into before that date. 35

- (4) Despite **subsection (2), section 247(1)** applies for a non-resident from the first day of the payer’s income year that starts 5 income years after the last day of the income year in which this Act receives the Royal assent,—
- (a) when the interest—
- (i) is derived by the non-resident who is not associated with the payer; and 5
- (ii) is paid by a payer who is not a member of a banking group; or
- (b) when the interest is paid by a member of a banking group.
- (5) Despite **subsections (2) and (4), section 247(1)** applies from the date of enactment for a person who lends money to an associated person that is not a member of a banking group. 10
- (6) Despite **subsection (2), sections 269 and 270(5)** apply from the first day of the payer’s income year that starts 5 income years after the last day of the income year in which this Act receives the Royal assent.
- (7) Despite **subsection (2), sections 247(1), 269, and 270(5)** apply for a non-resident and a financial arrangement that is entered into under a binding contract by all parties before the date of enactment in relation to which a rollover, extension, or further advance is made under the arrangement after the date of enactment, other than under a binding contract entered into before that date, from the date on which the rollover, extension, or further advance is made. 15 20
- 6 Section BH 1 amended (Double tax agreements)**
- (1) Replace section BH 1(3), other than the heading, with:
- (3) An agreement to which subsection (1)(a) and (b) apply comes into force as declared by the Governor-General by Order in Council and on the date determined under the agreement. 25
- (2) In section BH 1(4), replace “subsection (5) or (5B)” with “subsection (5) or (5B) or section BG 1”.
- 7 Section CB 6 amended (Disposal: land acquired for purpose or with intention of disposal)** 30
- (1) Repeal section CB 6(3).
- (2) **Subsection (1)** applies for the 2008–09 and later income years.
- 8 Section CB 6A amended (Disposal within 2 years: bright-line test for residential land)**
- In section CB 6A(5), replace “What this subpart does” with “Disposals to which this subpart applies”. 35

9	Section CB 9 amended (Disposal within 10 years: land dealing business)	
	In section CB 9(3), replace “Subsections” with “Subsection (2) is overridden by the exclusion for bodies controlled by a local authority in section CB 15C and subsections”.	
10	Section CB 10 amended (Disposal within 10 years: land development or subdivision business)	5
	In section CB 10(3), replace “Subsections” with “Subsection (2) is overridden by the exclusion for bodies controlled by a local authority in section CB 15C and subsections”.	
11	Section CB 11 amended (Disposal within 10 years of improvement: building business)	10
	In section CB 11(3), replace “Subsections” with “Subsection (2) is overridden by the exclusion for bodies controlled by a local authority in section CB 15C and subsections”.	
12	New heading and new section CB 15C inserted	15
	After section CB 15B, insert:	
	<i>Exclusions for bodies controlled by local authorities</i>	
	CB 15C Council-controlled organisations and other companies	
	Sections CB 9(2), CB 10(2), and CB 11(2) do not apply to a person (person A) despite the activities of an associated person (person B) if—	20
	(a) person A is a local authority or—	
	(i) a council-controlled organisation that is controlled by the local authority:	
	(ii) an entity referred to in section 6(4)(a) to (ca) of the Local Government Act 2002, that is controlled by the local authority:	25
	(iii) an entity that is associated with the local authority other than under section YB 14 (Tripartite relationship); and	
	(b) person B is—	
	(i) the local authority or an organisation or entity of a type referred to in paragraph (a)(i) to (iii) :	30
	(ii) a person that is not associated with person A other than under section YB 14.	
	Defined in this Act: associated person, council-controlled organisation, local authority	

13 Section CB 32B amended (Owners of look-through companies)

In section CB 32B, replace “companies)” with “companies) or **section HZ 8** (Retrospective transitional provision for market valuation under section HB 4)”.

14 Section CB 32C replaced (Income for first year of look-through company) 5

Replace section CB 32C with:

CB 32C Dividend income for first year of look-through company

When this section applies

(1) This section applies for an income year when, in the income year, the person has,— 10

(a) an effective look-through interest for a look-through company (**LTC**) on the first day of that year, and the company existed in the previous income year, but was not a look-through company in that previous year:

(b) an effective look-through interest for a look-through company on the day after the LTC amalgamates in that year with a company that ceases to exist after the amalgamation (the **amalgamating company**), and the amalgamating company was not a look-through company immediately before the amalgamation. 15

Income

(2) The person has an amount of income under,— 20

(a) **subsection (4)**; or

(b) **subsection (8)**, if

(i) the relevant LTC was a qualifying company in the relevant previous year; and

(ii) a dividend under **subsection (4)** would not be fully imputed. 25

Dividend

(3) An amount of income under **subsection (4) or (8)** is treated as a dividend including an attached imputation credit, as provided by the relevant subsection.

Formula

(4) For the purposes of **subsection (2)(a)**, the amount of income is a positive amount calculated using the formula— 30

(untaxed reserves + reserves imputation credit) × effective interest.

Definition of items in formula

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

(a) **untaxed reserves** is the amount given by the formula in **subsection (6)**: 35

- (b) **reserves imputation credit** is the total amount of credits in the company's imputation account, up to the maximum permitted ratio for the untaxed reserves under section OA 18 (Calculation of maximum permitted ratios) and is treated as an attached imputation credit included in the dividend calculated under this section: 5
- (c) **effective interest** is the person's effective look-through interest for a LTC on the relevant day under **subsection (1)(a) or (b)**.
- Formula*
- (6) For the purposes of **subsection (5)(a)**, the amount of untaxed reserves is calculated using the formula— 10
- dividends – assessable income – exit exemption.
- Definition of items in formula*
- (7) In the formula in **subsection (6)**,—
- (a) **dividends** is the sum of the amounts that would be dividends if the following events occurred for the company or the amalgamating company (the **company**), immediately before it became a LTC or amalgamated with a LTC: 15
- (i) it disposed of all of its property, other than cash, to an unrelated person at market value for cash; and
- (ii) it met all of its liabilities at market value, excluding income tax payable through disposing of the property or meeting the liabilities; and 20
- (iii) it was liquidated, with the amount of cash remaining being distributed to shareholders without imputation credits attached:
- (b) **assessable income** is the total assessable income that the company would derive by taking the actions described in **paragraph (a)(i) and (ii)** less the amount of any deduction that the company would have for taking those actions: 25
- (c) **exit exemption** is the amount given by the formula in section CX 63(2) (Dividends derived after ceasing to be look-through company), treating the amount described in **paragraph (a)** as a dividend paid by the company for the purposes of section CX 63(1), if section CX 63 would apply to a dividend paid by the company. 30
- Formula*
- (8) For the purposes of **subsection (2)(b)**, the amount of income is a positive amount calculated using the formula— 35
- $((\text{balances} \div \text{tax rate} - \text{balances}) + \text{balances imputation credit}) \times \text{effective interest}$.
- Definition of items in formula*
- (9) In the formula in **subsection (8)**,— 40

(a)	balances is the sum of the following amounts:	
(i)	the balance in the company’s imputation credit account:	
(ii)	an amount of income tax payable for an earlier income year but not paid before the relevant day, less refunds due for the earlier income year but paid after the relevant day:	5
(b)	tax rate is the basic tax rate for the income year of the company that contains the relevant day described in subsection (10) :	
(c)	balances imputation credit is the amount of the item balances in paragraph (a) , and is treated as an attached imputation credit included in the dividend calculated under this section:	10
(d)	effective interest is the person’s effective look-through interest for a LTC on the relevant day under subsection (1)(a) or (b) .	
	<i>Relevant day</i>	
(10)	In subsections (7) and (9)(a) , the relevant day for measuring relevant items in the formulas is—	15
(a)	the last day of the income year before the income year described in subsection (1)(a) , as applicable; or	
(b)	the day of the amalgamation described in subsection (1)(b) , as applicable.	
	<i>Income tax and refund</i>	20
(11)	For the purposes of subsection (9)(a)(ii) ,—	
(a)	income tax payable is income tax that would, when paid, give rise to a credit in the company’s imputation credit account under sections OB 4 to OB 29 (which relate to imputation credits):	
(b)	a refund of income tax due is the amount that would, when paid, give rise to a debit to the company’s imputation credit account under sections OB 30 to OB 59 (which relate to imputation debits).	25
	Defined in this Act: amalgamating company, amalgamation, amount, assessable income, basic tax rate, company, deduction, dispose, dividend, effective look-through interest, fully imputed, imputation credit, imputation credit account, income, income tax, income year, liquidation, look-through company, qualifying company	30

15 Section CC 4 amended (Payments of interest)

(1)	After section CC 4(2), insert:	
	<i>Non-resident financial arrangement income</i>	
(3)	Non-resident financial arrangement income derived by a person is income of the person.	35
(2)	In section CC 4, list of defined terms, insert “non-resident financial arrangement income”.	

16 Section CD 5 amended (What is a transfer of value?)

- (1) Replace section CD 5(2), other than the heading, with:
- (2) A company provides money’s worth to a person if the person is released from an obligation to pay money to the company, either by agreement or by operation of law, except to the extent to which— 5
- (a) the obligation the person is released from is an amount of debt to which **section EW 46C(2)** (Consideration when debt forgiven within economic group) applies; and
- (b) the person is a company that is a member of the same wholly-owned group as the company. 10
- (2) In section CD 5, list of defined terms, insert “wholly-owned group”.
- (3) **Subsection (1)** applies for a person for the 2008–09 and later income years, except for an income year before the 2015–16 income year for which the person takes a tax position in a return of income that is inconsistent with the amendment made by **subsection (1)**. 15

17 Section CD 15 amended (Tax credits linked to dividends)

- (1) Replace section CD 15(1) with:
- Imputation credits*
- (1) The amount of a dividend is increased by an imputation credit attached to the dividend. 20
- (2) In section CD 15, list of defined terms, delete “FDP credit”.

18 Section CD 16 amended (Certain dividends not increased by tax credits)

- (1) In section CD 16(4), delete “**imputation credit** includes an FDP credit”.
- (2) In section CD 16, list of defined terms, delete “FDP credit”.

19 Section CD 17 amended (Credit transfer notice)

- (1) Repeal section CD 17(4). 25
- (2) In section CD 17, list of defined terms, delete “FDP credit”.

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

- (1) Replace section CD 39(9)(c), with: 30
- (c) the amount payable by the company is—
- (i) payable without any amount of tax being withheld and paid under the PAYE rules, the RWT rules, or the NRWT rules;
- (ii) a fully-imputed dividend.
- (2) In section CD 39, list of defined terms, insert “fully-imputed dividend”. 35

- (3) For the 2008–09 income year or a later income year ending before the date (the **introduction date**) on which the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Bill is introduced, a person is not permitted to take a tax position that relies on the amendment made by **subsection (1)** if the person takes a tax position for the income year— 5
- (a) in a tax return filed before the introduction date; and
- (b) that does not rely on the provision amended by **subsection (1)** as that provision was before the amendment.
- 21 Section CD 40 amended (Adjustment if dividend recovered by company)**
- (1) In section CD 40(1)(a), delete “or FDP credit”. 10
- (2) In section CD 40(2), delete “the FDP rules,”.
- (3) Replace section CD 40(3)(a) with:
- (a) income tax of the shareholder; and
- (4) Replace section CD 40(5)(b) with:
- (b) if the shareholder is an imputation credit account (ICA) company, the imputation credit account of the shareholder. 15
- (5) In section CD 40, list of defined terms, delete “FDP”, “FDP account”, “FDP credit”, “FDP penalty tax”, “FDP rules”, and “FDPA company”.
- 22 Section CD 43 amended (Available subscribed capital (ASC) amount)**
- (1) After section CD 43(6)(b), insert: 20
- (bb) the amount of debt to which **section EW 46C(2)** (Consideration when debt forgiven within economic group) applies, treating the amount as consideration for the issue of a share for purposes of the definition of **subscriptions** in subsection (2)(b) of this section; and
- (2) In section CD 43(7), replace the heading with “*Subscriptions amount: exclusions for bonus issues*”. 25
- (3) In section CD 43(7)(a), replace “applies; or” with “applies:”.
- (4) After section CD 43(7)(a), insert:
- (ab) an amount for an imputation credit attached to the dividend arising from a taxable bonus issue if subsection (6)(b) applies: 30
- (5) Repeal section CD 43(8)(a)(ii).
- (6) In section CD 43(27)(a), delete “or FDP credit”.
- (7) Replace section CD 43(27)(b) with:
- (b) **actual ratio** is the imputation ratio of the dividend (section OZ 13 (Fully credited dividends: modifying actual ratio) may apply to modify this paragraph): 35

- (8) In section CD 43, list of defined terms, delete “FDP”, “FDP credit”, and “FDP ratio”.
- (9) **Subsection (1)** applies for a person for the 2008–09 and later income years, except for an income year before the 2015–16 income year for which the person takes a tax position in a return of income that is inconsistent with the amendment made by **subsection (1)**. 5

23 Section CD 44 amended (Available capital distribution amount)

- (1) Replace section CD 44(9), other than the heading, with:
- (9) For the purposes of this section, a company that disposes of capital property for an amount of consideration less than the cost of the property to the company incurs a capital loss, of an amount equal to the deficit reduced by the amount of depreciation loss allowed as a deduction to the company for the property. 10
- (2) In section CD 44(10B), replace “subsection (10C)” with “subsections (7)(c) and (10C)”.
- (3) Replace section CD 44(10B) and (10C) with: 15
- Company common interest transactions*
- (10B) An amount derived or incurred by a company (**company A**) on disposing of property (the **property**) to another company (**company B**) is not a capital gain amount or a capital loss amount if—
- (a) at the time of the disposal, a group of persons holds, for companies A and B,— 20
- (i) common voting interests that add up to at least 85%; and
- (ii) if a market value circumstance exists for company A or company B, common market value interests that add up to at least 85%; and
- (b) at the time of liquidation of company A, the aggregate total given by applying the formula in **subsection (10C)** for all companies that own part of the property (**owning companies**) is 85% or more. 25
- Formula*
- (10C) For the purposes of **subsection (10B)(b)**, for an owning company, the formula is— 30
- commonality interest × ownership interest.
- Definition of items in formula*
- (10D) In the formula in **subsection (10C)**,—
- (a) **commonality interest** is, if the owning company is company A, 100%, or, if the owning company is not company A, the percentage of common holding by a group of persons, for the owning company and company A, of— 35
- (i) common voting interests; or

(ii)	if a market value circumstance exists for the owning company or company A, common market value interests, if they are greater than the common voting interests:	
(b)	ownership interest is the percentage ownership of the property, by market value, for the owning company.	5
	<i>Relationship between subsections</i>	
(10E)	Subsection (10B) is overridden by subsection (7)(c).	
(4)	In section CD 44, list of defined terms, insert “deduction” and “depreciation loss”.	
(5)	In section CD 44, list of defined terms, insert “group of persons”, “market value circumstance”, “market value interest”, and “voting interest”.	10
(6)	Subsection (1) applies for the 2008–09 and later income years.	
24	Section CD 53 amended (Prevention of double taxation of share cancellation dividends)	
	In section CD 53(2), delete “or FDP credit”.	15
25	Section CE 5 amended (Meaning of expenditure on account of an employee)	
(1)	Repeal section CE 5(2).	
(2)	Repeal section CE 5(3)(f) to (i).	
26	Section CG 2 amended (Remitted amounts)	20
(1)	After section CG 2(4)(a), insert:	
(ab)	a liability is cancelled to the extent to which the person is released from it under the Insolvency Act 2006, except by—	
(i)	being discharged from bankruptcy:	
(ii)	being released under Part 5, other than subpart 1, of the Insolvency Act 2006 from liability for each debt that is a provable debt under that Act and is not a debt of a type for which the person’s liability is specifically preserved by that Act:	25
(2)	In section CG 2(4)(b), delete “the Insolvency Act 2006 or”.	
(3)	Replace section CG 2(5) with:	30
	<i>Relationship with sections CG 2C to CG 2E</i>	
(5)	Sections CG 2C to CG 2E override this section.	
(4)	Subsections (1), (2), and (3) apply for a person who, on or after the day on which this Act receives the Royal assent,—	
(a)	is discharged from bankruptcy:	35
(b)	is released under Part 5, other than subpart 1, of the Insolvency Act 2006 from liability for each debt that is a provable debt under that Act and is	

not a debt of a type for which the person’s liability is specifically preserved by that Act.

- 27 Section CG 2B repealed (Remitted amounts on discharge from bankruptcy)**
Repeal section CG 2B. 5
- 28 New section CG 9 inserted (Recovery of deductions for aircraft engine overhaul)**
After section CG 8, insert:
- CG 9 Recovery of deductions for aircraft engine overhaul**
An amount of recovery income that a person has under **section EJ 27** (Disposal of aircraft engine or aircraft) is income of the person. 10
- 29 Section CQ 5 amended (When FIF income arises)**
- (1) In section CQ 5(1), paragraph (c)(xv), replace “exemption” with “exemption for a non-attributing active FIF”.
- (2) In section CQ 5, list of defined terms, insert “non-attributing active FIF”. 15
- 30 Section CW 19 amended (Amounts derived during short-term visits)**
- (1) Replace section CW 19(1)(b) with:
- (b) the person is present in New Zealand for 92 days or fewer in total in each 12-month period that includes the period of the visit; and
- (2) **Subsection (1)** applies for a person for a visit beginning on or after the day on this Act receives the Royal assent. 20
- 31 Section CX 5 amended (Relationship with exempt income)**
Repeal section CX 5(2)(a).
- 32 Section CX 16 amended (Contributions to life or health insurance)**
- (1) Replace section CX 16(3) with: 25
- Meaning of specified insurance premium*
- (3) In this section, **specified insurance premium** means a premium paid for the benefit of an employee on an insurance policy to the extent to which the insurance policy is for—
- (a) life insurance under section EY 8 (Meaning of life insurance) on the life of the employee or their spouse, civil union partner, or de facto partner, or on their joint lives, or on the life of their child: 30
- (b) accident or medical insurance referred to in section EY 8(3) on the life of the employee or their spouse, civil union partner, or de facto partner, or on their joint lives, or on the life of their child: 35

<p>(c) insurance against accident, disease, or sickness, whether fatal or not, suffered by the employee, their spouse, civil union partner, or de facto partner, or their child.</p> <p>(2) Repeal section CX 16(4).</p> <p>(3) Repeal section CX 16(5).</p> <p>(4) Repeal section CX 16(6).</p> <p>(5) In section CX 16, list of defined terms, insert “de facto partner” and “premium”.</p>	5
<p>33 New section CX 19B inserted (Transport in vehicle other than motor vehicle)</p> <p>(1) After section CX 19, insert:</p> <p>CX 19B Transport in vehicle other than motor vehicle</p> <p>A benefit that an employer provides to an employee in the form of transport of the employee in a vehicle is not a fringe benefit if the vehicle—</p> <p>(a) is not a motor vehicle; and</p> <p>(b) is not designed principally for the carriage of passengers.</p> <p>Defined in this Act: employer, employee, fringe benefit, motor vehicle</p> <p>(2) Subsection (1) applies for the 2008–09 and later income years.</p>	10
<p>34 Section CX 47 amended (Government grants to businesses)</p> <p>In section CX 47(4)(a), replace “technology development grant or under a technology transfer voucher” with “research and development growth grant”.</p>	20
<p>35 Heading and section CX 48D repealed</p> <p>(1) Repeal the heading before section CX 48D.</p> <p>(2) Repeal section CX 48D.</p>	
<p>36 Section CX 63 amended (Dividends derived after company ceased to be look-through company)</p> <p>(1) In section CX 63(4)(c), delete “or FDP credits”.</p> <p>(2) In section CX 63, list of defined terms, delete “FDP credit”.</p>	25
<p>37 New section CZ 33 inserted (Income arising from tax accounting provision for aircraft engine overhauls)</p> <p>After section CZ 32, insert:</p>	30

CZ 33	Income arising from tax accounting provision for aircraft engine overhauls	
	Income arising for a person under section DZ 23(2)(b) (Aircraft maintenance: tax accounting provisions for expenditure incurred after 2016–17 income year) is income of the person.	5
38	Section DB 7 amended (Interest: most companies need no nexus with income)	
(1)	In section DB 7(3)(a), replace “; or” with “:”.	
(2)	In section DB 7(3)(b), replace “; or” with “:”.	
(3)	After section DB 7(3)(b), insert:	10
	(bb) income exempted under section CW 59C (Life reinsurance outside New Zealand):	
(4)	Subsections (1), (2), and (3) apply for the income year including 1 July 2010 and later income years.	
39	Section DB 13 amended (Repayment of debt sold at discount to associate of debtor)	15
(1)	In the heading to section DB 13, replace “sold at discount to associate of debtor” with “in certain circumstances”.	
(2)	In section DB 13(1),—	
	(a) after “debtor”, insert “or EW 49B(4)(b) (Guarantees within economic group)”; and	20
	(b) replace “that subsection” with “the relevant subsection”.	
(3)	Subsection (2) applies for the 2017–18 and later income years.	
40	Section DB 19 amended (Expenses in application for resource consent)	
	In section DB 19, list of defined terms, delete “accounting year”.	25
41	Section DB 31 amended (Bad debts)	
(1)	After section DB 31(2)(b), insert:	
	(bb) the person is a member of the debtor’s creditor group and the assessable income is derived from a financial arrangement that is not a pari passu debt; and	30
(2)	In section DB 31(4B)(c), in the formula, replace “limited recourse consideration” with “limited recourse consideration + adjustment amount”.	
(3)	In section DB 31(4C)(b), replace “financial arrangement.” with “financial arrangement.”, and after section DB 31(4C)(b), insert:	
	(c) adjustment amount is an amount allocated for the income year under EW 15D (IFRS financial reporting method) for the limited-recourse arrangement, if the amount allocated arises solely because of the reduction	35

in the value of the limited-recourse arrangement due to the financial arrangement’s relevant bad debt amount.

(4) In section DB 31, list of defined terms, insert “creditor group” and “pari passu debt”.

(5) **Subsection (1)** applies for the 2017–18 and later income years. 5

42 New sections DW 5 and DW 6 inserted

(1) After section DW 4, insert:

DW 5 Aircraft operators: aircraft engines and aircraft engine overhauls

When this section applies

(1) This section applies for a person when— 10

(a) the person carries on a business involving the operation of an aircraft that includes an aircraft engine; and

(b) the person is required to maintain and repair the aircraft engine, and pieces of the aircraft engine, and to perform successive aircraft engine overhauls of the aircraft engine at intervals no greater than the scheduled overhaul period for the aircraft engine. 15

Deduction for aircraft engine overhaul

(2) For expenditure incurred by the person in carrying out an aircraft engine overhaul of an aircraft engine—

(a) the person has a deduction to the extent to which the process does not produce a significant increase in the performance of the aircraft engine by comparison with the aircraft engine’s performance specifications before the aircraft engine overhaul: 20

(b) an amount for which the person does not have a deduction under **paragraph (a)**— 25

(i) is an increase in the cost of the aircraft to the person, if the aircraft engine is an unpriced aircraft engine; or

(ii) is an increase in the cost of the aircraft engine to the person, otherwise.

Deduction for aircraft engine when acquired for price 30

(3) If the person acquires, other than as an unpriced aircraft engine with an aircraft, an aircraft engine for use with the aircraft, the person has a deduction for expenditure incurred in acquiring the aircraft engine, if the aircraft engine is acquired other than under a finance lease, or for part of the value of the aircraft engine determined under section EW 32 (Consideration for agreement for sale and purchase (ASAP) of property or services, hire purchase agreement, specified option, or finance lease) if the aircraft engine is acquired under a finance lease, of an amount— 35

- (a) equal to the estimated cost of an aircraft engine overhaul for the aircraft engine at the time of the acquisition, if—
- (i) when the aircraft engine is acquired, the aircraft engine has not been used significantly since being manufactured or having an aircraft engine overhaul; and 5
- (ii) the estimated cost is less than the amount referred to in **paragraph (c)**; or
- (b) equal to a fraction, calculated from the proportion of the scheduled overhaul period for the aircraft engine that is unexpired when the aircraft engine is acquired, of the estimated cost of an aircraft engine overhaul for the aircraft engine at the time of the acquisition, if the fraction of the estimated cost is less than the amount referred to in **paragraph (c)**; or 10
- (c) equal to the expenditure incurred in acquiring the aircraft engine, if the amount is not given by **paragraph (a) or (b)**.
- Deduction for unpriced aircraft engine when acquired* 15
- (4) If the person acquires an aircraft including an unpriced aircraft engine, the person has a deduction for part of the expenditure incurred in acquiring the aircraft, if the aircraft is acquired other than under a finance lease, or for part of the value of the aircraft determined under section EW 32 if the aircraft is acquired under a finance lease, of an amount— 20
- (a) equal to the estimated cost of an aircraft engine overhaul for the aircraft engine at the time of the acquisition, based on market prices, if the aircraft engine, when acquired, has not been used significantly since being manufactured or having an aircraft engine overhaul; or
- (b) equal to a fraction, calculated from the proportion of the scheduled overhaul period for the aircraft engine that is unexpired when the aircraft is acquired, of the estimated cost of an aircraft engine overhaul for the aircraft engine at the time of the acquisition based on market prices; or 25
- (c) equal to a fraction, agreed with the Commissioner, of the expenditure incurred in acquiring the aircraft including the unpriced aircraft engine. 30
- Exception: person making election under section EJ 26*
- (5) If a person has made an election under **section EJ 26** (Allocation of expenditure on aircraft engine overhauls: election by operator of single aircraft),—
- (a) the person is not allowed a deduction referred to in **subsection (3) or (4)**; and 35
- (b) each aircraft engine of the person is an unpriced aircraft engine for the purposes of this section.

Link with subpart DA

- (6) This section overrides the capital limitation. The other general limitations still apply.

Defined in this Act: aircraft engine, aircraft engine overhaul, business, capital limitation, general limitation, scheduled overhaul period, unpriced aircraft engine

5

DW 6 Aircraft operators: payments and adjustments under finance leases

When this section applies

- (1) This section applies when a person leasing under a finance lease an aircraft engine, or an aircraft including an unpriced aircraft engine, meets the requirements of **section DW 5(1)** for being allowed a deduction for expenditure incurred in performing an aircraft engine overhaul of the aircraft engine.

10

Payments during lease to lessor towards aircraft engine maintenance

- (2) If, during the term of the lease, the person pays an amount under the lease to the lessor towards the cost of aircraft engine overhauls,—

- (a) the person does not have a deduction for the payment; and
(b) a payment of a corresponding amount by the lessor to the person when the person incurs expenditure in performing an aircraft engine overhaul of the aircraft engine is not income of the person.

15

Deduction for surplus payments

- (3) If, at the end of the lease, the total amount of the payments referred to in **subsection (2)(a)** exceed the total amount of the payments referred to in **subsection (2)(b)**, the person has a deduction for the income year in which the lease ends equal to the amount of the excess.

20

Payments at end of lease by or to lessor for aircraft engine maintenance

- (4) If the lease requires the person to pay to the lessor, or the lessor to pay to the person, at the end of the lease an amount that is calculated from the cost of an aircraft engine overhaul and the proportion of the scheduled overhaul period for the aircraft engine that is expired when the lease ends,—

25

- (a) an amount that the person is required to pay is allowed as a deduction of the person; and
(b) an amount that the person is entitled to receive is income of the person under section CG 4(2) (Receipts for expenditure or loss from insurance, indemnity, or otherwise).

30

Relationship with section CG 4

- (5) This section overrides section CG 4 (Receipts for expenditure or loss from insurance, indemnity, or otherwise).

35

Defined in this Act: aircraft engine, aircraft engine overhaul, deduction, finance lease, lessor, pay, scheduled overhaul period, unpriced aircraft engine

- (2) **Subsection (1)** applies for the 2017–18 and later income years.

43 New sections DZ 22 and DZ 23 inserted

- (1) After section DZ 21, insert:

DZ 22 Aircraft maintenance: aircraft engines acquired before 2017–18 income year*When this section applies*

5

- (1) This section applies when—

- (a) a person, before the 2017–18 income year, acquires an aircraft engine or an aircraft including an unpriced aircraft engine; and
- (b) the person is required to replace pieces of the aircraft engine as part of an aircraft engine overhaul; and 10
- (c) the adjusted tax value of the aircraft engine or aircraft is reduced at the beginning of the 2017–18 income year by an amount under **section EZ 23BA** (Aircraft acquired before 2017–18 income year: adjusted tax value, base value, reduced).

Deduction if aircraft engine overhaul since acquisition

15

- (2) If the person has performed an aircraft engine overhaul of the aircraft engine before the beginning of the 2017–18 income year, the person has a deduction for the 2017–18 income year of an amount equal to the amount of the reduction referred to in
- subsection (1)(c)**
- .

Deduction in absence of aircraft engine overhaul since acquisition

20

- (3) If the person has not performed an aircraft engine overhaul of the aircraft engine before the beginning of the 2017–18 income year, the person has a deduction,—

- (a) for the 2017–18 income year, of an amount equal to the amount of the reduction referred to in **subsection (1)(c)**, reduced by an amount that, as a proportion of the reduction, corresponds to the proportion of the scheduled overhaul period for the aircraft engine that is unexpired at the end of the 2017–18 income year; 25
- (b) for an income year later than the 2017–18 income year, of an amount that, as a proportion of the reduction referred to in **subsection (1)(c)**, corresponds to the proportion of the scheduled overhaul period of the aircraft engine that is included in the income year. 30

Defined in this Act: adjusted tax value, aircraft engine, aircraft engine overhaul, deduction, income year, scheduled overhaul period, unpriced aircraft engine

DZ 23 Aircraft maintenance: tax accounting provisions for expenditure incurred after 2016–17 income year

35

When this section applies

- (1) This section applies when a person has at the beginning of the 2017–18 income year an amount (the
- anticipated deduction**
-) of a tax accounting provision, for

expenditure on aircraft maintenance, that is included as a deduction in the calculation of the person’s taxable income for an earlier income year although the amount is not a deduction allowed by this Act for the earlier income year.

Expenditure on aircraft maintenance other than aircraft engine overhauls

(2) For the earliest income year, after the 2016–17 income year, in which the person incurs expenditure on the maintenance of an aircraft other than an aircraft engine overhaul, the person— 5

(a) is not allowed a deduction for the expenditure to the extent to which the expenditure in the income year is offset by an anticipated deduction for expenditure on such maintenance; and 10

(b) if the anticipated deduction for such expenditure exceeds the amount of the expenditure in the income year, derives income under **section CZ 33** (Income arising from tax accounting provision for aircraft engine overhauls) equal to the amount of the excess.

Expenditure on aircraft engine overhauls 15

(3) For income years after the 2016–17 income year in which the person incurs expenditure on an aircraft engine overhaul, beginning with the earliest such income year,—

(a) the person is not allowed a deduction for the expenditure to the extent to which the expenditure in the income year is offset by an anticipated deduction for expenditure on an aircraft engine overhaul; and 20

(b) if the anticipated deduction exceeds the amount of the expenditure in the income year, the excess is carried forward as an anticipated deduction to the next income year in which the person incurs expenditure on an aircraft engine overhaul; and 25

(c) **paragraphs (a) and (b)** apply as required to income years until the amount of the anticipated deduction at the beginning of the 2017–18 income year is offset completely.

Defined in this Act: aircraft engine overhaul, deduction, income, income year, taxable income

(2) **Subsection (1)** applies for the 2017–18 and later income years. 30

44 Section EC 26B amended (Entering partners’ cost base)

In section EC 26B, list of defined terms, insert “exiting partner”.

45 Section ED 1 amended (Valuation of excepted financial arrangements)

(1) After section ED 1(4), insert:

Valuation when disposal of shares acquired under taxable bonus issue 35

(4B) Despite subsection (1), a share that a person acquires under a taxable bonus issue is valued immediately before the person disposes of the share at an amount equal to the amount of the dividend derived by the person from the issue of the share, not including the amount of imputation credits attached to

- the dividend by the issuer of the share and withholding tax withheld by the issuer of the share.
- (2) **Subsection (1)** applies for shares received under taxable bonus issues made on or after the day on which this Act receives the Royal assent.
- 46 Section EE 1 amended (What this subpart does)** 5
In section EE 1(3)(c), replace “section EE 47” with “section EE 47 or EE 52”.
- 47 Section EE 7 amended (What is not depreciable property?)**
- (1) After section EE 7(h), insert:
- (hb) property that is a piece of an aircraft engine, if—
- (i) the owner of the aircraft engine is allowed a deduction relating to the aircraft engine under **section DW 5 or DZ 22** (which relate to aircraft engine overhauls); and
- (ii) the piece is of a type that is required to be tested or replaced as part of an aircraft engine overhaul:
- (2) In section EE 7, list of defined terms, insert “aircraft engine” and “aircraft engine overhaul”. 15
- (3) **Subsection (1)** applies for the 2017–18 and later income years.
- 48 Section EE 41 amended (Transfer of depreciable property on certain amalgamations on or after 14 May 2002)**
- In section EE 41(2)(b)(i), replace “section FO 11 or FO 15” with “section FO 11 or FO 16 (Amortising property)”. 20
- 49 Section EE 44 amended (Application of sections EE 48 to EE 52)**
- (1) In section EE 44, heading, replace “**EE 48 to EE 52**” with “**EE 48 to EE 51**”.
- (2) In section EE 44(1), words before paragraph (a), replace “EE 48 to EE 52” with “EE 48 to EE 51”. 25
- 50 Section EE 47 amended (Events for purposes of section EE 44)**
- (1) In section EE 47(1), heading, replace “*EE 48 to EE 52*” with “*EE 48 to EE 51*”.
- (2) In section EE 47(1), replace “EE 48 to EE 52” with “EE 48 to EE 51”.
- 51 Section EE 49 amended (Amount of depreciation recovery income when item partly used for business)** 30
- (1) In section EE 49(8), replace “section EE 48(1)” with “section EE 48(1)(a)”.
- (2) **Subsection (1)** applies for the 2008–09 and later income years, except as provided in **subsection (3)**.
- (3) **Subsection (1)** does not apply for a person and an income year that is the 2008–09 or a later income year and a tax position taken by the person— 35

- (a) before the date on which the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Bill is introduced; and
- (b) that is inconsistent with the amendment made by **subsection (1)**.

52 Section EJ 2 amended (Spreading forward of deductions for repairs to fishing boats) 5

In section EJ 2(1), replace “Part 21” with “Part 19 or 21”.

53 New heading and new sections EJ 24, EJ 25, EJ 26, and EJ 27 inserted

- (1) After section EJ 23, insert:

Aircraft engine overhauls

EJ 24 Allocation of expenditure on aircraft engine overhauls 10

When this section applies

- (1) This section applies when a person is allowed a deduction under **section DW 5 or DW 6** (which relate to the acquisition, overhaul, and leasing of aircraft engines) for expenditure incurred in acquiring an aircraft engine or in performing an aircraft engine overhaul of an aircraft engine or under a finance lease involving an aircraft engine. 15

Allocation of deduction: general rule

- (2) A person who does not make an election under **section EJ 25 or EJ 26** must allocate a proportion of the deduction for an acquisition or aircraft engine overhaul to each income year that includes a part of the scheduled overhaul period following the acquisition or aircraft engine overhaul, with the proportion for an income year being equal to the proportion of the scheduled overhaul period that occurs in the income year. 20

Exception: allocation of deduction when early aircraft engine overhaul

- (3) If the person performs in an income year an aircraft engine overhaul during the scheduled overhaul period relating to the preceding acquisition or aircraft engine overhaul of the aircraft engine, the person must allocate to the income year the part of the deduction for the preceding acquisition or aircraft engine overhaul that would otherwise be allocated under **subsection (2)** to a later income year. 25

Exception: allocation of deduction when lease ends

- (4) If the person leases an aircraft engine, or an aircraft including an unpriced aircraft engine, under a lease that ends before the end of the scheduled overhaul period relating to the preceding acquisition or aircraft engine overhaul of the aircraft engine, the person must allocate to the income year in which the lease ends the part of the deduction for the preceding acquisition or aircraft engine 30

overhaul that would otherwise be allocated under **subsection (2)** to a later income year.

Defined in this Act: aircraft engine, aircraft engine overhaul, associated person, business, blood relationship, deduction, income year, lease, scheduled overhaul period, unpriced aircraft engine

EJ 25 Allocation of expenditure on aircraft engine overhauls: election by IFRS user 5

Election

(1) A person may elect to quantify and allocate under this section the amount of a deduction allowed by **section DW 5 or DW 6** (which relate to the acquisition, overhaul, and leasing of aircraft engines) in relation to an aircraft or aircraft engine and an income year if— 10

(a) the person is a New Zealand resident or holds a valid certificate of registration for the aircraft from the Director of Civil Aviation under the Civil Aviation Act 1990; and

(b) the person uses IFRS rules to prepare their financial statements; and 15

(c) the aircraft is treated under the IFRS rules as being owned by the person or is leased by the person under a finance lease.

Adjusted figures from financial statements

(2) A person who elects to rely on this subsection is allowed to quantify and allocate deductions for an income year under **section DW 5 or DW 6** by using the figures relating to aircraft and aircraft engines used in the person's financial statements and using methods and adjustments agreed with the Commissioner. 20

Defined in this Act: aircraft engine, Commissioner, deduction, finance lease, financial statements, IFRS, income year, lease, New Zealand resident

EJ 26 Allocation of expenditure on aircraft engine overhauls: election by operator of single aircraft 25

Election

(1) A person may elect to quantify and allocate under this section the amount of a deduction allowed by **section DW 5 or DW 6** (which relate to the acquisition, overhaul, and leasing of aircraft engines) in relation to an aircraft and an income year if— 30

(a) no more than 1 aircraft is operated in business by the person and persons who are associated with the person other than by blood relationship; and

(b) no more than 1 aircraft is operated in a particular business by the person and a person who is associated with the person by blood relationship. 35

Expenditure on acquisition and overhaul of aircraft engines

(2) A person who elects to rely on this subsection to the income year must—

(a) allocate a deduction under **section DW 5(2)** to the income year of the aircraft engine overhaul to which the deduction relates; and

- (b) treat each aircraft engine as an unpriced aircraft engine for the purposes of **section DW 5**.

Defined in this Act: aircraft engine, associated person, business, blood relationship, business, deduction, income year, unpriced aircraft engine

EJ 27 Disposal of aircraft engine or aircraft 5

When this section applies

- (1) This section applies when a person—
- (a) is allowed a deduction under **section DW 5** (Aircraft operators: aircraft engines and aircraft engine overhauls) in relation to an aircraft engine or an aircraft including an unpriced aircraft engine; and 10
- (b) disposes of the aircraft engine or aircraft.

Allocation of remaining deductions

- (2) The person must allocate to the income year in which the disposal occurs the part of the deduction under **section DW 5** for the preceding acquisition or aircraft engine overhaul that would otherwise be allocated to a later income year. 15

Allocation of consideration

- (3) The person must allocate the consideration derived for the disposal between—
- (a) the aircraft engine or aircraft as an item of depreciable property; and
- (b) the unexpired portion of the scheduled overhaul period for the aircraft engine. 20

Allocation of consideration by agreement

- (4) The allocation by the person under **subsection (3)** must be—
- (a) the apportionment agreed with the purchaser; or
- (b) an apportionment acceptable to the Commissioner, if there is no agreed apportionment under **paragraph (a)**. 25

Recovery income

- (5) The person derives from the disposal an amount of income equal to—
- (a) the total amount of deductions under **section DW 5** allowed for the aircraft engine or aircraft and the latest scheduled overhaul period beginning before the disposal, if that amount is less than the amount described in **paragraph (b)**; or 30
- (b) the amount of consideration allocated under **subsection (3)** to the unexpired portion of the scheduled overhaul period for the aircraft engine, if **paragraph (a)** does not apply.

- (2) **Subsection (1)** applies for the 2017–18 and later income years. 35

- 54 Section EW 5 amended (What is an excepted financial arrangement?)**
In section EW 5(3D), replace “technology development grant, or technology transfer voucher,” with “research and development growth grant”.
- 55 Section EW 11 amended (What financial arrangement rules do not apply to)** 5
- (1) Replace section EW 11(b) with:
- (b) the calculation of non-resident passive income, other than—
- (i) non-resident financial arrangement income; or
- (ii) income derived under a notional loan under **section FG 3** (Notional interest): 10
- (2) In section EW 11, list of defined terms, insert “amount” and “non-resident financial arrangement income”.
- 56 Section EW 31 amended (Base price adjustment formula)**
- (1) Replace section EW 31(11), other than the heading, with:
- (11) **Amount remitted—** 15
- (a) is an amount (a **remission**) that is not included in the consideration paid or payable to the person because it has been remitted—
- (i) by the person; or
- (ii) by law; but
- (b) does not include a remission that is self-remission. 20
- (2) After section EW 31(11), insert:
- A definition*
- (12) For the purposes of this section, **self-remission** means, for the person, a remission amount for a financial arrangement under which, and to the extent to which, because of the operation of section HB 1 or HG 2 (which relate to LTCs and partnerships), the person is also liable as debtor in their capacity of owner or partner. 25
- (3) In section EW 31, list of defined terms, insert “self-remission”.
- (4) **Subsections (1) and (2)** apply for income years beginning on or after 1 April 2011. 30
- 57 New section EW 46C inserted (Consideration when debt forgiven within economic group)**
- (1) After section EW 46B, insert:
- EW 46C Consideration when debt forgiven within economic group**
- When this section applies* 35
- (1) This section applies when—

<ul style="list-style-type: none"> (a) a debtor is not a natural person, or has a capacity different from the creditor; and (b) the creditor is a member of the creditor group of the debtor; and (c) the debt owed to the creditor is a pari passu debt; and (d) the debt is forgiven. 	5
<i>Consideration</i>	
<ul style="list-style-type: none"> (2) The debtor is treated as having paid the group member debt on the date on which the creditor forgives it, and the creditor is treated as having been paid the debt on the date on which the creditor forgives it. 	
<i>Two points about subsections (1) and (2)</i>	
<ul style="list-style-type: none"> (3) For the purposes of subsections (1) and (2),— <ul style="list-style-type: none"> (a) the debtor’s debt includes an amount accrued and unpaid at the time of the forgiveness; and (b) the means by which the debt is forgiven is immaterial. 	10
<i>Some definitions</i>	
<ul style="list-style-type: none"> (4) For the purposes of this section,— <ul style="list-style-type: none"> (a) creditor group means, for a debtor, the group of people to whom the debtor owes money and who also have creditor’s interests in the debtor, or who also have creditor’s associates that have creditor’s interests in the debtor: (b) creditor’s associate means, for a creditor, a person associated with the creditor if— <ul style="list-style-type: none"> (i) the associated person is a member of the same wholly owned group of companies as the creditor: (ii) the creditor is a natural person who has natural love and affection for the associated person: (c) creditor’s interest means, for a person,— <ul style="list-style-type: none"> (i) their direct ownership interest and ownership interest, in the case of a company: (ii) their effective look-through interest, in the case of a look-through company: (iii) their partnership share in the partnership’s income, in the case of a debtor partnership: (d) pari passu debt— <ul style="list-style-type: none"> (i) means a debt for a creditor group member (member debt), if the member debt, expressed as a fraction of the total member debt for the debtor, corresponds to the creditor group member’s creditor’s interests in the debtor, expressed as a fraction of total creditor 	15 20 25 30 35

	interests held by all creditor group members. For the purposes of this definition, the creditor group member is treated as having the creditor's interests of their creditor's associates, to the extent to which the associates are not creditors of the debtor; and	
	(ii) does not include a member debt, if the creditor group member is a non-resident who was not originally issued the debt.	5
	Defined in this Act: amount, associated person, consideration, creditor group, creditor's associate, creditor's interest, income, look-through company, look-through interest, non-resident, ownership interest, pari passu debt, partnership, partnership share, pay	
(2)	Subsection (1) applies for a person for the 2008–09 and later income years, except for an income year before the 2015–16 income year for which the person takes a tax position in a return of income that is inconsistent with the amendment made by subsection (1) .	10
58	Section EW 49 amended (Income and deduction when debt sold at discount to associate of debtor)	15
	In section EW 49(5)(b), replace “Repayment of debt sold at discount to associate of debtor” with “Repayment of debt in certain circumstances”.	
59	New section EW 49B inserted (Guarantees within economic group)	
(1)	After section EW 49, insert:	
	EW 49B Guarantees within economic group	20
	<i>When this section applies</i>	
(1)	This section applies when a guarantor pays an amount under a guarantee (a guarantee payment) for an associated person's debt (the debtor) to the debtor's creditor.	
	<i>Economic debt</i>	25
(2)	The guarantor is treated as acquiring and holding the creditor's interest in the debt (the economic debt) to the extent of the guarantee payment.	
	<i>New debt</i>	
(3)	If a base price adjustment for the debt to the creditor is performed, the debt that the guarantor is treated as acquiring and holding is treated as repaid, and the guarantor is treated as having provided the debtor with an interest-free loan for the amount of the economic debt.	30
	<i>Repayment: income and deduction</i>	
(4)	If the debtor later repays the guarantor more than the economic debt, the excess paid by the debtor is—	35
	(a) income, under section CC 3(1) (Financial arrangements), of the guarantor; and	

	(b) a deduction that the debtor is allowed under section DB 13(1) (Repayment of debt in certain circumstances).	
	Defined in this Act: amount, base price adjustment, deduction, income	
	(2) Subsection (1) applies for the 2017–18 and later income years.	
60	Section EX 46 amended (Limits on choice of calculation methods)	5
	In section EX 46(1), replace paragraph (b) with:	
	(b) the choice of method for a class is limited by this section or section EX 47, EX 48, or EX 62.	
61	Section EY 2 amended (Policyholder base)	
	(1) In section EY 2(2), after paragraph (a), insert:	10
	(ab) for consideration for investment management services provided by the life insurer for savings product policies that are not profit participation policies, under section EY 16B :	
	(2) Replace section EY 2(5), other than the heading, with:	
	(5) An amount of policyholder base allowable deductions that cannot be subtracted under subsection (3) in the current year because of subsection (4) is carried forward to the next income year and treated as policyholder base allowable deductions for that income year.	15
	(3) Subsection (1) applies for income years beginning on or after 1 April 2015.	
	(4) Subsection (2) applies for income years beginning after the day on which the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2016 receives the Royal assent.	20
62	Section EY 3 amended (Shareholder base)	
	(1) In section EY 3(1), after paragraph (a), insert:	
	(ab) for consideration for investment management services provided by the life insurer for savings product policies that are not profit participation policies, under section EY 19B :	25
	(2) In section EY 3, list of defined terms, insert “savings product policy”.	
	(3) Subsection (1) applies for income years beginning on or after 1 April 2015.	
63	New section EY 16B inserted (Policyholder base allowable deductions: consideration for investment management services)	30
	(1) After section EY 16, insert:	
	EY 16B Policyholder base allowable deductions: consideration for investment management services	
	For an income year and a class of policies that are savings product policies and not profit participation policies, a life insurer has a policyholder base allowable	35

- deduction equal to the amount of consideration, for investment management services provided to policyholders by the life insurer in managing policyholder funds, that is credited to the shareholder base in the income year.
- Defined in this Act: amount, class of policies, income year, life insurer, policyholder base allowable deduction, profit participation policy, savings product policy, shareholder base 5
- (2) **Subsection (1)** applies for income years beginning on or after 1 April 2015.
- (3) **Subsection (1)** applies for a person, for an income year that includes 1 July 2010 or commences after 1 July 2010 and before 1 April 2015, and a tax position taken by the person—
- (a) before the date on which the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Bill is introduced; and 10
- (b) relying on **section EY 16B** as inserted by **subsection (1)** and **section EY 19B** as inserted by **section 66**.
- 64 Section EY 17 amended (Policyholder base income: profit participation policies)** 15
- (1) In section EY 17(2)(c)(i), replace “value of future transfers” with “value, net of tax and used in the life insurer’s financial accounts, of future transfers”.
- (2) In section EY 17(2)(c)(ii), replace “value of future transfers” with “value, net of tax and used in the life insurer’s financial accounts, of future transfers”.
- (3) **Subsections (1) and (2)** apply for income years beginning after the day on which the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act **2016** receives the Royal assent. 20
- 65 Section EY 19 amended (Shareholder base income: non-participation policies)**
- (1) In section EY 19(1), replace paragraph (b) with: 25
- (b) relates to fees and commissions not described in **section EY 19B**:
- (2) **Subsection (1)** applies for income years beginning on or after 1 April 2015.
- (3) **Subsection (1)** applies for a person, an income year that includes 1 July 2010 or commences after 1 July 2010 and before 1 April 2015, and a tax position taken by the person— 30
- (a) before the date on which the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Bill is introduced; and
- (b) relying on **section EY 16B** as inserted by **section 63** and **section EY 19B** as inserted by **section 66**.
- 66 New section EY 19B inserted (Shareholder base income: consideration credited for investment management services)** 35
- (1) After **section EY 19**, insert:

EY 19B Shareholder base income: consideration credited for investment management services

For an income year and a class of policies that are savings product policies and not profit participation policies, a life insurer has shareholder base income equal to the amount of consideration, for investment management services provided to policyholders by the life insurer in managing policyholder funds, that is credited to the shareholder base in the income year.

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Defined in this Act: amount, class of policies, income year, life insurer, profit participation policy, savings product policy, shareholder base, shareholder base income

- (2) **Subsection (1)** applies for income years beginning on or after 1 April 2015. 10
- (3) **Subsection (1)** applies for a person, an income year that includes 1 July 2010 or commences after 1 July 2010 and before 1 April 2015, and a tax position taken by the person—
 - (a) before the date on which the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Bill is introduced; and 15
 - (b) relying on **section EY 16B** as inserted by **section 63** and **section EY 19B** as inserted by **subsection (1)**.

67 Section EY 21 amended (Shareholder base income: profit participation policies)

- (1) In section EY 21(2)(c)(i), replace “value of future transfers” with “value, net of tax and used in the life insurer’s financial accounts, of future transfers”. 20
- (2) In section EY 21(2)(c)(ii), replace “value of future transfers” with “value, net of tax and used in the life insurer’s financial accounts, of future transfers”.
- (3) **Subsections (1) and (2)** apply for income years beginning after the day on which the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act **2016** receives the Royal assent. 25

68 Section EY 23 amended (Reserving amounts for life insurers: non-participation policies)

- (1) In section EY 23(1), replace “Sections EY 24 to EY 27 apply to calculate” with “This section applies to, and sections EY 24 to EY 27 apply to calculate,”. 30
- (2) In section EY 23(2), after “class of policies”, insert “that includes life insurance policies to which this section applies”.
- (3) In section EY 23(4), replace “For an income year, for a relevant class of policies” with “For an income year and a class of policies”.
- (4) Replace section EY 23(6), other than the heading, with: 35
- (6) **PSR period** means, for an income year and a policy in a class of policies, a period—
 - (a) that is a year or more in length; and

- (b) that is the income year or is a period that begins, continues, or ends in the income year and begins or ends in another income year, and
- (c) for which—
- (i) the amounts of the life risk components of premiums payable in the period are level or substantially level: 5
- (ii) there is a material mismatch between the timing of life risk and the timing of the life risk component of premiums payable in the period.
- (5) **Subsection (1)** applies for income years beginning after the day on which the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act **2016** receives the Royal assent. 10
- 69 Section EY 25 amended (Premium smoothing reserving amount: non-participation policies not annuities)**
- (1) In section EY 25(3)(a), replace “proportion:” with “proportion; and”.
- (2) Replace **section EY 25(3)** with: 15
- Reserving amount: calculation*
- (3) For policies in a class of policies and for PSR periods of the policies, reserving amounts must be calculated using the principles—
- (a) for an income year, the sum of a reserving amount and the life risk component of premiums equals the expected life risk proportion; and 20
- (b) for PSR periods, the sum of a reserving amount and the life risk component of premiums equals the total life risk component of premiums recognised for financial reporting purposes; and
- (c) the amount in the premium smoothing reserve does not include amounts for policies for which all obligations have ceased. 25
- (3) Replace section EY 25(6), other than the heading, with:
- (6) In this section, **expected life risk proportion** means, for life insurance policies in a class of policies and an income year, the proportion of the premiums that fairly reflects the proportion of the life risk and the life risk renewal expenses, for the term of the policy, expected to be borne in the income year and is determined from the corresponding proportions calculated, for each PSR period that begins, continues, or ends in the income year,— 30
- (a) as at the beginning of the income year or the beginning of the PSR period, whichever is later; and
- (b) assuming that the policies still exist at the end of the income year or the end of the PSR period, whichever is earlier. 35
- (4) **Subsection (1)** applies for the income year including 1 July 2010 and later income years.

- (5) **Subsections (2) and (3)** apply for income years beginning after the day on which the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act **2016** receives the Royal assent.
- 70 Section EY 28 amended (Shareholder base other profit: profit participation policies that are existing business)** 5
- (1) In section EY 28(4), formula,—
- (a) replace “(closing policy liabilities” with “(closing liabilities”:
- (b) replace “estimated closing policy liabilities” with “estimated closing liabilities”.
- (2) In section EY 28(5)(b), replace “present value (net) of relevant life reinsurance premiums” with “value, net of tax and used in the life insurer’s financial accounts, of relevant life reinsurance premiums” 10
- (3) In section EY 28(5)(d), replace “present value (net) of relevant life reinsurance claims” with “value, net of tax and used in the life insurer’s financial accounts, of relevant life reinsurance claims” 15
- (4) Replace section EY 28(5)(e) with:
- (e) **closing liabilities** is the total amount, determined as at the end of the current year for policies that are in force at the end of the current year, of the policy liabilities including benefits that vest by the end of the current year: 20
- (5) Replace section EY 28(5)(f) with:
- (f) **estimated closing liabilities** is the total amount, estimated as at the beginning of the current year for policies that are in force at the start of the current year and expected to be in force at the end of the current year, of the policy liabilities including benefits that vest by the end of the current year. 25
- (6) Replace section EY 28(6) with:
- Policy liability*
- (6) For the purposes of subsection (5), the policy liability for a policy is an amount that is actuarially determined for the policy using best estimate assumptions and that— 30
- (a) is the total amount of future claims, future expenditure or loss, and future tax payments, reduced by the amount of future premiums; and
- (b) is obtained using present values that are net of tax and used in the life insurer’s financial accounts and allowing for life reinsurance premiums and life reinsurance claims; and 35
- (c) does not include anticipated bonus declarations or bonus declarations for another income year.

- (7) In section EY 28(7), replace “the items **premiums estimate, claims estimate, and policy liabilities** in this section” with “amounts under subsections (5) **and (6)**”.
- (8) In section EY 28, list of defined terms, delete “present value (net)”.
- (9) **Subsections (1), (2), (3), (4), (5), (6), and (7)** apply for income years beginning after the day on which the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act **2016** receives the Royal assent. 5
- 71 Section EY 29 amended (Shareholder base other profit: profit participation policies that are new business) 10**
- (1) In section EY 29(5), formula,—
- (a) replace “(closing policy liabilities)” with “(closing liabilities)”:
- (b) replace “estimated closing policy liabilities” with “estimated closing liabilities”.
- (2) In section EY 29(6)(b), replace “present value (net) of relevant life reinsurance premiums” with “value, net of tax and used in the life insurer’s financial accounts, of relevant life reinsurance premiums”. 15
- (3) In section EY 29(6)(d), replace “present value (net) of relevant life reinsurance claims” with “value, net of tax and used in the life insurer’s financial accounts, of relevant life reinsurance claims”. 20
- (4) Replace section EY 29(6)(e) with:
- (e) **closing liabilities** is the total amount, determined as at the end of the current year for policies that are in force at the end of the current year, of the policy liabilities including benefits that vest by the end of the current year: 25
- (5) Replace section EY 29(6)(f) with:
- (f) **estimated closing liabilities** is the total amount, estimated as at the beginning of the current year for policies that are in force at the start of the current year and expected to be in force at the end of the current year, of the policy liabilities including benefits that vest by the end of the current year. 30
- (6) Replace section EY 29(8) with:
- Policy liability*
- (8) For the purposes of subsection (6), the policy liability for a policy is an amount that is actuarially determined for the policy using best estimate assumptions and that— 35
- (a) is the greater of the current surrender value of the policy and the amount that is the total amount of future mortality and maturity claims, future

	expenditure or loss, and future tax payments, reduced by the amount of future valuation premiums; and	
	(b) is obtained using present values that are net of tax and used in the life insurer’s financial accounts and allowing for relevant life reinsurance premiums and relevant life reinsurance claims; and	5
	(c) does not include anticipated bonus declarations or bonus declarations for another income year; and	
	(d) does not include an allowance for surrenders or the payment of surrender values.	
(7)	In section EY 29(9), replace “the items premiums estimate, claims estimate, and policy liabilities in this section” with “amounts under subsections (6), (7), and (8) ”.	10
(8)	In section EY 29, list of defined terms, delete “present value (net)”.	
(9)	Subsections (1), (2), (3), (4), (5), (6), and (7) apply for income years beginning after the day on which the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2016 receives the Royal assent.	15
72	New section EZ 23BA inserted (Aircraft acquired before 2017–18 income year: adjusted tax value, base value, reduced)	
(1)	After section EZ 23, insert:	20
	EZ 23BA Aircraft acquired before 2017–18 income year: adjusted tax value, base value, reduced	
	<i>When this section applies</i>	
(1)	This section applies when—	
	(a) a person, before the 2017–18 income year, acquires an aircraft engine or an aircraft including an unpriced aircraft engine; and	25
	(b) the person is required to replace pieces of the aircraft engine when performing an aircraft engine overhaul; and	
	(c) for the purposes of section EE 56 (Formula), the item base value used to calculate the adjusted tax value of the aircraft engine or aircraft for income years before the 2017–18 income year includes an amount corresponding to the cost to the person of the pieces referred to in paragraph (b) .	30
	<i>Removal of cost of pieces from base value</i>	
(2)	The item base value referred to in subsection (1)(c) is reduced at the beginning of the 2017–18 income year by the included amount referred to in that paragraph.	35

	<i>Removal of cost of pieces from adjusted tax value</i>	
(3)	The adjusted tax value of the aircraft engine or aircraft is reduced at the beginning of the 2017–18 income year by the proportion of the adjusted tax value that corresponds to the depreciated cost to the person of the pieces referred to in subsection (1)(b) .	5
	Defined in this Act: adjusted tax value, aircraft engine, aircraft engine overhaul, unpriced aircraft engine	
(2)	Subsection (1) applies for the 2017–18 and later income years.	
73	Section FA 4 amended (Recharacterisation of shareholder’s base: company repurchasing share)	10
(1)	In section FA 4(2)(b), replace “the amount” with “the cost to the shareholder of the cancelled share”.	
(2)	Subsection (1) applies for a person and the 2008–09 and later income years, except for an income year and a transaction for which the person takes a tax position—	15
	(a) in a return of income filed before the date on which the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Bill is introduced; and	
	(b) that is inconsistent with the amendment made by subsection (1) .	
74	Section FA 9 amended (Treatment when lease ends: lessee acquiring asset)	20
(1)	After section FA 9(4), insert:	
	<i>Payment relating to aircraft engine overhaul</i>	
(5)	Expenditure of a person that relates to an aircraft including an unpriced aircraft engine and is deductible under sections DW 5 and DW 6 (which relate to aircraft engine acquisitions and overhauls) is not included in an amount of consideration paid by the person for the aircraft, for the purposes of this section.	25
(2)	In section FA 9, list of defined terms, insert “aircraft engine”, “consideration”, and “unpriced aircraft engine”.	
(3)	Subsection (1) applies for the 2017–18 and later income years.	
75	Section FA 10 amended (Treatment when lease ends: lessor acquiring asset)	30
(1)	After section FA 10(7), insert:	
	<i>Payment relating to aircraft engine overhaul</i>	
(7B)	Expenditure of a person that relates to an aircraft including an unpriced aircraft engine and is deductible for the person under sections DW 5 and DW 6 (which relate to aircraft engine acquisitions and overhauls) is not included in an amount of consideration paid by the person for the aircraft, for the purposes of this section.	35

- (2) In section FA 10, list of defined terms, insert “aircraft engine”, “consideration”, and “unpriced aircraft engine”.
- (3) **Subsection (1)** applies for the 2017–18 and later income years.
- 76 Section FA 11 amended (Adjustments for leases that become finance leases)** 5
- (1) After section FA 11(7), insert:
Payment relating to aircraft engine overhaul
- (8) Expenditure of a person that relates to an aircraft including an unpriced aircraft engine and is deductible for the person under **sections DW 5 and DW 6** (which relate to aircraft engine acquisitions and overhauls) is not included in an amount of consideration paid by the person for the aircraft, for the purposes of this section. 10
- (2) In section FA 11, list of defined terms, insert “aircraft engine”, “consideration”, and “unpriced aircraft engine”.
- (3) **Subsection (1)** applies for the 2017–18 and later income years. 15
- 77 Section FC 1 amended (Disposals to which this subpart applies)**
- In section FC 1(1), words before paragraph (a), replace “the following transactions:” with “the transactions referred to in **section FC 10** and under transactions that are—”.
- 78 Section FC 2 amended (Transfer at market value)** 20
- In section FC 2(1), words before paragraph (a), replace “under section FC 1(1)” with “in circumstances described in section FC 1(1)”.
- 79 New heading and new section FC 10 inserted**
- After section FC 9, insert:
- Bankruptcy or insolvency of person under Insolvency Act 2006*** 25
- FC 10 Transfers from person to Official Assignee under Insolvency Act 2006**
- When this section applies*
- (1) This section applies when a person is adjudicated bankrupt under the Insolvency Act 2006 or is subject to a procedure under Part 5 of that Act.
- Transfer of revenue account property subject to section EA 1* 30
- (2) If revenue account property of the person that is subject to section EA 1 (Trading stock, livestock, and excepted financial arrangements) vests in the Official Assignee, the transfer is treated as a disposal and acquisition of the property for an amount equal to the market value of the property on the date (the **transfer date**) on which the person is adjudicated bankrupt or the procedure under Part 5 of the Insolvency Act 2006 is approved by the Court. 35

- Transfer of revenue account property subject to section EA 2*
- (3) If revenue account property of the person that is subject to section EA 2 (Other revenue account property) vests in the Official Assignee,—
- (a) the person does not have a deduction under section DB 23 (Cost of revenue account property) for the cost of the revenue account property; and 5
- (b) the cost of the property for the Official Assignee for the purposes of sections DB 23 and EA 2(2) is treated as being equal to the cost of the property for the person.
- Transfer of depreciable property*
- (4) If depreciable property of the person vests in the Official Assignee,— 10
- (a) the person is treated as disposing of the property for an amount equal to the adjusted tax value of the property on the transfer date:
- (b) the Official Assignee is treated as acquiring the property—
- (i) with an acquisition date, base value, and adjusted tax value that are the same as those quantities are for the person immediately before the transfer date; and 15
- (ii) without incurring an amount of expenditure as consideration for the transfer.
- Deductions not already allocated to period before transfer*
- (5) **Subsection (6)** applies if, before the transfer date, the person incurs expenditure relating to property and, by the transfer date, deductions of the person relating to the expenditure (the **unallocated deductions**) are not allocated to a period ending before the transfer date. 20
- Official Assignee and unallocated deductions*
- (6) An amount of unallocated deductions is treated as not being a deduction of the person and as being a deduction of the Official Assignee that relates to property of the Official Assignee and that may be allocated by the Official Assignee— 25
- (a) to a period beginning on or after the transfer date; and
- (b) in a way that the person could have allocated the deduction but for the adjudication or procedure under the Insolvency Act 2006. 30

80 Section FE 2 amended (When this subpart applies)

In section FE 2, list of defined terms, insert “double tax agreement”.

81 Section FE 9 amended (Elections)

In section FE 9(3), replace “under section FE 30 by a person other than an excess debt entity” with “under section FE 30,”. 35

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

- (1) In section FE 28(2)(b),—

<p>(a) replace the words before subparagraph (i) with “any company that is resident in New Zealand, or is carrying on business in New Zealand through a fixed establishment in New Zealand, and is not a member of the New Zealand banking group of a registered bank, and that—”:</p> <p>(b) in subparagraph (iii), replace “parent; or” with “parent; and”:</p> <p>(c) repeal subparagraph (iv).</p> <p>(2) In section FE 28(2)(b),—</p> <p>(a) replace the words before subparagraph (i) with “that is not a member of the New Zealand banking group of a registered bank, and that—”:</p> <p>(b) in subparagraph (iii), replace “parent; or” with “parent.”:</p> <p>(c) repeal subparagraph (iv).</p> <p>(3) Subsection (1) applies for the 2008–09 and later income years.</p> <p>(4) Subsection (2) applies for income years beginning on or after 1 July 2009.</p> <p>83 New subpart FG inserted (Treatment of notional loans to New Zealand branches of foreign banks)</p> <p>(1) Before subpart FL, insert:</p>	<p>5</p> <p>10</p> <p>15</p> <p>20</p> <p>25</p> <p>30</p>
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Subpart FG—Treatment of notional loans to New Zealand branches of foreign banks

FG 1 When this subpart applies

When this subpart applies

(1) This subpart applies, for the purposes of the NRWT rules, when—

(a) an amount is made available by a foreign bank (the **bank**) to a business carried on in New Zealand through a fixed establishment of the bank in New Zealand (the **branch**); and

(b) the transaction is recorded in the branch’s accounting records for the income year; and

(c) in calculating its income tax liability for an income year, the branch is allowed a deduction in relation to the amount made available to it, treating—

(i) the amount made available as an interest-bearing loan; and

(ii) the amount allowed as a deduction as a payment of interest on the loan.

Meaning of foreign bank

- (2) In this subpart, **foreign bank** means a non-resident engaged in business in New Zealand through a fixed establishment in New Zealand that is a registered bank.

Defined in this Act: amount, business, deduction, fixed establishment, foreign bank, income tax liability, income year, interest, New Zealand, NRWT rules, pay 5

FG 2 Notional loans*Money lent*

- (1) The amount that the bank makes available to the branch is a notional loan and, for the purposes of the Act, is treated as money lent to the branch by the bank. 10

Money repaid

- (2) If the branch makes an amount available to the bank as a notional repayment of the amount referred to in **subsection (1)**, recording the transaction in their accounting records for the income year, the amount is treated as a repayment of some or all of the amount of the notional loan. 15

Defined in this Act: amount, money lent, pay

FG 3 Notional interest

An amount recorded as a payment made in relation to the amount made available to the branch, to the extent of the amount allowed as a deduction for the income year, is treated as interest— 20

- (a) paid by the branch to the bank on the last day of the income year; and
- (b) incurred by the branch in the income year; and
- (c) derived in the income year by the bank in relation to the notional loan.

Examples

Foreign Bank Ltd borrows AU\$10b outside New Zealand from a variety of lenders and incurs an interest expense of AU\$400m. The New Zealand branch of Foreign Bank Ltd is allocated NZ\$1b of funding from this pool. An interest expense of NZ\$42m is calculated using transfer pricing principles and is recorded in the branch's financial statements and deducted against the branch's taxable income from lending to New Zealand residents. The branch does not claim a deduction for any portion of the \$AU400m paid by the non-New Zealand part of Foreign Bank. However, the branch is treated as having a loan from Foreign Bank Ltd on which it makes an interest payment of NZ\$42m. 25
30

Defined in this Act: amount, deduction, income year, interest, pay

- (2) **Subsection (1)** applies— 35
- (a) to a transaction that is recorded in the relevant accounting records on or after the date on which this Act receives the Royal assent; or
 - (b) from the first day of a person's income year that starts 2 income years after the last day of the income year in which this Act receives the Royal

assent, for a transaction that is recorded in the relevant accounting records before the date on which this Act receives the Royal assent.

- 84 Section FM 6 amended (Some general rules for treatment of consolidated groups)**
In section FM 6(3)(c), delete “FM 27 to FM 30,”. 5
- 85 Section FM 7 amended (Treatment of amounts derived or expenditure incurred)**
In section FM 7, replace “Sections FM 8 to FM 30” with “Sections FM 8 to FM 23”.
- 86 Section FM 27 repealed (Refunds of FDP)** 10
Repeal section FM 27.
- 87 Section FM 28 repealed (Refund when consolidated group has loss)**
Repeal section FM 28.
- 88 Section FM 29 repealed (Treatment of credit balance in consolidated group’s FDP account)** 15
Repeal section FM 29.
- 89 Section FM 30 amended (Application of certain provisions to consolidated groups)**
- (1) Repeal section FM 30(1) to (3).
- (2) In section FM 30, list of defined terms, delete “policyholder credit account”. 20
- 90 Section FM 30 repealed (Application of certain provisions to consolidated groups)**
Repeal **section FM 30**.
- 91 Section FO 12 amended (Financial arrangements: resident’s restricted amalgamation, companies in wholly-owned group)** 25
- (1) In section FO 12(1)(d), replace “applies when the tax losses are those of the consolidated group” with “allows all tax losses included in the loss balance, and arising from earlier tax years, to be attributed to the amalgamated company as a tax loss”.
- (2) **Subsection (1)** applies for the 2008–09 and later tax years. 30
- 92 Section FO 20 amended (Calculation of outstanding accrued balance: amounts remitted)**
In section FO 20(1), replace “section FO 18(3)” with “section FO 18(7)”.

- 93 Section FZ 6 amended (Transitional valuation rule for estate property)**
- In section FZ 6(1), words before paragraph (a), replace “What this subpart does” with “Disposals to which this subpart applies”.
- 94 Section GB 35 amended (Imputation arrangements to obtain tax advantage)** 5
- (1) In section GB 35(2)(b), delete “or foreign dividend payment (FDP) credit”.
- (2) Replace section GB 35(3)(b) with:
- (b) under the arrangement, the company streams—
- (i) the payment of dividends; or
- (ii) the attachment of imputation credits; and 10
- (3) Replace section GB 35(4), other than the heading, with:
- (4) For the purposes of subsection (3)(c), a dividend has a **higher credit value** than another dividend if 1 or both of the following applies:
- (a) the dividend has an attached imputation credit and the other dividend does not: 15
- (b) the imputation ratio of the dividend is higher than that of the other dividend.
- (4) In section GB 35, list of defined terms, delete “combined imputation and FDP ratio”, “FDP credit”, and “FDP ratio”.
- 95 Section GB 36 amended (Reconstruction of imputation arrangements to obtain tax advantage)** 20
- (1) In section GB 36(1)(b), delete “or FDP account, as applicable,”.
- (2) In section GB 36(2), delete “or FDP account, as applicable,”.
- (3) In section GB 36(3), delete “or FDP credit”.
- (4) Replace section GB 36(5), other than the heading, with: 25
- (5) In this section and section 90AF of the Tax Administration Act 1994,—
- account advantage** means a credit arising to an imputation credit account under sections OB 4 to OB 29 (which relate to credits arising to imputation credit accounts)
- tax credit advantage** means a tax credit allowed under section LE 1 (Tax credits for imputation credits). 30
- (5) In section GB 36, list of defined terms, delete “FDP account” and “FDP credit”.
- 96 Section GB 41 repealed (FDPA arrangements for carrying amounts forward)** 35
- Repeal section GB 41.

- 97 Heading and section GB 50 amended (Arrangements involving partners)**
- (1) In the heading before section GB 50, replace “*partners*” with “*partners and owners*”.
 - (2) In the heading to section GB 50, replace “**partners**” with “**partners and owners**”. 5
 - (3) Replace section GB 50(1)(a) with:
 - (a) a partner of a partnership or an owner of a look-through company enters into an arrangement; and
 - (4) In section GB 50(1)(c), replace “subpart HG (Joint venturers, partners, and partnerships)” with “subparts HB and HG (which relate to joint venturers, partners, partnerships, and look-through companies)”. 10
 - (5) In section GB 50, list of defined terms, insert “look-through company”.
- 98 Section HA 6 amended (Corporate requirements)**
- (1) After section HA 6(2), insert:

Exclusion: loss of continuity 15
 - (3) A company is not eligible to be a qualifying company unless, at all times in an income year, a group of persons holds for the QC continuity period, minimum QC interests in the company that add up to at least 50%.

Some definitions
 - (4) In this section— 20

minimum QC interest, for a person and the continuity period, means the lowest voting interest or market value interest they have in the company during the continuity period:

QC continuity period means the period starting on the day that the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act **2016** receives the Royal assent and ending on the last day in the income year. 25
 - (2) In section HA 6, list of defined terms, insert “market value interest”, “minimum QC interest”, “QC continuity period”, and “voting interest”.
 - (3) **Subsection (1)** applies for the 2017–18 and later income years. 30
- 99 Section HA 15 amended (Fully imputed distributions)**
- (1) In section HA 15(1), delete “or foreign dividend payment (FDP) account”.
 - (2) In section HA 15(2), replace the formula with:

attached imputation credit ÷ tax rate.
 - (3) Repeal section HA 15(3)(b). 35
 - (4) Repeal section HA 15(5).
 - (5) In section HA 15(6), replace “subsections (4) and (5)” with “subsection (4)”.

- (6) Replace section HA 15(7), other than the heading, with:
- (7) In the formula in subsection (6),—
- (a) **attached credits** is the balance in the company’s imputation credit account on the last day of the tax year in which the dividend is paid before a debit is made for any imputation credits that are attached: 5
- (b) **amount of the dividend** is the amount before any imputation credits are attached:
- (c) **amount paid before credits attached** is the total amount of dividends, excluding non-cash dividends other than taxable bonus issues, paid by the company during the tax year before any imputation credits are attached. 10
- (7) Replace section HA 15(8) with:
- Relationship with imputation rules*
- (8) An imputation credit may not be attached to a dividend by a qualifying company except under this section. 15
- (8) In section HA 15(9), delete “or FDP credit”.
- (9) In section HA 15, list of defined terms, delete “FDP”, “FDP account”, “FDP credit”, “FDP rules”, and “FDPA company”.
- 100 Section HA 18 amended (Treatment of dividends when qualifying company status ends)** 20
- (1) Repeal section HA 18(4).
- (2) In section HA 18, list of defined terms, delete “FDP account”.
- 101 Section HA 19 amended (Credit accounts and dividend statements)**
- (1) Replace section HA 19(2), other than the heading, with:
- (2) For the purposes of sections OB 30 to OB 59 (which relate to imputation debits), if an imputation credit is attached to the dividend, the amount of the credit is debited to the company’s imputation account. The debit arises on the day the company pays the dividend. 25
- (2) In section HA 19, list of defined terms, delete “FDP account” and “FDP credit”. 30
- 102 Section HA 24 amended (Treatment of tax losses other than certain foreign losses)**
- (1) Replace section HA 24(1), other than the heading, with:
- (1) This section applies in a tax year when an LAQC has—
- (a) a tax loss that does not include an attributed CFC net loss, or a FIF net loss, to which subsection (6) applies: 35
- (b) a net mining loss.

- (2) Replace section HA 24(3)(a) with:
- (a) **company’s tax loss** is the total amount for the tax year of the company’s tax loss and net mining loss:
- (3) In section HA 24, list of defined terms, insert “net mining loss”.
- (4) **Subsections (1) and (2)** apply for the 2008–09 income year and later income years beginning before 1 April 2011, except if **subsection (5)** applies. 5
- (5) **Subsections (1) and (2)** do not apply for a person, an income year referred to in **subsection (4)**, and a tax position if—
- (a) the person takes the tax position for the income year before the date on which the Taxation (Annual Rates for 2016–17, Closely Held Companies and Remedial Matters) Bill is introduced; and 10
- (b) the tax position is inconsistent with the amendments made by **subsections (1) and (2)**; and
- (c) the person does not request the Commissioner to make an amended assessment under section 113 of the Tax Administration Act 1994 that is inconsistent with the tax position. 15
- 103 Section HA 41 amended (Calculating qualifying company election tax)**
- (1) In section HA 41(3)(c), delete “or FDP credits”.
- (2) Repeal section HA 41(4)(b).
- (3) In section HA 41, list of defined terms, delete “FDP account” and “FDP credit”. 20
- 104 Section HB 4 amended (General provisions relating to disposals)**
- (1) After section HB 4(6), insert:
- Market value of debts owed*
- (7) In this section the market value of an owner’s interest in a financial arrangement as debtor must take into account the amount of any adjustment for credit impairment. 25
- (2) In section HB 4, list of defined terms, insert “financial arrangement”.
- 105 Section HB 11 amended (Limitation on deductions by person with interests in look-through companies)** 30
- (1) Replace section HB 11(1), other than the heading, with:
- (1) This section applies for a look-through company (the **LTC**) and an income year when,—
- (a) but for this section, a deduction by virtue of section HB 1 or HB 12(2) or (3) would be allowed to a person who has an effective look-through interest for the LTC; and 35

- (b) the LTC is a partner in a partnership that includes another look-through company, or the LTC is a member of a joint venture that includes another LTC.
- (2) In section HB 11, list of defined terms, insert “partner” and “partnership”.
- (3) **Subsection (1)** applies for the 2017–18 and later income years. 5
- 106 Section HB 13 amended (LTC elections)**
After section HB 13(5), insert:
- Valuation transfer*
- (6) An LTC steps into the shoes of the company that becomes the LTC (the **superseded company**) and the tax book values of the superseded company are used for all purposes under this Act in relation to the LTC. 10
- 107 Section HG 2 amended (Partnerships are transparent)**
- (1) In section HG 2(4)(d), replace “applies:” with “applies.”
- (2) Repeal section HG 2(4)(e).
- (3) In section HG 2, list of defined terms, delete “FDP credit”. 15
- 108 Section HG 5 amended (Disposal of partner’s interests)**
- (1) In section HG 5(1), delete “(the **exiting partner**)”.
- (2) In section HG 5, list of defined terms, insert “exiting partner”.
- 109 Section HG 6 amended (Disposal of trading stock)**
- (1) In section HG 6(1), delete “(the **exiting partner**)”. 20
- (2) In section HG 6, list of defined terms, insert “exiting partner”.
- 110 Section HG 7 amended (Disposal of depreciable property)**
- (1) In section HG 7(1), delete “(the **exiting partner**)”.
- (2) In section HG 7, list of defined terms, insert “exiting partner”.
- 111 Section HG 8 amended (Disposal of financial arrangements and certain excepted financial arrangements)** 25
- (1) In section HG 8(1), delete “(the **exiting partner**)”.
- (2) In section HG 8, list of defined terms, insert “exiting partner”.
- 112 Section HG 9 amended (Disposal of short-term agreements for sale and purchase)** 30
- (1) In section HG 9(1), delete “(the **exiting partner**)”.
- (2) In section HG 9, list of defined terms, delete “disposal”.
- (3) In section HG 9, list of defined terms, insert “dispose” and “exiting partner”.

113	Section HG 11 amended (Limitation on deductions by partners in limited partnerships)	
(1)	In section HG 11(8), replace “subsection (6) or paragraphs (a) or (b) of this section” with “paragraph (a) or (b) or subsection (6)”.	
(2)	In section HG 11(10), delete “(the exiting partner)”.	5
(3)	In section HG 11, list of defined terms, insert “exiting partner”.	
114	Section HM 3 amended (Foreign PIE equivalents)	
	In section HM 3(2), replace “Taxation Administration Act 1953” with “Income Tax Assessment Act 1997”.	
115	Section HM 19 amended (Requirements for listed PIEs: fully crediting distributions)	10
(1)	In section HM 19(2), delete “or FDP credits”.	
(2)	In section HM 19, list of defined terms, delete “FDP credit”.	
116	Section HM 52 amended (Use of foreign tax credits by zero-rated and certain exiting investors)	15
	In section HM 52, list of defined terms, delete “foreign tax”.	
117	Section HM 70 amended (Maximum amount of formation losses allocated by multi-rate PIEs to investor classes)	
(1)	Repeal section HM 70(2)(b)(iv).	
(2)	In section HM 70, list of defined terms, delete “FDP credit”.	20
118	Section HM 76 repealed (Transition: FDPA companies)	
	Repeal section HM 76.	
119	New section HZ 8 inserted (Retrospective transitional provision for market valuation under section HB 4)	
	After section HZ 7, insert:	25
HZ 8	Retrospective transitional provision for market valuation under section HB 4	
	<i>When this section applies</i>	
(1)	This section applies for the 2017–18 income year if section HB 4 (General provisions relating to disposals) has applied for a person before the start of the 2017–18 income year.	30
	<i>Income</i>	
(2)	The person has an amount of income for the 2017–18 income year calculated using the formula—	
	retrospective amount – current amount.	35

Definition of items in formula

- (3) In the formula,—
- (a) **retrospective amount** is the amount of income, for the person’s owner’s interest in financial arrangements as debtor, that would result from the application of section HB 4 for income years before the 2017–18 income year, treating that section as amended, for the purposes of this definition, as provided by **section 104** of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act **2016** for those income years: 5
- (b) **current amount** is the amount of income, for the person’s owner’s interest in financial arrangements as debtor from the application of section HB 4, for income years before the 2017–18 income year. 10

120 Section IA 3 amended (Using tax losses in tax year)

- (1) In section IA 3(2)(a), replace “year; or” with “year.”
- (2) Repeal section IA 3(2)(b). 15
- (3) Repeal section IA 3(2)(c).
- (4) In section IA 3(5), replace “Sections IA 5” with “Sections **IA 3B**, IA 5”.
- (5) In section IA 3, list of defined terms, delete “FDP” and “foreign dividend”.

121 New section IA 3B inserted (Tax losses and procedures under Insolvency Act 2006) 20

- (1) After **section IA 3**, insert:

IA 3B Tax losses and procedures under Insolvency Act 2006*When this section applies*

- (1) This section applies when a person has a tax loss for a period ending before a date (the **loss cancellation date**) on which the person— 25
- (a) is discharged from bankruptcy;
- (b) is released under Part 5, other than subpart 1, of the Insolvency Act 2006 from liability for each debt that is a provable debt under that Act and is not a debt of a type for which the person’s liability is specifically preserved by that Act. 30

When tax loss cannot be used

- (2) The person cannot use the tax loss to pay a shortfall penalty that is incurred after the loss cancellation date or carry the tax loss forward as part of a loss balance to a period ending after the loss cancellation date.
- (2) **Subsection (1)** applies for a person who, on or after the day on which this Act receives the Royal assent,— 35
- (a) is discharged from bankruptcy:

(b)	is released under Part 5, other than subpart 1, of the Insolvency Act 2006 from liability for each debt that is a provable debt under that Act and is not a debt of a type for which the person’s liability is specifically preserved by that Act.	
122	Section IA 7 amended (Restrictions relating to ring-fenced tax losses)	5
(1)	In section IA 7(7), after “sections”, insert “HA 24 (Treatment of tax losses other than certain foreign losses) and”.	
(2)	In section IA 7(7) , delete “HA 24 (Treatment of tax losses other than certain foreign losses) and”.	
(3)	Repeal section IA 7(9).	10
(4)	In section IA 7, list of defined terms, delete “new start grant”.	
(5)	Subsection (1) applies for the 2008–09 income year and later income years beginning before 1 April 2011.	
(6)	Subsection (2) applies for income years beginning on or after 1 April 2011.	
123	Section IC 9 amended (Date for payment and notice to Commissioner)	15
(1)	In section IC 9(2), replace “the later date allowed by the Commissioner” with “a later date allowed by the Commissioner for the notice”.	
(2)	Subsection (1) applies for the 2008–09 and later income years.	
124	Section IE 3 replaced (Treatment of tax losses by amalgamated company)	20
(1)	Replace section IE 3 with:	
IE 3 Treatment of tax losses by amalgamated company		
<i>When this section applies</i>		
(1)	This section applies for an amalgamated company, and the tax year (the amalgamation tax year) corresponding to the income year in which the amalgamation takes place, when the amalgamated company has, for the part of the amalgamation tax year (the pre-amalgamation part year) that corresponds to the part of the income year ending with the date of the amalgamation, tax loss components (the pre-amalgamation loss) that—	25
(a)	arise from the pre-amalgamation part year:	
(b)	meet the requirements of section IA 5 (Restrictions on companies’ loss balances carried forward) for being carried forward from the tax year before the amalgamation tax year to the pre-amalgamation part year.	30
<i>Requirements for tax loss components to be used or made available before amalgamation</i>		
(2)	A tax loss component included in the pre-amalgamation loss may be used or made available by the amalgamated company for subtraction from net income calculated for the pre-amalgamation part year, if the requirements of sections	35

- IA 5, IC 2, and IC 5 (which relate to the use and grouping of tax losses) for the use or availability are met.
- Requirements for amounts to be used or made available after amalgamation*
- (3) A tax loss component included in the pre-amalgamation loss may be used or made available by the amalgamated company for subtraction from net income calculated for the part of the amalgamation tax year (the **post-amalgamation part year**) that corresponds to the part of the income year beginning from the date of amalgamation, if— 5
- (a) section IA 5 allows the tax loss component to be carried forward from the pre-amalgamation part year to the post-amalgamation part year; and 10
- (b) sections IC 2, and IC 5 would have allowed the tax loss component to be made available to an amalgamating company for subtraction from net income calculated for the pre-amalgamation part year; and
- (c) for a tax loss component that is an attributed CFC net loss or a FIF net loss and is made available by the amalgamated company, the tax loss component is made available to a wholly-owned group of companies. 15
- Treatment of part years*
- (4) The pre-amalgamation part year and the post-amalgamation part year are treated as separate tax years for the purposes of applying this section. 20
- Relationship with sections IA 3, IA 4, and IA 5*
- (5) This section overrides sections IA 3 and IA 4 (which relate to the general use of tax losses) and IA 5. 25
- Defined in this Act: amalgamated company, amalgamating company, amalgamation, attributed CFC net loss, FIF net loss, income year, net income, tax loss component, tax year, wholly-owned group of companies
- (2) **Subsection (1)** applies for the 2008–09 and later tax years.
- 125 Section IS 1 amended (General treatment of mineral miners’ net losses)**
- (1) Replace section IS 1(1), other than the heading, with:
- (1) In a tax year in which a company that is a mineral miner is included in a group of companies, the company may not make a tax loss available under section IC 5 (Company B using company A’s tax loss) to another member of the group of companies. 30
- (2) In section IS 1, list of defined terms, insert “tax loss”.
- (3) **Subsection (1)** applies for the 2014–15 and later income years.
- 126 Section LA 6 amended (Remaining refundable credits: PAYE, RWT, and certain other items)** 35
- (1) Repeal section LA 6(1)(d).
- (2) Repeal section LA 6(1)(db).

- 127 Section LE 1 amended (Tax credits for imputation credits)**
In section LE 1(1), delete “and FDP credits”.
- 128 Section LE 6 amended (Partners in partnerships)**
- (1) In section LE 6(3)(a)(i), delete “or a foreign dividend payment (FDP) credit”.
 - (2) In section LE 6(3)(b)(i), delete “and FDP credits”. 5
 - (3) In section LE 6, list of defined terms, delete “FDP credit”.
- 129 Section LE 8 amended (Application of imputation ratio)**
In section LE 8(1), delete “and FDP credits”.
- 130 Section LE 9 repealed (Application of combined imputation and FDP ratio)** 10
Repeal section LE 9.
- 131 Subpart LF repealed (Tax credits for foreign dividend payment (FDP) credits)**
Repeal subpart LF.
- 132 Section LJ 1 amended (What this subpart does)** 15
- (1) Replace section LJ 1(4), other than the heading, with:
 - (4) If a company is not resident in New Zealand, and is resident in another territory or is resident in another territory for the purposes of a double tax agreement between New Zealand and the territory, and foreign income tax is imposed by the territory on a dividend paid by the company, a dividend paid by the company has a source in the territory. 20
 - (2) Repeal section LJ 1(5).
 - (3) In section LJ 1, list of defined terms, delete “foreign tax”.
- 133 Section LJ 3 amended (Meaning of foreign income tax)**
- Replace section LJ 3, other than the heading, with: 25
- (3) For the purposes of this Part, **foreign income tax** means—
 - (a) an amount of a tax of another country meeting the requirements of section YA 2(5):
 - (b) in relation to a double tax agreement providing relief from tax or double taxation, an amount of income tax to which the double tax agreement applies. 30
- 134 Section LJ 8 repealed (Repaid foreign tax: effect on FDP liability)**
Repeal section LJ 8.

135 Section LP 2 amended (Tax credits for supplementary dividends)

- (1) In section LP 2(2), formula, replace “attached imputation credit” with “credit amount”.
- (2) In section LP 2(3), replace “**attached imputation credit**” with “**credit amount**”.
- (3) In section LP 2(3B)(a), replace “**attached imputation credit**” with “**credit amount**”.

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136 Section LP 3 amended (Use of remaining credits)

- (1) Replace section LP 3(1) to (4) with:

When this section applies

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- (1) This section applies when a company (**company A**) has a tax credit arising under section LP 2 remaining for a tax year (the **current year**) under section LA 5(3) (Treatment of remaining credits).

Use of remaining credits by group companies

- (2) If company A belongs to a wholly-owned group of companies for the income year corresponding to the current year, company A may make an amount of the tax credit available, for satisfying an income tax liability for the current year, to another company that belongs to the wholly-owned group for the corresponding income year.

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Carrying amount back to earlier tax years

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- (3) If an amount of the tax credit has not previously been carried forward or back from a tax year under this section, company A may carry the amount back and—
- (a) use the amount to satisfy an income tax liability for a tax year in the period of 4 tax years before the current year; or
- (b) make the amount available, for satisfying an income tax liability for a tax year in the period of 4 tax years before the current year, to another company that belongs to the same wholly-owned group as company A for the income years corresponding to the current year and the tax year in which the amount is used.

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Carrying amount forward

- (4) If company A has an amount of the tax credit remaining for the current year after applying **subsections (2) and (3)**, and the amount has not been previously carried back under **subsection (3)**, the amount is carried forward under section LA 5(3) to the tax year following the current year.

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

- 137 Section LP 5 amended (Application of benchmark dividend rules and imputation credit ratio)**
- In section LP 5(1), replace “sections OB 61 and OC 28 (which relate to the allocation of imputation and FDP credits)” with “section OB 61 (ICA benchmark dividend rules)”. 5
- 138 Section MB 7B amended (Family scheme income from employment benefits: employees not controlling shareholders)**
- After section MB 7B(2), insert:
- Calculating fringe benefit tax on benefit*
- (3) In calculating under subsection (2)(b) the amount of fringe benefit tax on a benefit, the person may use— 10
- (a) the rate of fringe benefit tax used by the person’s employer in calculating the fringe benefit tax payable on the benefit:
- (b) the maximum basic rate of fringe benefit tax specified in schedule 1, part C, table 1. 15
- 139 New section MB 14 inserted (Remission income of discharged bankrupt excluded)**
- (1) After section MB 13, insert:
- MB 14 Remission income of discharged bankrupt excluded**
- The family scheme income of a person who is discharged from bankruptcy does not include an amount that is income of the person under section CG 2B (Remitted amounts on discharge from bankruptcy). 20
- Defined in this Act: amount, family scheme income, income
- (2) **Subsection (1)** applies for discharges from bankruptcy after 1 April 2014.
- 140 Section MB 14 repealed (Remission income of discharged bankrupt excluded)** 25
- Repeal **section MB 14**.
- 141 Section MD 1 amended (Abating WFF tax credit)**
- (1) Replace section MD 1(3)(c) with:
- (c) **parental tax credit** is the total amount, for the entitlement period, of parental tax credit calculated using— 30
- (i) the formula in section MD 12; and
- (ii) the formula in **section MD 12B(2)**, if **section MD 12B** applies, and if the entitlement period includes the day described in **section MD 12B(3)(a)(i) or (ii)**: 35
- (2) Replace section MD 1(3)(d) with:

- (d) **credit abatement** is the total amount, for the entitlement period, of—
- (i) a family credit abatement calculated using the formula in section MD 13(2), and modified, if the item **parental tax credit** in paragraph (c) is greater than zero, by section MD 2(3) and (4); and
 - (ii) an amount of parental tax credit abatement calculated using the formula in section MD 16(2), if section MD 16 applies, and if the entitlement period includes the day described in section MD 16(3)(a)(i) or (ii). 5
- (3) **Subsection (2)** applies for dependent children born on or after 1 April 2015.
- 142 Section MD 2 amended (Calculating net contributions to credits)** 10
- (1) Replace section MD 2(3), other than the heading, with:
- (3) For the purposes of subsection (2)(c)(iii) and sections MD 1(3)(d)(i) and MD 16(3)(a), the amount of family credit abatement for an entitlement period applied to reduce the amount of parental tax credit for that entitlement period is calculated using the formula— 15
- $$(\text{entitlement period abatement amount} - \text{amount used}) \times 365 \div 70.$$
- (2) Replace section MD 2(4), other than the heading, with:
- (4) In the formula,—
- (a) **entitlement period abatement amount** is the family credit abatement for the entitlement period within the parental entitlement period calculated using the formula in section MD 13(2): 20
 - (b) **amount used** is the amount of the entitlement period abatement amount that the Commissioner must apply under subsection (2)(c)(i) and (ii) in calculating a net contribution for the entitlement period.
- (3) **Subsections (1) and (2)** apply for dependent children born on or after 1 April 2015. 25
- 143 Section MD 11 amended (Entitlement to parental tax credit)**
- (1) Replace section MD 11(6)(a) with:
- (a) in a lump sum payment, as a tax credit in an end-of-year assessment for the tax year of the birth; or 30
- (2) In section MD 11(6)(b), replace the words before subparagraph (i) with “in instalment payments, in the 70 days after the date on which an application is made if—”.
- (3) In section MD 11, list of defined terms, insert “tax year”.
- 144 Section MD 12 amended (Calculation of parental tax credit)** 35
- (1) In section MD 12(1), after “section MD 11”, insert “in an entitlement period”.
- (2) Replace section MD 12(3)(b) with:

- (b) **days** is the number of days in the entitlement period—
 - (i) that are in the parental entitlement period; and
 - (ii) for which the person meets the requirements of section MD 11.
- (3) In section MD 12, after subsection (4), insert:

Modification where 56-day period crosses 2 tax years and credit paid in lump sum 5
- (5) If the 56-day parental entitlement period crosses 2 tax years, and the person is paid the parental tax credit as a lump sum for the tax year of the birth, then—
 - (a) an additional amount of parental tax credit for the tax year of the birth is calculated under **section MD 12B**, based on the number of days that are—
 - (i) in the parental entitlement period; and
 - (ii) in an entitlement period in the tax year following the tax year of the birth; and
 - (b) the formula in subsection (2) should not be used to calculate an amount of parental tax credit for the days described in **paragraph (a)**, except for the purposes of determining the amount of parental tax credit for the single day described in **section MD 12B(3)(a)(ii)**. 10 15
- (4) In the heading to **section MD 12(5)**, replace “56-day” with “70-day”.
- (5) In **section MD 12(5)**, words before paragraph (a), replace “56-day” with “70-day”. 20
- (6) In section MD 12, list of defined terms, insert “entitlement period” and “tax year”.
- (7) **Subsections (4) and (5)** apply for dependent children born on or after 1 April 2015. 25
- 145 New section MD 12B inserted (Additional parental tax credit amount included in lump sum if 56-day period crosses 2 tax years)**
- (1) After section MD 12, insert:

MD 12B Additional parental tax credit amount included in lump sum if 56-day period crosses 2 tax years 30

When this section applies

 - (1) This section applies when—
 - (a) a person is entitled under section MD 11 to a parental tax credit for a parental entitlement period; and
 - (b) the credit is paid in a lump sum for the tax year of the birth; and 35
 - (c) the birth occurs less than 56 days before the end of the tax year; and
 - (d) a day in an entitlement period is in the parental entitlement period.

	<i>Amount of additional parental tax credit</i>	
(2)	An additional amount of parental tax credit is calculated for the tax year of the birth using the formula— daily parental tax credit amount × extra entitlement days.	
	<i>Definition of items in formula</i>	5
(3)	In the formula in subsection (2) ,—	
	(a) daily parental tax credit amount is the amount of parental tax credit that the person would be entitled to for an entitlement period consisting of—	
	(i) the last day of the last entitlement period in the part of the parental entitlement period in the tax year of the birth, if there is an entitlement period in that part of the parental entitlement period; or	10
	(ii) the first day of the first entitlement period in the part of the parental entitlement period in the tax year after the tax year of the birth, if subparagraph (i) does not apply:	15
	(b) extra entitlement days is the number of days, each of which is—	
	(i) in the parental entitlement period; and	
	(ii) in an entitlement period in the tax year following the tax year of the birth.	20
	Defined in this Act: amount, entitlement period, parental entitlement period, parental tax credit, pay, tax year	20
(2)	In the heading to section 12B , replace “ 56-day ” with “ 70-day ”.	
(3)	In section 12B(1)(c) , replace “56” with “70”.	
(4)	Subsections (2) and (3) apply for dependent children born on or after 1 April 2015.	25
146	Section MD 13 amended (Calculation of family credit abatement)	
(1)	Replace the heading to section MD 13(4) with: <i>When 56-day period crosses 2 tax years and parental tax credit paid in instalments</i>	
(2)	In section MD 13(4), words before paragraph (a), replace “56-day period that includes 31 March” with “56-day period that crosses 2 tax years”.	30
(3)	After section MD 13(4), insert: <i>When 56-day period crosses 2 tax years and parental tax credit paid in lump sum</i>	
(4B)	If a person who qualifies under section MC 2 has a 56-day parental entitlement period that crosses 2 tax years and the person receives a lump sum payment of the parental tax credit for the tax year of the birth, then—	35

- (a) an additional amount of parental tax credit abatement for the tax year of the birth is calculated under section MD 16, based on the number of days that are—
- (i) in the parental entitlement period; and
- (ii) in an entitlement period in the tax year following the tax year of the birth; and 5
- (b) the formula in subsection (2) should not be used to calculate an amount of parental tax credit abatement for the days described in **paragraph (a)**, except for the purposes of determining the amount of parental tax credit abatement for the single day described in section MD 16(3)(a)(ii). 10
- (4) In the heading to **section MD 13(4B)**, replace “56-day” with “70-day”.
- (5) In **section MD 13(4B)**, words before **paragraph (a)**, replace “56-day” with “70-day”.
- (6) In section MD 13(5), replace “referred to” with “appearing as the amount of the threshold”. 15
- (7) In section MD 13, list of defined terms, insert “entitlement period” and “tax year”.
- (8) **Subsections (4) and (5)** apply for dependent children born on and after 1 April 2015.
- 147 Section MD 16 amended (Calculation of parental tax credit abatement) 20**
- (1) In section MD 16, replace the heading with “**Additional parental tax credit abatement amount for lump sum if 56-day period crosses 2 tax years**”.
- (2) In the section MD 16, heading, replace “56-day” with “70-day”.
- 148 Section MX 7 amended (Reinstatement of R&D tax losses and R&D repayment tax) 25**
- (1) In section MX 7(2), words before paragraph (a), replace “subsection (1)(a)(i) applies, and subsection (1)(a)(ii) and (iii) and (b) do not apply” with “subsection (1)(a)(i) applies, and subsection (1)(a)(ii) and (iii) does not apply, for the reinstatement year”.
- (2) In section MX 7(4), replace the words before paragraph (a) with “If subsection (1)(b) applies, and subsection (1)(a)(ii) and (iii) does not apply, for the reinstatement year, the company is liable for an amount of R&D repayment tax calculated for the period beginning from the company’s formation and equal to the lesser of—”. 30
- (3) In section MX 7(4)(b), replace the words before the formula with “the total of the amounts calculated for each tax year corresponding to the reinstatement year or an earlier income year using the formula—”. 35
- (4) **Subsections (1), (2), and (3)** apply for the 2016–17 and later income years.

- 149 Section OA 2 amended (Memorandum accounts)**
- (1) Repeal section OA 2(1)(b).
 - (2) In section OA 2, list of defined terms, delete “FDP account” and “policyholder credit account”.
- 150 Section OA 5 amended (Credits) 5**
- (1) In section OA 5(2)(b), replace “ groups:” with “groups.”
 - (2) Repeal section OA 5(2)(c).
 - (3) Repeal section OA 5(3).
 - (4) In section OA 5, list of defined terms, delete “consolidated FDP group” and “FDP credit” 10
 - (5) In section OA 5, list of defined terms, delete “PCA company” and “PCA person”.
- 151 Section OA 6 amended (Debits)**
- (1) Repeal section OA 6(3).
 - (2) In section OA 6, list of defined terms, delete “consolidated FDP group” and “FDP debit” 15
 - (3) In section OA 6, list of defined terms, delete “PCA company” and “PCA person”.
- 152 Section OA 7 amended (Opening balances of memorandum accounts)**
- (1) Repeal section OA 7(2)(b). 20
 - (2) In section OA 7, list of defined terms, delete “FDP account”.
 - (3) In section OA 7, list of defined terms, delete “PCA company” and “PCA person”.
- 153 Section OA 8 amended (Shareholder continuity requirements for memorandum accounts) 25**
- (1) In section OA 8(3B)(a), delete “and FDP account, as applicable”.
 - (2) Repeal section OA 8(6)(b).
 - (3) Repeal section OA 8(6)(f).
 - (4) In section OA 8, list of defined terms, delete “FDP account”.
- 154 Section OA 10 amended (When credits or debits due to amalgamating company but not recorded) 30**
- (1) Repeal section OA 10(1)(b).
 - (2) Repeal section OA 10(1)(e).
 - (3) Replace section OA 10(4), other than the heading, with:

- (4) The credit or debit is recorded in the imputation credit account of the amalgamated company.
- (4) In section OA 10, list of defined terms, delete “FDP account”.
- (5) In section OA 10, list of defined terms, delete “policyholder credit account”.
- 155 Section OA 11 repealed (FDP account on resident’s restricted amalgamation)** 5
Repeal section OA 11.
- 156 Section OA 13 repealed (Policyholder credit account on resident’s restricted amalgamation)** 10
Repeal section OA 13.
- 157 Section OA 14 amended (Continuity of shareholding when group companies amalgamate)**
In section OA 14(1), words before paragraph (a), replace “sections OA 15 to OA 17” with “sections OA 15 and OA 16”.
- 158 Section OA 15 amended (When credits or debits due to consolidated group but not recorded)** 15
- (1) Repeal section OA 15(1)(b).
- (2) Repeal section OA 15(1)(d).
- (3) Replace section OA 15(4), other than the heading, with:
- (4) The credit or debit is recorded in the imputation credit account of the amalgamated company. 20
- (4) In section OA 15, list of defined terms, delete “FDP account”.
- (5) In section OA 15, list of defined terms, delete “policyholder credit account”.
- 159 Section OA 16 repealed (When FDP account ends on resident’s restricted amalgamation)** 25
Repeal section OA 16.
- 160 Section OA 17 repealed (When policyholder credit account ends on resident’s restricted amalgamation)**
Repeal section OA 17.
- 161 Section OA 18 amended (Calculation of maximum permitted ratios)** 30
- (1) In section OA 18(1), before paragraph (a), replace “, an FDP credit, and” with “and”.
- (2) Repeal section OA 18(1)(b).
- (3) Repeal section OA 18(1)(c).

- (4) In section OA 18, list of defined terms, delete “combined imputation and FDP ratio” and “FDP credit”.
- 162 Section OB 4 amended (ICA payment of tax)**
- (1) Repeal section OB 4(3)(e).
- (2) Repeal section OB 4(3)(eb). 5
- (3) Repeal section OB 4(3)(gb).
- (4) In section OB 4, list of defined terms, delete “FDP credit”.
- 163 Section OB 6 amended (ICA transfer from tax pooling account)**
- In section OB 6(3), after paragraph (a), insert:
- (ab) for an entitlement to funds that are transferred by the intermediary from the tax pooling account to the Commissioner to satisfy a liability of the company that is an increased amount of tax under section RP 17B (Tax pooling accounts and their use) other than income tax, the date of the transfer; or 10
- 164 Section OB 7C repealed (ICA expenditure on research and development)** 15
- Repeal section OB 7C.
- 165 Section OB 10 repealed (ICA dividend derived with FDP credit)**
- Repeal section OB 10.
- 166 Section OB 12 repealed (ICA transfer from FDP account)**
- Repeal section OB 12. 20
- 167 New section OB 19B inserted (ICA transfer to loss-using group company)**
- (1) After section OB 19, insert:
- OB 19B ICA transfer to loss-using group company**
- Credit*
- (1) An ICA company that uses a tax loss made available under section IC 5 (Company B using company A’s tax loss) by another company has an imputation credit for the amount of an imputation credit transferred to it by an ICA company under an election under **section OB 83** relating to the tax loss. 25
- Table reference*
- (2) The imputation credit in **subsection (1)** is referred to in table O1: imputation credits, row 17B (transfer of credit to loss-using group company). 30
- Credit date*
- (3) The credit date is the day on which the credit is transferred.
- Defined in this Act: company, ICA company, imputation credit, tax loss

- (2) **Subsection (1)** applies for the 2017–18 and later income years.
- 168 Section OB 24 amended (ICA credit on resident’s restricted amalgamation)**
- (1) Repeal section OB 24(3)(b).
- (2) Repeal section OB 24(3)(d). 5
- (3) Repeal section OB 24(3)(f).
- (4) Repeal section OB 24(3)(g).
- (5) In section OB 24, list of defined terms, delete “consolidated FDP group”, “FDP account”, and “FDP credit”.
- (6) In section OB 24, list of defined terms, delete “policyholder credit” and “policyholder credit account”. 10
- 169 Section OB 26 amended (ICA elimination of double debit)**
- (1) In section OB 26(2), words before paragraph (a), delete “either”.
- (2) In section OB 26(2), after paragraph (a), insert:
- (ab) another debit arises under section OB 35 for a transfer to another person of the entitlement to the amount of the deposit on a debit date after the debit date for the debit for the loss of shareholder continuity; or 15
- (3) In section OB 26(3), after paragraph (d), insert:
- (e) the imputation debit in **subsection (2)(ab)** is referred to in table O2: imputation debits, row 7 (transfer of entitlement to another person in tax pooling account). 20
- (4) In section OB 26(4), after paragraph (a), insert:
- (ab) the entitlement is transferred; or
- (5) **Subsections (1) to (4)** apply for the 2008–09 and later income years.
- 170 Section OB 36 repealed (ICA refund of FDP)** 25
- Repeal section OB 36.
- 171 Section OB 37 amended (ICA refund of tax credit)**
- (1) Repeal section OB 37(1)(c).
- (2) Repeal section OB 37(1B).
- (3) Repeal section OB 37(3)(c). 30
- (4) In section OB 37, list of defined terms, delete “FDPA company”.
- 172 Section OB 38 repealed (ICA overpayment of FDP)**
- Repeal section OB 38.

- 173 Section OB 43 amended (ICA breach of imputation ratio)**
- (1) In section OB 43(2)(a), delete “and FDP credits”.
 - (2) In section OB 43, list of defined terms, delete “FDP credit”.
- 174 Section OB 45 amended (ICA redemption debit)**
- (1) In section OB 45(5)(a), delete “and FDP credits”. 5
 - (2) In section OB 45(7)(a), delete “and FDP credits”.
 - (3) In section OB 45, list of defined terms, delete “FDP credit”.
- 175 New section OB 46B inserted (ICA transfer from group company to loss-using group company)**
- (1) After section OB 46, insert: 10
- OB 46B ICA transfer from group company to loss-using group company**
- Debit*
- (1) An ICA company that transfers an imputation credit under an election under **section OB 83** to a company that uses a tax loss made available under section IC 5 (Company B using company A’s tax loss) has an imputation debit for the amount of the imputation credit transferred. 15
- Table reference*
- (2) The imputation debit in **subsection (1)** is referred to in table O2: imputation debits, row 19B (transfer of credit to loss-using group company). 20
- Credit date*
- (3) The debit date is the day on which the imputation credit is transferred. 20
- Defined in this Act: company, ICA company, imputation credit, imputation debit, tax loss
- (2) **Subsection (1)** applies for the 2017–18 and later income years.
- 176 Section OB 53 amended (ICA debit on resident’s restricted amalgamation)**
- (1) Repeal section OB 53(3)(b). 25
 - (2) Repeal section OB 53(3)(d).
 - (3) Repeal section OB 53(3)(f).
 - (4) Repeal section OB 53(3)(g).
 - (5) In section OB 53, list of defined terms, delete “FDP account” and “FDP debit”.
 - (6) In section OB 53, list of defined terms, delete “policyholder credit account” and “policyholder debit”. 30
- 177 Section OB 60 amended (Imputation credits attached to dividends)**
- (1) In section OB 60(4)(b), delete “and FDP credit”.
 - (2) In section OB 60, list of defined terms, delete “FDP credit”.

178 Section OB 61 amended (ICA benchmark dividend rules)

After section OB 61(2)(b), insert:

(bb) an amount treated as a dividend under **section CB 32C** (Dividend income for first year of look-through company):

179 Section OB 67 amended (Reduction of further income tax)

5

- (1) In section OB 67(2), words before the formula, replace “reduced by” with “reduced to”.
- (2) Replace section OB 67(2B)(b) with:

(b) **first year adjustment** is the greater of zero and the amount by which the first year’s debit balance in the company’s imputation credit account exceeds the credits made to the account during the second tax year.

10

- (3) **Subsections (1) and (2)** apply for the 2008–09 and later income years.

180 Section OB 71 amended (Imputation additional tax on leaving wholly-owned group)

- (1) In section OB 71, replace the heading with “**Imputation additional tax on leaving group of companies**”.

15

- (2) Replace section OB 71(1), other than the heading, with:

- (1) This section applies in a tax year when—

(a) a company (**company A**) stops being part of a group of companies (the **former group**), because of a change in the ultimate owner of the company, and becomes part of a wholly-owned group of companies (the **new group**); and

20

(b) if the former group is a wholly-owned group of companies, the loss balance carried forward from the previous tax year for companies in the former group is more than \$1,000,000; and

25

(c) if the former group is not a wholly-owned group of companies, company A has transferred imputation credits under **section OB 83** to a company in the former group.

- (3) In section OB 71(2), replace “wholly-owned group” with “former group”.

- (4) In section OB 71(3), replace “same wholly-owned group” with “former group”.

30

- (5) In section OB 71(5), words before paragraph (a), replace “wholly-owned group” with “former group”.

- (6) In section OB 71(6), replace “group” with “former group”.

- (7) In section OB 71(7), replace “group” with “former group”, wherever it occurs.

- (8) In section OB 71(8), replace “wholly-owned group” with “former group”.

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- (9) In section OB 71, list of defined terms, insert “group of companies”, “imputation credit”, and “loss balance”.

181 Section OB 72 amended (Imputation additional tax on joining wholly-owned group)

- (1) Replace section OB 72(2), other than the heading, with:
- (2) The company is 1 to which all of the following apply:
- (a) the company stops being part of a group of companies (the **former group**) and becomes part of a wholly-owned group of companies (the **new group**); and 5
 - (b) if the former group is a wholly-owned group of companies, the loss balance carried forward from the previous tax year for companies in the former group is more than \$1,000,000; and 10
 - (c) if the former group is not a wholly-owned group of companies, company A has transferred imputation credits under **section OB 83** to a company in the former group.
- (2) In section OB 72, list of defined terms, insert “group of companies”, “imputation credit”, and “loss balance”. 15

182 Section OB 72B amended (Limit on using entitlement to refund after joining wholly-owned group)

- (1) In section OB 72B(1)(a), replace “another wholly-owned group” with “another group”.
- (2) After section OB 72B(1)(a), insert: 20
- (ab) if the former group is not a wholly-owned group of companies, the ICA company has transferred imputation credits under **section OB 83** to a company in the former group; and
- (3) In section OB 72B(5), replace the heading with “*Use of restricted refund amount: former group wholly-owned*”. 25
- (4) In section OB 72B(5), replace the words before paragraph (a) with “If the former group is a wholly-owned group of companies, the Commissioner must hold the restricted refund amount for the ICA company and the new group subject to the restriction that the amount—”.
- (5) In section OB 72B(5), replace paragraph (b) with: 30
- (b) may be used to satisfy a tax liability referred to in **subsection (5C)**.
- (6) After section OB 72B(5), insert:
- Use of restricted refund amount: former group not wholly-owned*
- (5B) If the former group is not a wholly-owned group of companies, the Commissioner must hold the restricted refund amount for the ICA company and the new group subject to the restriction that the amount— 35
- (a) may be refunded for an imputation credit if—

<p>(i) the credit was transferred to the ICA company by a company that was in the former group when the ICA company was in the former group:</p> <p>(ii) the credit arises from taxation paid by the ICA company or by a company that is in the new group and was in the former group immediately before the ICA company joined the new group:</p> <p>(iii) the credit is attached to a dividend received in relation to a shareholding by the ICA company or by a company that is in the new group and was in the former group immediately before the ICA company joined the new group; and</p> <p>(b) may be used to satisfy a tax liability referred to in subsection (5C). <i>Tax liability in subsection (5) or (5B)</i></p> <p>(5C) A tax liability referred to in subsection (5) or (5B) is a tax liability of—</p> <p>(a) the ICA company:</p> <p>(b) a company (the member) that is in the new group with the ICA company, if the ICA company satisfies the Commissioner that the member was in the former group immediately before the ICA company joined the new group.</p>	<p>5</p> <p>10</p> <p>15</p>
<p>(7) In section OB 72B(6), replace “subsection (5)” with “subsection (5) or (5B)”.</p> <p>(8) In section OB 72B(7),—</p> <p>(a) in paragraph (a), replace “subsection (5)(a)” with “subsection (5)(a) or (5B)(a)”:</p> <p>(b) in paragraph (b), replace “subsection (5)(b)” with “subsection (5)(b) or (5B)(b)”.</p> <p>(9) In section OB 72B(8)(a), delete “wholly-owned”.</p>	<p>20</p> <p>25</p>
<p>183 Section OB 76 repealed (Statutory producer boards attaching FDP credits) Repeal section OB 76.</p>	
<p>184 Section OB 81 repealed (Co-operative companies attaching FDP credits) Repeal section OB 81.</p>	
<p>185 Section OB 82 amended (When and how co-operative company makes election)</p> <p>In section OB 82(1), before paragraph (a), replace “OB 78, OB 79, or OB 81” with “OB 78 or OB 79”.</p>	<p>30</p>
<p>186 New heading and new sections OB 83 and OB 84 inserted</p> <p>(1) After section OB 82, insert:</p>	<p>35</p>

*Election by group company for transfer of imputation credits with transfer of tax loss***OB 83 Group companies transferring imputation credits with transfer of tax loss***Election*

5

- (1) When a company that is an ICA company (the **loss company**) makes a tax loss available under section IC 5 (Company B using company A's tax loss) to another ICA company (the **profit company**) for a tax year, the loss company may choose that the loss company or another company meeting the requirements of **subsection (5)** be able to transfer, when or after the tax loss is made available, imputation credits to the profit company. 10

No election if companies in wholly-owned group

- (2) **Subsection (1)** does not apply if the loss company and profit company are members of the same wholly-owned group of companies.

Amount of imputation credits subject to election

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- (3) The amount of imputation credits for which the loss company makes the election in **subsection (1)** is calculated using the formula—

$$(\text{loss offsets} + \text{subvention payments}) \times \text{tax rate.}$$

Definition of items in formula

- (4) In the formula— 20

(a) **loss offsets** is the amount of tax loss that is subject to the election under section IC 5(2)(a) made by the loss company in favour of the profit company:

(b) **subvention payments** is the amount of the payments referred to in section IC 5(2)(b) made by the profit company to the loss company in relation to the tax loss: 25

(c) **tax rate** is the basic rate of income tax set out in schedule 1, part A, clause 2 (Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits) for the tax year.

Transfers of imputation credits

30

- (5) A company that is an ICA company may transfer imputation credits to the profit company under the election in **subsection (1)** if—

(a) the company is the loss company or has an ownership interest in the profit company of 66% or more; and

(b) the company is a member of a group of companies that includes the loss company and the profit company; and 35

(c) there is no wholly-owned group of companies that includes the company and the profit company or the loss company and the profit company; and

(d) the company, the loss company, and the profit company meet the requirements of section OA 8 (Shareholder continuity requirements for memorandum accounts) for the carrying forward of imputation credits during the period beginning from the end of the income year in which the tax loss is made available and ending with the transfer of the imputation credits; and 5

(e) the transfer occurs in the period of 4 income years beginning from the end of the income year in which the election is made; and

(f) notice of the election meeting the requirements of **section OB 84** is given to the Commissioner. 10

Profit company must attach imputation credits to dividend

(6) When a company transfers imputation credits to the profit company under the election in **subsection (1)**, the profit company must pay a dividend at the time of the transfer and must attach to the dividend the amount of imputation credits transferred to the profit company. 15

Maximum for total transferred imputation credits

(7) The total amount of imputation credits transferred under the election in **subsection (1)** may be less than or equal to the amount given by **subsection (3)** for the election.

Effect on election if tax loss reduced 20

(8) If a loss company makes an election under **subsection (1)** relating to a tax loss for a tax year that is made available to more than 1 profit company and the amount of tax loss made available to a profit company is reduced under section IC 11 (Reduction of amounts used by companies), the maximum amount of imputation credits able to be transferred to the profit company under the election is reduced by the same proportion as the amount of tax loss made available to the profit company is reduced under section IC 11. 25

Defined in this Act: Commissioner, company, dividend, group of companies, ICA company, imputation credit, income year, notice, notify, ownership interest, pay, tax loss, tax year, wholly-owned group of companies 30

OB 84 When and how group company transferring tax loss makes election

Timing

(1) A company (the **loss company**) that makes an election under **section OB 83(1)** relating to a tax loss made available by the company to a member of the same group of companies (the **profit company**) must make the election when the tax loss is made available and give the notice required by **subsection (2)**. 35

Notice

(2) The company must notify the Commissioner of the election by electronic means in a way acceptable to the Commissioner and by the due date under section IC 9 (Date for payment and notice to the Commissioner) for notifying the 40

Commissioner of the election under section IC 5 (Company B using company A's tax loss) to make the tax loss available.

Information to be included in notice

- (3) A notice required by **subsection (2)** must include—
- (a) the name and tax file number of the loss company: 5
 - (b) the name and tax file number of the profit company:
 - (c) the name and tax file number of the company meeting the requirements of **section OB 83(5)** that the loss company elects to be a transferor of imputation credits to the profit company:
 - (d) the amount of tax loss that is subject to the election under section IC 5(2)(a) made by the loss company in favour of the profit company: 10
 - (e) the amount of the payments referred to in section IC 5(2)(b) made by the profit company to the loss company in relation to the tax loss.

Defined in this Act: Commissioner, company, group of companies, imputation credit, notice, notify, pay, tax file number, tax loss 15

- (2) **Subsection (1)** applies for the 2017–18 and later income years.

187 Table O1 amended (Imputation credits)

- (1) In table O1, repeal row 5C.
- (2) In table O1, repeal row 8.
- (3) In table O1, repeal row 10. 20
- (4) In table O1, after row 17, insert:

17B	Transfer of credit to loss-using group company	day of transfer	section OB 19B
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- (5) In table O1, row 22, column 2, replace “Imputation credit, FDP credit, or policyholder credit” with “Imputation credit or FDP credit”.
- (6) In table O1, row 22, column 2, delete “or FDP credit”.
- (7) **Subsection (4)** applies for the 2017–18 and later income years. 25

188 Table O2 amended (Imputation debits)

- (1) In table O2, repeal row 8.
- (2) In table O2, repeal row 10.
- (3) In table O2, row 11, second column, delete “or FDP” and “when not FDPA company”. 30
- (4) In table O2, after row 19, insert:

19B	Transfer of credit to loss-using group company	day of transfer	section OB 46B
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- (5) In table O2, row 26, second column, delete “FDP debit,”.
- (6) **Subsection (4)** applies for the 2017–18 and later income years.
- 189 Subpart OC repealed (Foreign dividend payment accounts (FDPA))**
Repeal subpart OC.
- 190 Table O3 repealed (FDP credits)** 5
Repeal table O3.
- 191 Table O4 amended (FDP debits)**
In table O4, repeal row 12.
- 192 Table O4 repealed (FDP debits)** 10
Repeal **table O4**.
- 193 Section OE 19 amended (BETA person’s payment of income tax on foreign income)**
In section OE 19, list of defined terms,—
(a) delete “foreign tax”:
(b) insert “tax credit”. 15
- 194 Section OK 1 amended (General rules for Maori authorities with Maori authority credit accounts)**
(1) Replace section OK 1(3), other than the heading, with:
(3) Credits include an amount of income tax paid during a tax year and an imputation credit attached to a dividend derived by the Maori authority. 20
(2) In section OK 1, list of defined terms, delete “FDP credit” and “FDPA company”.
- 195 Section OK 2 amended (MACA payment of tax)**
Repeal section OK 2(3)(cb).
- 196 Section OK 4B repealed (MACA expenditure on research and development)** 25
Repeal section OK 4B.
- 197 Section OK 7 repealed (MACA dividend derived with FDP credit)**
Repeal section OK 7.
- 198 Section OK 14 repealed (MACA refund of FDP)** 30
Repeal section OK 14.

199	Section OK 14B amended (MACA refund of tax credit)	
(1)	Repeal section OK 14B(1)(c).	
(2)	Repeal section OK 14B(2).	
(3)	Repeal section OK 14B(4)(c).	
(4)	In section OK 14B, list of defined terms, delete “FDPA company”.	5
200	Table O17 amended (Maori authority credits)	
(1)	In table O17, repeal row 4B.	
(2)	In table O17, repeal row 7.	
201	Table O18 amended (Maori authority debits)	
	In table O18, repeal row 6.	10
202	Section OP 5 amended (When credits and debits arise only in consolidated imputation group accounts)	
(1)	In section OP 5(2)(c), replace “credit:” with “credit.”	
(2)	Repeal section OP 5(2)(d).	
(3)	Repeal section OP 5(4)(e).	15
203	Section OP 7 amended (Consolidated ICA payment of tax)	
(1)	Repeal section OP 7(3)(f).	
(2)	Repeal section OP 7(3)(fb).	
(3)	In section OP 7, list of defined terms, delete “FDP credit”.	
204	Section OP 9 amended (Consolidated ICA transfer from tax pooling account)	20
	In section OP 9(3), after paragraph (a), insert:	
(ab)	for an entitlement to funds that are transferred by the intermediary from the tax pooling account to the Commissioner to satisfy a liability of the group that is an increased amount of tax under section RP 17B (Tax pooling accounts and their use) other than income tax, the date of the transfer; or	25
205	Section OP 11B repealed (Consolidated ICA expenditure on research and development)	
	Repeal section OP 11B.	30
206	Section OP 13 repealed (Consolidated ICA dividend derived with FDP credit)	
	Repeal section OP 13.	

- 207 Section OP 18 repealed (Consolidated ICA transfer from group company’s FDP account)**
Repeal section OP 18.
- 208 Section OP 19 repealed (Consolidated ICA transfer from group’s FDP account)** 5
Repeal section OP 19.
- 209 Section OP 23 amended (Consolidated ICA elimination of double debit)**
- (1) In section OP 23(2), words before paragraph (a), delete “either”.
- (2) In section OP 23(2)(a), delete “or transfer”.
- (3) In section OP 23(2), after paragraph (a), insert: 10
(ab) another debit arises under section OP 33 for a transfer to another person of the entitlement to the amount of the deposit on a debit date after the debit date for the debit for the loss of shareholder continuity; or
- (4) In section OP 23(3), after paragraph (d), insert: 15
(e) the imputation debit in **subsection (2)(ab)** is referred to in table O20: imputation debits of consolidated imputation group, row 7 (transfer to another taxpayer of funds in tax pooling account).
- (5) In section OP 23(4), after paragraph (a), insert:
(ab) the entitlement is transferred; or
- (6) **Subsections (1) to (5)** apply for the 2008–09 and later income years. 20
- 210 Section OP 34 repealed (Consolidated ICA refund of FDP)**
Repeal section OP 34.
- 211 Section OP 35 amended (Consolidated ICA refund of tax credit)**
- (1) Repeal section OP 35(1)(c).
- (2) Repeal section OP 35(1B). 25
- (3) Repeal section OP 35(3)(c).
- (4) In section OP 35, list of defined terms, delete “FDP” and “FDP account”.
- 212 Section OP 36 repealed (Consolidated ICA overpayment of FDP)**
Repeal section OP 36.
- 213 Section OP 45 amended (Consolidated ICA redemption debit)** 30
- (1) In section OP 45(5)(a), delete “and FDP credits”.
- (2) In section OP 45(7)(a), delete “and FDP credits”.
- (3) In section OP 45, list of defined terms, delete “FDP credit”.

214	Table O19 amended (Imputation credits of consolidated imputation groups)	
(1)	In table O19, repeal row 6B.	
(2)	In table O19, repeal row 8.	
(3)	In table O19, repeal row 13.	5
(4)	In table O19, repeal row 14.	
215	Table O20 amended (Imputation debits of consolidated imputation groups)	
(1)	In table O20, repeal row 8.	
(2)	In table O20, repeal row 10.	
216	Sections OP 51 to OP 74, and cross-headings between table O20 and section OP 75, repealed	10
(1)	Repeal sections OP 51 to OP 74.	
(2)	Repeal the cross-headings between table O20 and section OP 75.	
217	Section OP 75 repealed (Consolidated FDPA breach of FDP ratio by PCA company)	15
	Repeal section OP 75.	
218	Sections OP 76 and OP 77 repealed	
	Repeal sections OP 76 and OP 77.	
219	Table O21 repealed (FDP credits of consolidated FDP groups)	
	Repeal table O21.	20
220	Table O22 amended (FDP debits of consolidated FDP groups)	
	In table O22, repeal row 13.	
221	Table O22 repealed (FDP debits of consolidated FDP groups)	
	Repeal table O22 .	
222	Section OZ 3 amended (Overpaid income tax or foreign dividend payment for pre-imputation income year)	25
(1)	In the heading to section OZ 3, delete “ or foreign dividend payment ”.	
(2)	Replace section OZ 3(1), other than the heading, with:	
(1)	An ICA company has an imputation debit for an amount of overpaid income tax that is applied to satisfy the company’s income tax liability under section BB 1 (Imposition of income tax) for a pre-imputation income year. Subsection (2) overrides this section.	30
(3)	In section OZ 3(2), before paragraph (a), delete “and FDP”.	

- (4) In section OZ 3(3), delete “or FDP”.
- (5) In section OZ 3, list of defined terms, delete “FDP” and “FDPA company”.
- 223 Section OZ 5 amended (ASCA lost excess available subscribed capital)**
 In section OZ 5, list of defined terms,—
- (a) delete “foreign tax”: 5
- (b) insert “tax credit”.
- 224 Section OZ 7B amended (Maori authority credit ratios for transitional period)**
- (1) Repeal section OZ 7B(2)(a)(vii).
- (2) In section OZ 7B(2)(d)(iii), replace “sections LE 8, LE 9, LF 6, and LF 7” with “section LE 8”. 10
- (3) In section OZ 7B(2)(e)(v), delete “or LF 1(1)”.
- 225 Section OZ 8 amended (Attaching imputation credits and FDP credits: maximum permitted ratio)**
- (1) In the heading to section OZ 8, delete “and FDP credits”. 15
- (2) In section OZ 8(1)(b), delete “and FDP account”.
- (3) In section OZ 8(2), delete “or FDP credit”.
- (4) In section OZ 8, list of defined terms, delete “FDP account” and “FDP credit”.
- 226 Section OZ 9 amended (Benchmark dividends: ratio change)**
- (1) In section OZ 9(2), delete “or FDP ratio”. 20
- (2) In section OZ 9, list of defined terms, delete “FDP ratio”.
- 227 Section OZ 10 amended (Modifying ratios for imputation credits and FDP credits)**
- (1) In the heading to section OZ 10, delete “and FDP credits”.
- (2) In section OZ 10(1)(b), before paragraph (i), delete “and FDP credits”. 25
- (3) In section OZ 10(1)(b)(i), replace “30/70; or” with “30/70.”
- (4) Repeal section OZ 10(1)(b)(ii).
- (5) Repeal section OZ 10(1)(b)(iii).
- (6) Replace section OZ 10(2), other than the heading, with:
- (2) For the purposes of section LE 8 (Application of imputation ratio), if the amount of the imputation credit is limited by the maximum permitted ratio set out in section OA 18 (Calculation of maximum permitted ratios), the ratio is treated as 30/70. 30
- (7) In section OZ 10, list of defined terms, delete “combined imputation and FDP ratio”, “FDP credit”, and “FDP ratio”. 35

- 228 Section OZ 11 amended (Tax credits for imputation credits and FDP credits)**
- (1) In the heading to section OZ 11, delete “**and FDP credits**”.
 - (2) In section OZ 11(1)(b), replace the text before paragraph (i) with:
 - (b) the dividend, and the imputation credits attached to the dividend, have— 5
 - (3) In section OZ 11(1)(b)(i), replace “30/70; or” with “30/70; and”.
 - (4) Repeal section OZ 11(1)(b)(ii).
 - (5) Repeal section OZ 11(1)(b)(iii).
 - (6) In the heading to section OZ 11(2), delete “*and FDP ratio*”.
 - (7) In section OZ 11(2), delete “or (ii)”. 10
 - (8) Replace section OZ 11(3), other than the heading, with:
 - (3) In the formula in subsection (2), **dividend and credits** is the amount of the imputation credit included in the person’s assessable income for the purposes of section LE 1(1) (Tax credits for imputation credits), together with the amount of dividend to which the credit is attached. 15
 - (9) Repeal section OZ 11(4).
 - (10) Repeal section OZ 11(5).
 - (11) In section OZ 11, list of defined terms, delete “combined imputation and FDP ratio”, “FDP credit”, and “FDP ratio”.
- 229 Section OZ 12 amended (Tax credits for non-resident investors)** 20
- (1) Repeal section OZ 12(1)(b)(i).
 - (2) In section OZ 12(4), replace “, OC 28 (which relate to imputation and FDP credit ratios)” with “(which relate to imputation credit ratios)”.
 - (3) In section OZ 12, list of defined terms, delete “combined imputation and FDP ratio”. 25
- 230 Section OZ 18 repealed (Credit-back of PCA balance)**
- Repeal section OZ 18.
- 231 Section RA 15 amended (Payment dates for interim and other tax payments)**
- (1) In section RA 15(3)(b), replace “RF 13(3)” with “RF 3, RF 13(3)”. 30
 - (2) **Subsection (1)** applies for the 2008–09 and later income years.
- 232 Section RA 19 amended (Refunds of excess amounts or when amounts mistakenly paid)**
- (1) Repeal section RA 19(1)(b).
 - (2) In section RA 19, list of defined terms, delete “FDP”. 35

- 233 Section RB 2 repealed (Income tax liability for non-filing taxpayers for non-resident passive income)**
Repeal section RB 2.
- 234 Section RD 3 amended (PAYE income payments)**
- (1) In section RD 3(2), heading, replace “*close companies*” with “*close companies and some others*”. 5
- (2) In section RD 3(2), before paragraph (a), replace “a shareholder-employee of a close company” with “a shareholder, and an employee, of a company that is a close company or has 25 or fewer shareholders”.
- (3) In section RD 3(3), replace “close company” with “company”. 10
- (4) In section RD 3(4), replace “close company” with “company”.
- (5) In section RD 3, list of defined terms, delete “close company”.
- 235 Section RD 3 amended (PAYE income payments)**
Replace **section RD 3(2) to (5)** with:
- Choices for shareholders of some companies who are employees: section RD 3B* 15
- (2) **Section RD 3B** applies for a person who is a shareholder and an employee, of a company that is not a look-through company and is a close company or has 25 or fewer shareholders, in relation to income amounts paid to the person in their capacity as employee of the company if— 20
- (a) the person makes an irrevocable election to apply **section RD 3B**; and
- (b) the person has not made an election under **subsection (3)**; and
- (c) the person meets the requirements of **section RD 3B**.
- Choices for shareholders of some companies who are employees: section RD 3C* 25
- (3) **Section RD 3C** applies for a person who is a shareholder and an employee, of a company that is not a look-through company and is a close company or has 25 or fewer shareholders, in relation to income amounts paid to the person in their capacity as employee of the company if— 30
- (a) the person makes an irrevocable election to apply **section RD 3C**; and
- (b) the person has not made an election under **subsection (2)**; and
- (c) the person meets the requirements of **section RD 3C**.
- Choices for shareholders of some companies who are employees: once-and-for-all effect of election*
- (4) An election under **subsection (2) or (3)** can not be changed, and only 1 election can ever be made. 35

If questions arise

- (5) If a question arises whether the PAYE rules apply to all or part of a PAYE income payment, other than an amount referred to in **sections RD 3B and RD 3C**, the Commissioner must determine the matter.

236 New sections RD 3B and RD 3C inserted

5

After **section RD 3**, insert:**RD 3B Shareholders who are employees, for some companies: income other than PAYE***When this section applies*

- (1) This section applies for an income year for a person who is a shareholder and an employee of a company that is not a look-through company and is a close company or has 25 or fewer shareholders if— 10
- (a) the person does not derive as an employee payments of salary or wages—
- (i) of a regular amount for regular pay periods of 1 month or less throughout the income year; or 15
- (ii) that total 66% or more of the annual gross income of the person in the corresponding tax year as an employee; or
- (b) an amount is paid as income that may later be allocated to the person as an employee for the income year. 20

Income other than PAYE

- (2) All amounts paid to the person in the income year and in later income years in their capacity as employee of the company are treated as income other than from a PAYE income payment.

Defined in this Act: amount, annual gross income, close company, employee, income, income year, pay, pay period, PAYE income payment, salary or wages, shareholder 25

RD 3C Shareholders who are employees, for some companies: PAYE and income other than PAYE*When this section applies*

- (1) This section applies for an income year for a person who is a shareholder and an employee of a company that is not a look-through company and is a close company or has 25 or fewer shareholders if— 30
- (a) the person derives as an employee payments of salary or wages of a regular amount for regular pay periods; but
- (b) an amount is paid as income that may later be allocated to the person as an employee for the income year. 35

	<i>PAYE</i>	
(2)	All amounts described in subsection (1)(a) paid to the person in the income year and in later income years in their capacity as employee of the company are PAYE income payments.	
	<i>Income other than PAYE</i>	5
(3)	All amounts described in subsection (1)(b) paid to the person in the income year and in later income years in their capacity as employee of the company are treated as income other than from a PAYE income payment.	
	Defined in this Act: amount, close company, employee, income, income year, pay, pay period, PAYE income payment, salary or wages, shareholder	10
237	Section RD 5 amended (Salary or wages)	
	Replace section RD 5(5) with:	
	<i>Payments to Governors-General, members of Parliament, and other office holders</i>	
(5)	A payment to a person is included in salary or wages of the person if it is made as—	15
	(a) salary to the Governor-General:	
	(b) salary or allowances to a member of Parliament:	
	(c) salary or principal allowances to a judicial officer referred to in section 12B of the Remuneration Authority Act 1977:	20
	(d) salary or allowances to a member of the Employment Relations Authority.	
238	Section RD 21 amended	
(1)	In section RD 21(3), replace “amount of a PAYE income payment” with “amount of money included in a PAYE income payment”.	25
(2)	Subsection (1) applies for the 2008–09 and later income years.	
239	Section RE 2 amended (Resident passive income)	
(1)	After section RE 2(5)(f), insert:	
	(fb) a dividend paid by a company and derived by another company, if the dividend is fully imputed and the paying company chooses to exclude the dividend from being resident passive income:	30
(2)	After section RE 2(5)(g), insert:	
	(gb) an amount treated as a dividend under section CB 32C (Dividend income for first year of look-through company):	
(3)	Replace section RE 2(5)(i)(i) with:	35
	(i) has an imputation ratio of 30/70 or more; and	
(4)	In section RE 2, list of defined terms, insert “fully imputed”.	

- (5) In section RE 2, list of defined terms, delete “combined imputation and FDP ratio” and “FDP ratio”.

240 Section RE 13 amended (Dividends other than non-cash dividends)

- (1) After section RE 13(1), insert:

When this section does not apply

5

- (1B) This section does not apply if,—

- (a) at the same time as making a payment of a dividend other than a non-cash dividend, the person also makes a payment of a non-cash dividend; and
- (b) they choose to apply **section RE 14B**; and
- (c) the requirements of **section RE 14B** are met.

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- (2) In section RE 13(3)(c)(ii), replace “dividend:” with “dividend.”
- (3) Repeal section RE 13(3)(c)(iii).
- (4) In section RE 13, list of defined terms, delete “FDP credit”.

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

15

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

When this section does not apply

- (1B) This section does not apply if,—

- (a) at the same time as making a payment of a relevant non-cash dividend the person also makes a payment of a dividend other than a non-cash dividend; and
- (b) they choose to apply **section RE 14B**; and
- (c) the requirements of **section RE 14B** are met.

20

- (2) In section RE 14(3)(c)(ii), replace “dividend:” with “dividend.”
- (3) Repeal section RE 14(3)(c)(iii).
- (4) In section RE 14, list of defined terms, delete “FDP credit”.

25

242 New section RE 14B inserted (Combined cash and non-cash dividends)

After **section RE 14**, insert:

RE 14B Combined cash and non-cash dividends

30

When this section applies

- (1) This section applies when a person has made an election in accordance with **sections RE 13(1B) and RE 14(1B)** and the amount of the cash dividend paid at the same time as the non-cash dividend is equal to or greater than the amount calculated by the formula in **subsection (2)**.

35

	<i>Calculation of amount of tax</i>	
(2)	The amount of tax for the payment of the cash dividend and the non-cash dividend that the person must withhold and pay to the Commissioner is calculated using the formula—	
	$(\text{tax rate} \times (\text{dividends} + \text{tax paid or credit attached})) - \text{tax paid or credit attached.}$	5
	<i>Definition of items in formula</i>	
(3)	In the formula,—	
(a)	tax rate is the basic rate set out in schedule 1, part D, clause 5 (Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits):	10
(b)	dividends is the total amount of the cash dividend and the non-cash dividend paid before the amount of tax is determined:	
(c)	tax paid or credit attached is the total of the following amounts:	
	(i) if a dividend is paid in relation to shares issued by an ICA company, the total amount of imputation credits attached to the dividends:	15
	(ii) if a dividend is paid in relation to shares issued by a company not resident in New Zealand, the amount of foreign withholding tax paid or payable on the total amount of the dividends.	
	<i>Treatment as if amount of tax withheld for 1 combined dividend</i>	20
(4)	The total amount of the cash dividend and the non-cash dividend is treated as 1 payment of 1 dividend (the combined dividend), and the amount calculated under the formula in subsection (2) is the amount that is required to be withheld from the combined dividend and paid under the RWT rules.	
243	Section RE 15 amended (Bonus issues in lieu and shares issued under profit distribution plans)	25
(1)	In section RE 15(3)(c)(ii), replace “dividend:” with “dividend.”	
(2)	Repeal section RE 15(3)(c)(iii).	
(3)	In section RE 15, list of defined terms, delete “FDP credit”.	
244	Section RE 17 amended (Replacement payments under share-lending arrangements)	30
(1)	In section RE 17(2), replace the formula with:	
	$(\text{tax rate} \times \text{payment} \div (1 - \text{tax rate})) - \text{credit attached} - \text{credit transferred.}$	
(2)	In section RE 17(3)(d), replace “payment:” with “payment.”	
(3)	Repeal section RE 17(3)(e).	35
(4)	In section RE 17, list of defined terms, delete “FDP credit”.	

245 Section RE 23 repealed (When amount of tax treated as FDP credit)

Repeal section RE 23.

246 Section RF 1 amended (NRWT rules and their application)

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

(ab) **subpart FG** (Treatment of notional loans to New Zealand branches of foreign banks); and 5

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

(db) **section RZ 12** (Treatment of prepayments); and

(dc) **section YD 5(1)(d), and (4) to (9)** (which relate to apportionment of certain income to a source in New Zealand); and 10

(3) In section RF 1(1)(e), replace “49, 100” with “49, **91AAU**, 100”.

(4) In section RF 1, list of defined terms, insert “non-resident financial arrangement income” and “related-party debt”.

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

(1) Replace section RF 2(1)(d) with: 15

(d) interest, except when—

(i) the interest relates to money lent by the non-resident for the purposes of a business they carry on in New Zealand through a fixed establishment in New Zealand; or

(ii) the non-resident is not associated with the person to whom money is lent, is engaged in business in New Zealand through a fixed establishment in New Zealand, and is a registered bank; or 20

(iii) the non-resident derives the interest after the first NRFAI due date for the financial arrangement or after the day on which person A chooses under **section RF 12G** to treat income as non-resident financial arrangement income: 25

(e) non-resident financial arrangement income.

(2) After section RF 2(3)(d), insert—

(e) interest when the person paying the interest is a member of a banking group. 30

(3) In section RF 2(4), replace “schedular income that is non-resident passive income” with “non-resident passive income referred to in subsection (3)”.

(4) In section RF 2(7), replace “non-resident passive income” with “non-resident passive income except to the extent to which the amount is non-resident financial arrangement income or an amount to which **subpart FG** (Treatment of notional loans to New Zealand branches of foreign banks) applies”. 35

(5) After section RF 2(8), insert:

NRFAI due date

- (9) For the purposes of **subsection (1)(d)(iii) and sections RF 2B(5)(a)(ii), RF 12E(b), and RF 12F(3)(b)(ii)**, the NRFAI due date, for a financial arrangement, is the due date for the payment of NRWT for the period that ends on the last day of the second month following the end of an income year. 5
- (6) In section RF 2, list of defined terms, insert “income year”, “money lent”, “non-resident financial arrangement income”, “NRFAI due date”, and “registered bank”.

248 New section RF 2B inserted (Non-resident financial arrangement income)

After section RF 2, insert:

RF 2B Non-resident financial arrangement income

When this section applies

- (1) This section, and **sections RF 12D to RF 12I**, apply for the purposes of the NRWT rules to a person (**person A**) who— 15
- (a) is—
- (i) a person resident in New Zealand; or
- (ii) a non-resident carrying on a business in New Zealand through a fixed establishment in New Zealand; and
- (b) is party to a financial arrangement with a non-resident (**person B**) through which funding is provided to person A. 20

Interest on related-party debt

- (2) **Non-resident financial arrangement income**, for a financial arrangement, means an amount having a source in New Zealand that is accrued on a related-party debt and derived by person B in an income year when— 25
- (a) non-resident financial arrangement income was derived in relation to the arrangement by person B in an earlier income year; or
- (b) the following requirements are met for the income year:
- (i) the total expenditure incurred by person A on related-party debt is more than the de minimis set out in **subsection (3)**; and
- (ii) in relation to the financial arrangement, the deferral calculation set out in **subsection (4)** is less than 90%. 30

Related-party de minimis

- (3) The de minimis applies when the total expenditure on all related-party debt incurred in the previous income year under the financial arrangements rules by person A, and all companies that are in the same group of companies as person A, is \$40,000 or less. 35

	<i>Deferral calculation</i>	
(4)	Subject to subsection (7) , the deferral calculation referred to in subsection (2)(b)(ii) is the percentage calculated using the formula— accumulated payments ÷ accumulated accruals.	
	<i>Definition of items in formula</i>	5
(5)	In the formula,—	
	(a) accumulated payments for the income year is the total interest paid in relation to the financial arrangement by person A to all non-residents for the period that—	
	(i) starts on the day on which the financial arrangement first meets the requirements for a related-party debt; and	10
	(ii) ends on the NREAI due date for person A's income year:	
	(b) accumulated accruals is an amount determined under subsection (6) for the period that—	
	(i) starts on the day on which the financial arrangement first meets the requirements for a related-party debt; and	15
	(ii) ends on the last day of the income year before the income year referred to in paragraph (a)(ii) .	
	<i>Accumulated accruals</i>	
(6)	For the purposes of subsection (5)(b) , the amount is an amount equal to the total expenditure that person A incurs under the arrangement when the arrangement is a related-party debt.	20
	<i>When calculation treated as more than 90%</i>	
(7)	For the purposes of the calculation in subsection (4) , the result of the formula is treated as more than 90% if—	25
	(a) the item accumulated accruals is zero;	
	(b) the date in subsection (5)(b)(ii) occurs before the date in subsection (5)(b)(i) .	
	<i>Foreign exchange movements</i>	
(8)	For the purposes of subsections (4) to (7) , amounts are calculated in the currency of the financial arrangement.	30
	<i>Choosing to disregard de minimis and calculation</i>	
(9)	See section RF 12G for elections to disregard the related-party de minimis and the deferral calculation.	
	Example	35
	Three years ago, NZ Sub A Ltd (A) borrowed NZ\$1m from a non-resident associate (Foreign Lender Ltd). A's financial arrangement expenditure on this arrangement for each year has been \$42,000, \$50,000 and \$53,000. For the same 3-year	

period, A has paid interest of \$19,000, \$20,000 and \$21,000. At the end of the second year, the deferral calculation is $(\$19,000 + \$20,000) / \$42,000 = 92.9\%$, so no NRFAI arises. However, at the end of the third year the deferral calculation is $(\$19,000 + \$20,000 + \$21,000) / (\$42,000 + \$50,000) = 65.2\%$. As this is below 90%, NRFAI arises for the first time in the third year. The NRFAI will be treated as paid under **section RF 12E** on the last day of the second month after A's balance date.

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Defined in this Act: amount, amount of tax, approved issuer, company, financial arrangement, financial arrangements rules, income year, non-resident, non-resident financial arrangement income, New Zealand banking group, NRFAI due date, NRWT, NRWT rules, pay, related-party debt, resident in New Zealand, source in New Zealand

10

249 Section RF 8 amended (Certain dividends)

- (1) Repeal section RF 8(1)(e).
- (2) In section RF 8, list of defined terms, delete “FDP”.

250 Section RF 9 amended (When dividends fully imputed or fully credited)

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- (1) In the heading to section RF 9, delete “or fully credited”.
- (2) In section RF 9(1), delete “or fully credited for FDP”.
- (3) Repeal section RF 9(4).
- (4) Repeal section RF 9(5).
- (5) In section RF 9, list of defined terms, delete “FDP” and “FDP credit”.

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251 Section RF 10 amended (Non-cash dividends)

- (1) Replace the formula in section RF 10(2) with:

rate A ÷ (1 – rate A) × dividend payment.

- (2) Replace section RF 10(3)(b) with:

(b) **dividend payment** is the amount of the dividend paid to the extent to which the amount of the dividend is not fully imputed, as described in section RF 9(2), disregarding the amount of tax to be withheld.

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- (3) Repeal section RF 10(3)(c).
- (4) Repeal section RF 10(3)(d).
- (5) Replace the formula in section RF 10(4) with:

rate A × dividend payment.

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- (6) Replace section RF 10(5)(b)(ii) with:

(ii) to the extent to which the amount of the dividend is not fully imputed (as described in section RF 9).

- (7) Repeal section RF 10(5)(c).
- (8) Repeal section RF 10(5)(d).
- (9) In section RF 10, list of defined terms, delete “FDP” and “FDP credit”.

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252 Section RF 12 amended (Interest paid by approved issuers or transitional residents)

- (1) Replace section RF 12(1)(a)(ii) with:
- (ii) unless the approved issuer is a member of a New Zealand banking group as described in section FE 33 (New Zealand banking group), is derived by a person not associated with the approved issuer except by being a beneficiary of a trust established for the main purpose of protecting and enforcing beneficiaries' rights under the registered security; and 5
- (2) In section RF 12(1)(a)(iii), replace “applies:” with “applies; and”. 10
- (3) After section RF 12(1)(a)(iii), insert:
- (iv) does not relate to related-party debt: 10
- (4) In section RF 12, list of defined terms, insert “New Zealand banking group” and “related-party debt”.

253 New heading and new sections RF 12D to RF 12I inserted 15

After section RF 12C, insert:

Certain financial arrangements involving related-party debt

RF 12D Non-resident financial arrangement income*Amount of income*

- (1) The amount of non-resident financial arrangement income derived by person B in an income year is an amount equal to the expenditure incurred in the income year on the related-party debt by person A. For these purposes, a reference to an income year includes a reference to a part of an income year. 20

Calculation

- (2) Despite **subsection (1)**, in the calculation of non-resident financial arrangement income,— 25
- (a) if person A has income on the related-party debt, the amount derived by person B is treated as zero:
- (b) the spreading method that must be applied is the method used by person A for the financial arrangement under subpart EW (Financial arrangements rules), using the currency of the financial arrangement. 30

Example

NZ Sub B Ltd (B) has borrowed US\$100m from its non-resident parent and will repay US\$125m in 5 years' time. The equivalent amount in NZ dollars is \$150m. Calculated in US dollars, the financial arrangement expenditure for each year is US \$4m, US\$4.5m, US\$5m, US\$5.5m, and US\$6m respectively. B must calculate NRFAI in US dollars for each year then, for the purposes of paying NRWT, convert this into NZ dollars using the currency conversion in subpart YF (Currency conversion). B has also entered into a hedge to buy US\$125m in 5 years' time for NZ 35

\$200m. Because the hedge does not give rise to interest or NRFAI, this amount is excluded from B's NRWT calculations.

Defined in this Act: amount, financial arrangement, income, income year, non-resident financial arrangement income, related-party debt, spreading method

RF 12E When non-resident financial arrangement income treated as paid 5

An amount of non-resident financial arrangement income is treated as paid on—

- (a) for a related-party debt that matures, ends, or no longer qualifies as a related-party debt during person A's income year, the last day of the second month following the relevant event; or 10
- (b) in all other cases, the last day of the second month following the end of person A's income year.

Defined in this Act: amount, income year, non-resident financial arrangement income, NRFAI due date, pay, related-party debt

RF 12F Adjustments: first year additional amounts 15

When this section applies

- (1) This section applies for the first income year in which person B derives non-resident financial arrangement income under a financial arrangement with person A. It increases person B's income by adding an amount that person B would have derived if the financial arrangement had always given rise to non-resident financial arrangement income. 20

Formula

- (2) The amount is calculated using the formula—
total accrual income – total interest.

Definition of items in formula 25

- (3) In the formula,—
 - (a) **total accrual income** is the total expenditure incurred by person A under the arrangement to the extent to which the arrangement is held by a non-resident person for the period that—
 - (i) starts on the date on which person A became party to the arrangement; and 30
 - (ii) ends on the last day of the income year that precedes the first income year:
 - (b) **total interest** is the total interest paid by person A all non-residents for the period that— 35
 - (i) starts on the date on which person A became party to the arrangement; and
 - (ii) ends on the NRFAI due date for person A's income year.

Currency of arrangement

- (4) For the purposes of **subsection (3)**, the amounts are calculated in the currency of the arrangement.

Example continued from section RF 2B

Foreign Lender Ltd has derived NRFAI for the first time in the third year of a loan to NZ Sub A Ltd (A). The NRFAI derived for this year is equal to A's financial arrangement expenditure for the third year of \$53,000. However, as this year is the first in which Foreign Lender Ltd has derived NRFAI on this related-party debt, it also derives an additional payment of $(\$42,000 + \$50,000) - (\$19,000 + \$20,000 + \$21,000) = \$32,000$.

Defined in this Act: amount, financial arrangement, income, income year, non-resident financial arrangement income, NRFAI due date, NRWT, pay, related-party debt

RF 12G Choosing to treat income as non-resident financial arrangement income*When this section applies*

- (1) This section applies for the first income year in which person A is party to a financial arrangement described in **section RF 2B(1)(b)**.

Elections related to de minimis

- (2) Person A may choose to disregard the application of the related-party de minimis referred to in **section RF 2B(3)**.

Elections related to deferral calculation

- (3) Despite **section RF 2B(4)**, if the result of the deferral calculation by person A is, or is treated as, more than 90%, person A may choose to disregard the application of the calculation for an arrangement—

- (a) that is for a period of more than 12 months; and
(b) in relation to which person A reasonably expects non-resident financial arrangement income will arise for a later income year.

Making elections

- (4) The election must be made by informing the Commissioner by the earlier of—
(a) the first day on which interest described in **section RF 2(1)(d)** is paid;
(b) the last day of the income year in which the arrangement becomes a related-party debt.

Example

NZ Sub C Ltd (C) has borrowed \$500,000 from its non-resident parent. Although interest accrues on this loan, C does not expect to make any interest payments for some years. C has also borrowed from a bank but has no other related-party loans. C's expected financial arrangement expenditure on the related-party debt for the first 3 years is \$32,000, \$36,000 and \$41,000. C will not have to calculate whether NRFAI arises until the end of the third year as this is when the related party de minimis is met. However, C expects that once the related party de minimis is met, NRFAI will arise because there are expected to be no interest payments.

Therefore, C notifies Inland Revenue during the first year, that it will withhold NRWT on NRFAI from the start of the first year.

Defined in this Act: Commissioner, financial arrangement, income year, inform, interest, non-resident financial arrangement income, related-party debt

RF 12H Meaning of related-party debt 5

Meaning of related-party debt

(1) **Related-party debt**, for a person and an income year, means a financial arrangement under which—

- (a) person B provides funds to person A when—
 - (i) person A and person B are associated persons; or 10
 - (ii) there is indirect associated funding, as described in **section RF 12I(2)**; or
 - (iii) person B is a member of a non-resident owning body, as described in **section RF 12I(3)**; and
- (b) expenditure arises for person A for which they are allowed a deduction. 15

Exclusion

(2) **Subsection (1)** does not apply to a financial arrangement to which a member of a New Zealand banking group as determined under section FE 33 (New Zealand banking group) is party.

Defined in this Act: amount, associated person, deduction, financial arrangement, income year, non-resident owning body 20

RF 12I Concepts used in section RF 12H for definition of related-party debt

When this section applies

(1) This section applies for the purposes of **section RF 12H** to describe what is meant by arrangements involving indirect associated funding and funding through non-associated entities acting together. 25

Indirect associated funding

(2) Indirect associated funding exists when a non-resident person associated with person A (the **indirect lender**) provides funds or pays money, directly or indirectly, to another person (the **direct lender**) who provides funds to person A— 30

- (a) in order for the funds to be provided to person A; or
- (b) to reimburse the direct lender, or compensate them in any way, for providing the funds to person A.

Treatment of payments

(3) When indirect associated funding exists, the following payments are treated as made under a financial arrangement between person A and the indirect lender and not under a financial arrangement between person A and the direct lender: 35

(a)	an amount that the indirect lender pays to the direct lender is treated as paid by the indirect lender to person A to the extent to which the amount is not more than the amount paid to person A:	
(b)	an amount that person A pays to the direct lender is treated as paid to the direct lender as agent for the indirect lender to the extent to which the amount is not more than the amount paid by the direct lender to the indirect lender.	5
	<i>Non-resident owning bodies</i>	
(4)	Subsection (5) applies when—	
(a)	funding is provided to person A by a member of a non-resident owning body, as defined in section FE 4 (Some definitions); and	10
(b)	the ownership interest, within the meaning set out in paragraph (a) of the definition of that term, in person A of all the members of the non-resident owning body is 50% or more.	
	<i>Association</i>	15
(5)	Person A and the member are treated as if they were associated for the purposes of this section, and sections RF 2B and RF 12D to RF 12H and section 32M of the Tax Administration Act 1994.	
	Examples	
	NZ Sub D Ltd (D) borrows \$1m at an interest rate of 6% from 3rd Party Finance Co Ltd (Finance Co) which agrees to provide this amount because D International, a non-resident associate of D, agrees to lend \$800,000 at an interest rate of 4% to Finance Co. This is treated as a loan of \$800,000 from D International to D, and a loan of \$200,000 from Finance Co to D. D makes an interest payment of \$60,000 to Finance Co, and Finance Co makes an interest payment of \$32,000 to D International. D is treated as making an interest payment of \$32,000 to Finance Co as agent for D International, so must withhold \$3,200 NRWT. If D does not, Finance Co will be required to do so.	20 25
	Two unrelated foreign investors agree to purchase 40% each of a New Zealand business with the remaining 20% held by a New Zealand investor. The New Zealand business has borrowed \$1m, with the amounts being \$400,000 from each of the foreign investors and \$200,000 from the New Zealand investor and all borrowing is on similar terms. The 2 foreign investors are members of a non-resident owning body as they are acting together as if they were a single entity. Neither foreign investor is associated with the New Zealand business, either individually or as a consequence of being a member of the non-resident owning body. However, because they are members of the non-resident owning body, interest payments derived by the foreign investors will be ineligible for AIL and the loans may give rise to non-resident financial arrangement income.	30 35
	Defined in this Act: arrangement, associated person, non-resident, non-resident owning body, ownership interest, pay	40

254 Section RF 14 repealed (Treatment of FDP credits)

Repeal section RF 14.

255	Section RM 1 amended (What this subpart does)	
(1)	In section RM 1, repeal paragraph (d).	
(2)	In section RM 1, list of defined terms, delete “PCA person”.	
256	Section RM 3 repealed (Refunds for overpaid FDP)	
	Repeal section RM 3.	5
257	Section RM 13 amended (Limits on refunds for ICA companies)	
	Replace section RM 13(3) with:	
	<i>Limits when company has extension of time for filing return</i>	
(3)	If, on the date on which the ICA company becomes entitled to the refund or transfer, the ICA company has not filed an annual ICA return for the most recent tax year that has ended, and that return is not yet due because the company has an extension of time to file the return, the amount of the refund or transfer must be no more than the credit balance of the ICA company in the imputation credit account on the last day of the most recent period for which the company has filed an annual ICA return.	10 15
258	Heading and sections RM 18 to RM 21 repealed	
(1)	Repeal the heading before section RM 18.	
(2)	Repeal sections RM 18 to RM 21.	
259	Heading and sections RM 28 to RM 31 repealed	
(1)	Repeal the heading before section RM 28.	20
(2)	Repeal sections RM 28 to RM 31.	
260	Section RZ 6 amended (Limits on refunds: transitional dates)	
(1)	Repeal section RZ 6(3).	
(2)	In section RZ 6, list of defined terms, delete “PCA person”.	
261	New heading and new section RZ 12 inserted	25
	After section RZ 11, insert:	
	<i>Non-resident financial arrangement income</i>	
RZ 12	Treatment of prepayments	
	<i>When this section applies</i>	
(1)	This section applies for the purposes of the NRWT rules when—	30
(a)	a person resident in New Zealand (person A) enters into a financial arrangement before the date on which the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2016 receives the Royal assent (the date of enactment); and	

(b) either—	(i) no obligation to withhold NRWT has arisen in relation to the arrangement before the date of enactment; or	
	(ii) approved issuer levy has been paid in relation to the arrangement before the date of enactment; and	5
(c) the arrangement would be a related-party debt if sections RF 12H and RF 12I had applied to the arrangement before the date of enactment; and		
(d) person A is party to the arrangement on or after the date of enactment.		
	<i>When excess treated as paid</i>	
(2) If, at the date on which section 247(1) of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2016 applies in relation to an arrangement, the total interest paid under the arrangement is more than the total expenditure of person A accrued on the arrangement, the excess interest is treated as paid on that date.		10
	Example	15
	On 1 April 2010, X Ltd borrowed \$1m from Foreign Parent Ltd, repayable on 31 March 2025. Foreign Parent also has a New Zealand branch. On 31 March each year from 2011 to 2016, X makes an interest payment of \$60,000 to Foreign Parent. As Foreign Parent has a New Zealand branch, these interest payments are not non-resident passive income, so no NRWT is required to be withheld.	20
	Once the amendments to section RF 2(1)(d) are enacted, any interest payments by X to Foreign Parent will be non-resident passive income. On 30 September 2016, X makes a one-off interest payment of \$400,000 and agrees with Foreign Parent that no further interest will be paid. X calculates that \$35,000 of this payment covers the period from 1 April 2016 to the date on which the amendments to section RF 2(1)(d) are enacted. The remaining \$365,000 is treated as a prepayment that is paid on the date of enactment, so X is required to withhold NRWT of \$36,500.	25
	Defined in this Act: amount, approved issuer levy, financial arrangement, income year, NRWT, NRWT rules, pay, related-party debt, resident in New Zealand	30

262 Section YA 1 amended (Definitions)

(1) This section amends section YA 1.		
(2) Insert, in appropriate alphabetical order:		
	aircraft engine means—	
(a) for an aircraft that is not a helicopter, an engine used for the propulsion of the aircraft:		35
(b) for a helicopter,—		
(i) an engine used for the propulsion of, and generation of lift for, the helicopter:		
(ii) the main transmission system for the engine:		40

- (iii) the main rotor hub for the engine:
 - (iv) the rotor blades for the engine:
 - (v) the rotor controls for the engine:
 - (vi) the anti-torque system for the engine:
 - (vii) the anti-torque transmission system for the engine: 5
 - (viii) the hydraulic system for the engine
- aircraft engine overhaul—**
- (a) for an aircraft that is not a helicopter, means a process that involves removing, if necessary, an aircraft engine from the aircraft, dismantling the aircraft engine and testing pieces, replacing or restoring pieces on the basis of test results or use of the aircraft engine since installation of the piece, restoring the aircraft engine to a condition in which it meets its performance specifications for the scheduled overhaul period before the overhaul, reassembling the aircraft engine, fitting the aircraft engine to the aircraft, and testing the aircraft engine: 10
15
 - (b) for a helicopter, means a process that involves the application of the process described in **paragraph (a)** to—
 - (i) an engine:
 - (ii) the main transmission system for the engine:
 - (iii) the main rotor hub for the engine: 20
 - (iv) the rotor blades for the engine:
 - (v) the rotor controls for the engine:
 - (vi) the anti-torque system for the engine:
 - (vii) the anti-torque transmission system for the engine:
 - (viii) the hydraulic system for the engine 25
- (3) In the definition of **ancillary tax**, repeal paragraphs (e), (f), and (g).
 - (4) Repeal the definition of **annual FDPA return**.
 - (5) Repeal the definition of **annual PCA return**.
 - (6) Replace the definition of **asset base** with:
 - asset base**, for a class of life insurance policy, means a segregated or identifiable group, or proportion of a group, of assets attributable to the class 30
 - (7) Repeal the definition of **associated internal software developer**.
 - (8) In the definition of **close company**, repeal paragraph (b).
 - (9) In the definition of **close relative**, replace “What this subpart does” with “Disposals to which this subpart applies”. 35
 - (10) Repeal the definition of **combined imputation and FDP ratio**.

- (11) In the definition of **consideration**, paragraph (a), replace “EE 48 to EE 52” with “EE 48 to EE 51”.
- (12) Repeal the definition of **consolidated FDP group**.
- (13) In the definition of **continuity provisions**, repeal paragraph (h).
- (14) Repeal the definition of **convertible credit**. 5
- (15) Replace the definition of **credit account continuity provisions** with:
credit account continuity provisions means section OB 41 (ICA debit for loss of shareholder continuity)
- (16) Insert, in appropriate alphabetical order:
creditor group is defined in **section EW 46C** (Consideration when debt forgiven within economic group) 10
- (17) Insert, in appropriate alphabetical order:
creditor’s associate is defined in **section EW 46C** (Consideration when debt forgiven within economic group)
- (18) Insert, in appropriate alphabetical order: 15
creditor’s interest is defined in **section EW 46C** (Consideration when debt forgiven within economic group)
- (19) Insert, in appropriate alphabetical order:
distant workplace is defined in section CW 16B(5) (Accommodation expenditure: out-of-town secondments and projects) for the purposes of that section, and sections CW 16C, CW 16E, CW 16F, CW 17CB, CZ 29, and CZ 30 (which relate to time limits for accommodation expenditure and the application of the rules to new employees) 20
- (20) Repeal the **definition** of **distant workplace** inserted by **subsection (19)**.
- (21) In the **definition** of **distant workplace**, delete the words after “projects)”. 25
- (22) In the definition of **dividend**, repeal paragraph (c)(i).
- (23) In the **definition** of **dividend**, in paragraph (e), delete “subpart OJ (Policyholder credit accounts (PCA)),”.
- (24) In the **definition** of **dividend**, replace paragraph (e) with:
(e) in section GB 38 (When sections GB 35 to GB 37 apply to consolidated groups), subpart OE (Branch equivalent tax accounts (BETA)), the imputation rules, and the definitions of **benchmark dividend**, **company dividend statement**, **imputation credit**, **imputation ratio**, **pay**, and **shareholder dividend statement**, does not include any amount treated as a dividend under section CB 34(5), GB 23, or GB 25 (which relate to mutual associations, family-owned businesses, and close companies): 30 35
- (25) In the **definition** of **dividend**, in paragraph (f), delete “subpart OJ (Policyholder credit accounts (PCA)),”.

- (26) In the **definition** of **dividend**, replace paragraph (f) with:
- (f) in section GB 38 (When sections GB 35 to GB 37 apply to consolidated groups), subpart OE (Branch equivalent tax accounts (BETA)), the imputation rules, and the definitions of **benchmark dividend**, **company dividend statement**, **imputation credit**, **imputation ratio**, **pay**, and **shareholder dividend statement**, does not include an amount treated as a dividend under section GB 1(3) (Arrangements involving dividend stripping) 5
- (27) In the definition of **dividend treated as interest**, replace paragraph (d) with:
- (d) a company that, in New Zealand, is engaged solely in the business of life insurance referred to in section EY 8(2)(c) (Meaning of life insurance) 10
- (28) Repeal the definition of **excess credit amount**.
- (29) In the definition of **excluded ancillary tax**, delete paragraph (b).
- (30) Insert, in appropriate alphabetical order: 15
- exiting partner**, for a partnership, means a person who disposes of interests in the partnership held by the person as a partner
- (31) Repeal the definition of **FDP**.
- (32) Repeal the definition of **FDP account**.
- (33) Repeal the definition of **FDP credit**. 20
- (34) Repeal the definition of **FDP debit**.
- (35) Repeal the definition of **FDP penalty tax**.
- (36) Repeal the definition of **FDP ratio**.
- (37) Repeal the definition of **FDP reference period**.
- (38) Repeal the definition of **FDP rules**. 25
- (39) Repeal the definition of **FDPA**.
- (40) Repeal the definition of **FDPA company**.
- (41) In the definition of **fixed-rate share**, paragraph (a), before paragraph (i), delete “or FDP credits”.
- (42) Insert, in appropriate alphabetical order: 30
- foreign bank** is defined in **section FG 1(2)** (When this subpart applies) for the purposes of **subpart FG** (Treatment of notional loans to New Zealand branches of foreign banks)
- (43) Insert, in appropriate alphabetical order: 35
- foreign LTC holder** means—
- (a) a non-resident:
- (b) a trustee of a trust, if the trust has a non-resident settlor or a person that is non-resident has power to appoint or remove a trustee of the trust

- (44) Repeal the definition of **foreign tax**.
- (45) In the definition of **fully imputed**,—
- (a) in paragraph (a), replace “CB 26” with “CB 26, **CB 32C, CD 39**,”;
 - (b) in paragraph (b), replace “companies),” with “companies), and RE 2 (Resident passive income)”.
- (46) In the **definition** of **fully imputed**, paragraph (a), delete “or fully credited”.
- (47) Repeal the definition of **further FDP**.
- (48) Insert, in appropriate alphabetical order:
- grandparented Maori authority** means a Maori authority that, before the date of introduction for the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Bill,—
- (a) is an owner of a look-through company:
 - (b) has entered into an arrangement to become an owner of a look-through company:
 - (c) is a beneficiary of a trust that is an owner of a look-through company
- (49) In the definition of **imputation additional tax**, replace “on leaving wholly-owned group” with “on leaving group of companies”.
- (50) In the definition of **income interest**, delete “the FDP rules and”.
- (51) In the definition of **interest**, after paragraph (b), insert:
- (bb) for the NRWT rules and a related-party debt,—
 - (i) includes an amount that is taken into account under section EW 15 (What is included when spreading methods used) and provided to a non-resident by a person resident in New Zealand in relation to money lent to the person; and
 - (ii) excludes a repayment of the money lent:
- (52) In the **definition** of **interest**, after paragraph (d), insert:
- (e) in relation to an amount made available by a foreign bank, includes interest arising under **subpart FG** (Treatment of notional loans to New Zealand branches of foreign banks)
- (53) Repeal the definition of **internal software development**.
- (54) Repeal the definition of **internal software development controller**.
- (55) Repeal the definition of **internal software development group**.
- (56) In the definition of **look-through company**, after paragraph (e), insert:
- (eb) for which an owner that is a trustee of a trust does not make a distribution of income to a company that is directly or indirectly a beneficiary of the trust; and
 - (ec) for which no owner is a tax charity; and

- (ed) for which an owner that is a trustee of a trust does not make a distribution of income to a tax charity that is a beneficiary of the trust, unless the tax charity has no control or influence in relation to the operation of the entity and no control or influence in relation to the distributions of the trust; and 5
- (ee) for which no owner is a Maori authority, unless the Maori Authority is a grandparented Maori authority; and
- (ef) for which an owner that is a trustee of a trust does not make a distribution to a Maori authority that is directly or indirectly a beneficiary of the trust, unless the Maori authority is a grandparented Maori authority; and 10
- (eg) that, treating the entity as a company for the purposes of this definition, in the case where more than 50% of the total ownership interests in the entity are held by foreign LTC holders, the entity has foreign-sourced income for the income year that is not more than—
- (i) \$10,000; or 15
- (ii) if 20% of the entity’s gross income for the year (the **20% gross amount**) is greater than \$10,000, the 20% gross amount; and
- (57) In the definition of **look-through counted owner**, after paragraph (b), insert:
- (bb) is a natural person who, on or after the first day of the 2017–18 income year, receives a distribution from a trust, other than a distribution sourced from income derived by the trust before the 2017–18 income year, and the trust has a direct or indirect beneficial interest in a look-through interest for the entity— 20
- (i) for the current income year; or
- (ii) for one of the last 3 income years, if the relevant year is after the 2017–18 income year: 25
- (58) In the **definition** of **look-through counted owner**, paragraph (c)(ii), replace “all income” with “all income derived by the trust before the 2017–18 income year”.
- (59) In the definition of **look-through interest**, repeal paragraph (a)(ii) and (iv). 30
- (60) In the **definition** of **look-through interest**, replace paragraph (b) with:
- (b) every other shareholder has the same rights, proportionally, as the person in relation to a distribution by the entity or LTC; and
- (61) Repeal the definition of **maximum deficit debit**.
- (62) In the definition of **maximum permitted ratio**, delete “, an FDP credit,”. 35
- (63) Insert, in appropriate alphabetical order:
- minimum QC interest** is defined in **section HA 6(4)** (Corporate requirements) for the purposes of that section
- (64) In the definition of **money lent**, after paragraph (d), insert:

- (e) for the purposes of the NRWT rules and a related-party debt, when paragraphs (a) to (d) do not apply, an amount that is taken into account under section EW 15 (What is included when spreading methods used) that provides funding to a person resident in New Zealand
- (65) Insert, in appropriate alphabetical order: 5
non-attributing active FIF, for a person and a FIF, means a FIF for which the person uses the attributable FIF income method and that meets the requirements of section EX 21B (Non-attributing active CFCs) when the FIF is treated as a CFC and the provisions referred to by section EX 21B are treated as being modified as required by section EX 50 (Attributable FIF income method) for the calculation of the net attributable FIF income or loss of the FIF 10
- (66) In the definition of **non-filing taxpayer**, replace paragraph (c) with:
(c) a person who, in the relevant tax year, derives only non-resident passive income referred to in section RF 2(3) (Non-resident passive income)
- (67) In the definition of **non-refundable tax credit**, paragraph (f), delete “or policyholder credit account”. 15
- (68) Insert, in appropriate alphabetical order:
non-resident financial arrangement income is defined in **section RF 2B(2)** (Non-resident financial arrangement income) for the purposes of the NRWT rules 20
- (69) Repeal the definition of **novelty**.
- (70) Insert, in appropriate alphabetical order:
NRFAI due date is defined in **section RF 2(9)** (Non-resident passive income) for the purposes of the NRWT rules
- (71) Insert, in appropriate alphabetical order: 25
out-of-town secondment is defined in section CW 16B(5) (Accommodation expenditure: out-of-town secondments and projects) for the purposes of that section and sections CW 16C, CW 16E, CZ 29, and CZ 30 (which relate to time limits for accommodation expenditure and the application of the rules to new employees) 30
- (72) Repeal the **definition** of **out-of-town secondment** inserted by **subsection (71)**.
- (73) In the **definition** of **out-of-town secondment**, delete the words after “projects)”.
- (74) Insert, in appropriate alphabetical order: 35
pari passu debt is defined in **section EW 46C** (Consideration when debt forgiven within economic group)
- (75) In the definition of **pay**, after paragraph (c), insert:

- (d) has the meaning set out in **section RF 12E** (When non-resident financial arrangement income treated as paid) for the purposes of the NRWT rules
- (76) Repeal the definition of **PCA**.
- (77) Repeal the definition of **PCA company**. 5
- (78) Repeal the definition of **PCA person**.
- (79) Insert, in appropriate alphabetical order:
- period of continuous work**—
- (a) is defined in section CW 16B(5) (Accommodation expenditure: out-of-town secondments and projects) for the purposes of that section and sections CW 16C, CW 16D, CZ 29, and CZ 30 (which relate to time limits for accommodation expenditure and the application of the rules to new employees); and 10
- (b) is given an extended meaning in section CW 16D(4) (Accommodation expenditure: conferences and overnight stays) for the purposes of that section 15
- (80) Repeal the **definition** of **period of continuous work** inserted by **subsection (79)**.
- (81) In the **definition** of **period of continuous work**, paragraph (a), delete the words after “projects)”. 20
- (82) In the definition of **profit participation policy**, replace paragraph (a) with:
- (a) means a class of life insurance policy—
- (i) that has an asset base; and
- (ii) in which each policy provides that the policyholder’s entitlement is to an actuarially determined share of the profits of the life insurer’s business, relating to the class, that are available to the life insurer for allotment to shareholders or policyholders; and 25
- (iii) in which each policy provides for the transfer from the available profits, for the benefit of the life insurer’s shareholders, of an amount equal to a proportion, calculated using a formula, of the policyholder’s entitlement to the profits referred to in **subparagraph (ii)**: 30
- (83) Insert, in appropriate alphabetical order:
- project of limited duration** is defined in section CW 16B(5) (Accommodation expenditure: out-of-town secondments and projects) for the purposes of that section and sections CW 16C, CZ 29, and CZ 30 (which relate to time limits for accommodation expenditure and the application of the rules to new employees) 35
- (84) Repeal the **definition** of **project of limited duration** inserted by **subsection (83)**. 40

- (85) In the **definition** of **project of limited duration**, delete the words after “projects)”.
- (86) Insert, in appropriate alphabetical order:
QC continuity period is defined in **section HA 6(4)** (Corporate requirements) for the purposes of that section 5
- (87) Repeal the definition of **reduced deficit debit**.
- (88) In the definition of **refundable tax credit**, repeal paragraph (b).
- (89) In the **definition** of **refundable tax credit**, repeal paragraph (bb).
- (90) Insert, in appropriate alphabetical order:
related-party debt is defined in **section RF 12H** (Meaning of related-party debt) for the purposes of the NRWT rules 10
- (91) Repeal the definition of **research and development activities**.
- (92) In the definition of **residual income tax**, repeal paragraph (b)(v).
- (93) In the **definition** of **residual income tax**, repeal paragraph (b)(vb).
- (94) In the **definition** of **residual income tax**, repeal paragraph (e). 15
- (95) Insert, in appropriate alphabetical order:
scheduled overhaul period, for an aircraft engine and an aircraft, means the period between successive aircraft engine overhauls of the aircraft engine that an operator of the aircraft is required to perform
- (96) Repeal the definition of **scientific or technological uncertainty**. 20
- (97) Insert, in appropriate alphabetical order:
self-remission is defined in **section EW 31(12)** (Base price adjustment formula) for the purposes of that section
- (98) In the definition of **shareholder**, paragraph (c), delete “and OJ (Policyholder credit accounts (PCA))”. 25
- (99) In the **definition** of **shareholder**, paragraph (c), delete “, in the FDP rules”.
- (100) In the definition of **shareholder-employee**,—
 (a) in paragraph (a), after “employee)”, insert “and in the FBT rules and section 177A of the Tax Administration Act 1994”:
 (b) repeal paragraphs (b) and (c). 30
- (101) Repeal the definition of **shareholder FDP ratio**.
- (102) Repeal the definition of **systematic, investigative, and experimental activities**.
- (103) In the definition of **tax advantage**, repeal paragraphs (b), (c), and (f).
- (104) In the definition of **tax-base property**, replace “What this subpart does” with “Disposals to which this subpart applies”. 35
- (105) Repeal the definition of **technology**.

- (106) In the definition of **trading stock**, paragraph (a), replace “paragraphs (b) and (d)” with “paragraphs **(ab)**, (b), and (d)”.
- (107) In the **definition** of **trading stock**, after paragraph (a), insert:
- (ab) in sections CB 2, CD 48, FE 16, and FO 10 (which apply to livestock), means property that is—

(i) trading stock under section EB 2:

(ii) livestock:
- (108) In the **definition** of **trading stock**, **paragraph (ab)**, delete “CD 48.”
- (109) In the **definition** of **trading stock**, paragraph (b), words before subparagraph (i), replace “sale” with “disposal”.
- (110) In the definition of **trust rules**, after paragraph (g), insert:
- (gb) the definitions of **look-through company** and **look-through counted owner**:
- (111) Insert, in appropriate alphabetical order:
- unpriced aircraft engine**, for a person and an aircraft, means an aircraft engine that the person acquires with the aircraft and that does not have, for the person, a price identified separately from the rest of the aircraft
- (112) **Subsections (2), (95), and (111)** apply for the 2017–18 and later income years.
- (113) **Subsections (6) and (82)** apply for the income year including 1 July 2010 and later income years.
- (114) **Subsections (16), (17), (18), and (74)** apply for the 2008–09 and later income years.
- (115) **Subsections (43), (48), (56), (57), (58), (59), (60), (63), (86), and (110)** apply for the 2017–18 and later income years.
- (116) **Subsections (106) and (107)** apply for the 2008–09 and later income years, except in relation to a tax position taken by a person before 5 December 2014 that is inconsistent with the amendment made by **subsection (107)**.
- (117) **Subsection (108)** applies for income years beginning on or after 1 July 2009.
- 263 Section YA 2 amended (Meaning of income tax varied)**
- (1) In section YA 2(7), replace the heading with:
- Imputation and BETA rules*
- (2) Repeal section YA 2(7)(a).
- (3) In section YA 2, list of defined terms, delete “FDP rules”.
- 264 Section YB 14 amended (Tripartite relationship)**
- Repeal section YB 14(3).

- 265 Section YC 10 amended (Shareholders holding less than 10% direct interests)**
- (1) In section YC 10(1)(a), replace “applied.” with “applied; and”.
 - (2) **Subsection (1)** applies for the 2008–09 and later income years.
- 266 Section YC 12 amended (Public unit trusts)** 5
- (1) Repeal section YC 12(4)(b).
 - (2) In section YC 12, list of defined terms, delete “FDP account”.
- 267 Section YC 17 amended (Demutualisation of insurers)**
- (1) In section YC 17(12)(b)(i), replace “account:” with “account.”
 - (2) Repeal section YC 17(12)(b)(ii). 10
 - (3) In section YC 17(12), list of defined terms, delete “FDP account”.
- 268 Section YC 18 amended (Reverse takeovers)**
- In section YC 18(3), before paragraph (a), replace “subparts OB, OC, and OP (which relate to imputation credit accounts and FDP credit accounts)” with “subparts OB and OP (which relate to imputation credit accounts)”. 15
- 269 Section YD 4 amended (Classes of income treated as having New Zealand source)**
- Replace section YD 4(11)(b)(i) with:
- (i) to a New Zealand resident, except to the extent to which the money is used by them for the purposes of a business they carry on outside New Zealand through a fixed establishment outside New Zealand and is not apportioned to a New Zealand source under **section YD 5(4)**: 20
- 270 Section YD 5 amended (Apportionment of income derived partly in New Zealand)** 25
- (1) In section YD 5(1)(c), replace “person in New Zealand.” with “person in New Zealand; or”.
 - (2) After section YD 5(1)(c), insert:
 - (d) interest is derived from money lent outside New Zealand to a New Zealand resident (**person A**) for the purposes of a business they carry on outside New Zealand through a fixed establishment outside New Zealand and through which person A lends money to another New Zealand resident. 30
 - (3) In section YD 5(1B), replace “YD 4(2) and (3)”, in each place where it appears, with “YD 4(2), (3), and **(11)(b)(i)**”. 35
 - (4) In section YD 5(2), replace “The amount of income” with “Subject to **subsection (4)**, the amount of income”.

- (5) After section YD 5(3), insert:
- First formula: Apportionment of income from interest*
- (4) Subject to **subsections (6) and (7)**, interest derived as described in **subsection (1)(d)** is apportioned to a source in New Zealand using the formula—
- loan ratio × amount. 5
- Definition of items in formula*
- (5) In the formula in **subsection (4)**,—
- (a) **loan ratio** is calculated by applying the formula in **subsection (8)** to the business described in **subsection (1)(d)**:
- (b) **amount** is the amount of interest described in **subsection (1)(d)** that is derived in an income year. 10
- Apportionment if loan ratio 0.05 or less*
- (6) If the loan ratio calculated by applying the formula in **subsection (8)** to a business is 0.05 or less, then none of the interest is treated as having a source in New Zealand. 15
- Apportionment if loan ratio 0.95 or more*
- (7) If the loan ratio calculated by applying the formula in **subsection (8)** to a business is 0.95 or more, then all of the interest is treated as having a source in New Zealand.
- Second formula: loan ratio* 20
- (8) The item **loan ratio** in **subsection (4)** is calculated using the formula—
- financial arrangements producing New Zealand income ÷ total assets.
- Definition of items in formula*
- (9) In the formula in **subsection (8)**,—
- (a) **financial arrangements producing New Zealand income**, for a business, means the value of the business’s financial arrangement assets that produce income having a source in New Zealand as at—
- (i) person A’s balance date that immediately precedes the income year; if person A has a balance date prior to the start of the income year; or 30
- (ii) the end of the day before the interest or redemption payment date, if **subparagraph (i)** does not apply:
- (b) **total assets**, for a business, means the value of all of the business’s assets as at—
- (i) person A’s balance date that immediately precedes the income year, if person A has a balance date prior to the start of the income year; or 35

- (ii) the end of the day before the interest or redemption payment date, if **subparagraph (i)** does not apply.

Example

At their balance date of 31 March 2018, NZ Sub UK Branch has total borrowings from the wholesale markets of NZ\$2b. NZ\$1.5b has been lent to NZ Bank Ltd at 4% p.a., NZ\$500m lent to a UK resident at 12% p.a. and there are no other assets. On 31 October 2018, the UK resident repays their loan and NZ Sub UK Branch uses the amount to repay the wholesale market lenders. On 31 January 2019, NZ Sub UK Branch pays interest of NZ\$60m. NZ Sub UK Branch calculates the loan ratio in section YD 5(8) as $NZ\$1.5b \div NZ\$2b = 0.75$. NZ Sub UK Branch calculates the apportionment of income from interest in section YD 5(4) as: $0.75 \times NZ\$60m = NZ\$45m$. Therefore, NZ\$45m of the interest payment on 31 January 2019 has a New Zealand source, so NZ Sub UK Branch pays AIL of \$900,000 which is included in their AIL return for January 2019.

- (6) In section YD 5, list of defined terms, insert “financial arrangement”, “fixed establishment”, “income year”, “interest”, “loan”, “money lent”, “New Zealand resident”, “pay”, and “source in New Zealand”.

271 Schedule 1 amended (Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits)

In schedule 1, part E, delete “FM 28,”, “OC 36,”, and “OC 38,”.

272 Schedule 32 amended (Recipients of charitable or other public benefit gifts)

- (1) In schedule 32, delete “The Destitute Children’s Home, Pokhara, Charitable Trust”.
- (2) In schedule 32, insert, in appropriate alphabetical order, “Youth Education and Training Initiatives (YETI) Nepal Trust”.
- (3) In schedule 32, delete “Bicycles for Humanity, Auckland”.
- (4) In schedule 32, insert, in appropriate alphabetical order, “Asthā Childrens Home (Nepal/New Zealand)”, “Cambodia Trust (Aotearoa-New Zealand)”, “Destiny Rescue Charitable Aid Trust”, “First Steps Himalaya”, “Fountain of Peace Children’s Foundation New Zealand”, “GC Aid”, “Hornsby Pacific Education Trust”, “Mercy Mission of New Zealand Trust Board”, “Microdreams Foundation New Zealand Humanitarian Trust”, “NPH New Zealand Charitable Trust”, “Orphans Refugees and Aid (ORA International) of NZ Charitable Trust”, “Siphala Foundation”, “Solomon Outreach Society”, “Toraja Rural Development Charitable Trust”.
- (5) **Subsection (4)** applies for the 2016–17 and later income years.

Part 3
Amendments to other enactments

Amendments to Tax Administration Act 1994

- 273 Tax Administration Act 1994**
Sections 274 to 302 amend the Tax Administration Act 1994. 5
- 274 Section 22 amended (Keeping of business and other records)**
- (1) In section 22(2)(f), delete “a FDPA company,”.
- (2) Replace section 22(7)(c) with:
- (c) accounts (whether contained in a manual, mechanical, or electronic format) to be maintained under the imputation rules, or section OA 3 for accounts under subpart OE, of the Income Tax Act 2007, and any statement to be retained under section 31 of this Act: 10
- 275 Section 24K amended (Certain information required in returns)**
- (1) Replace section 24K(1) with:
- (1) This section applies for the purposes of section RE 24 of the Income Tax Act 2007 when an amount of tax for a taxable Maori authority distribution is treated as a Maori authority credit attached to the distribution. 15
- (2) Replace section 24K(2) with:
- (2) The company paying the dividend and withholding the amount of tax under section RA 6(1) of that Act must provide to the Commissioner information in relation to the amount of tax in its annual ICA return under section 69. 20
- 276 Section 29 amended (Shareholder dividend statement to be provided by company)**
- (1) In section 29(1), before paragraph (a), delete “or an FDP credit attached”.
- (2) Repeal section 29(1)(i). 25
- 277 Section 30 repealed (Statement to shareholder when FDP credit attached to dividend)**
Repeal section 30.
- 278 Section 30C amended (Credit transfer notice to share supplier and Commissioner when share user transfers imputation credit under share-lending arrangement)** 30
- (1) In section 30C(2)(b), delete “and the amount of FDP credit, if any,”.
- (2) In section 30C(2)(c), delete “and any FDP credit”.

279 Section 32M amended (Persons with approved issuer status)

(1) Replace section 32M(2B) with:

(2B) A person becomes an approved issuer by—

- (a) notifying the Commissioner that they wish to have approved issuer status; or
- (b) being treated as an approved issuer by the Commissioner because the person has paid interest under a security, and—
 - (i) the security is a notional loan under **section FG 2** of the Income Tax Act 2007, and NRWT was not withheld from the interest under section RF 3 of that Act; or
 - (ii) an amount of the interest was apportioned to a New Zealand source under **section YD 5(4)** of the Income Tax Act 2007, and NRWT was not withheld from the amount under section RF 3 of that Act.

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(2) Replace section 32M(3)(b) with:

- (b) **subsection (2B)(b)** does not apply to the person, and the person asks for revocation of the status.

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280 Section 39 amended (Consequential adjustments on change in balance date)

(1) In section 39(1),—

- (a) replace “in the year” with “in the calendar year”;
- (b) replace “succeeding year” with “succeeding calendar year”.

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(2) In section 39(2),—

- (a) replace “in the year” with “in the calendar year”;
- (b) replace “same year” with “same calendar year”.

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(3) Replace section 39(5) with:

(5) For the tax year corresponding to the income year or income years in which the change of balance date occurs, the basic tax rate for the purposes of the Income Tax Act 2007 and this Act is the rate that would apply if the person’s taxable income for the tax year were calculated using a value for the person’s net income, or net loss, for the tax year equal to the total of—

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- (a) the amount that, if the person had no income or expenditure associated with each business activity affected by a change of balance date for the tax year, would be obtained by subtracting the person’s annual total deduction for the tax year from the person’s annual gross income for the tax year; and
- (b) for each business activity affected by a change of balance date for the tax year, the amount given by **subsection (6)** for the tax year and the business activity.

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- (4) Replace section 39(6) with:
- (6) The amount given by this subsection, for a tax year and a business activity affected by a change of balance date for the tax year, is calculated using the formula—
- $\text{unadjusted business net} \times \text{year days} \div \text{income year days.}$ 5
- (7) In the formula,—
- (a) **unadjusted business net** is the amount that, if the person had no income or expenditure other than income and expenditure associated with the business activity, would be the difference between the person’s annual gross income for the tax year and the person’s annual total deduction for the tax year: 10
- (b) **year days** is—
- (i) 365, if **subparagraph (ii)** does not apply:
- (ii) 366, if the income year or income years corresponding to the tax year include a 29 February: 15
- (c) **income year days** is the total days in the income year or income years corresponding to the tax year.
- 281 New section 42C inserted (Income tax returns by undischarged bankrupt)**
- After section 42B, insert:
- 42C Income tax returns by undischarged bankrupt** 20
- A person who is adjudicated bankrupt under the Insolvency Act 2006 and derives an amount of income in an income year while being a bankrupt must make a return of income for the income year, if not relieved of the requirement by section 33AA.
- 282 Section 43A amended (Non-active companies may be excused from filing returns)** 25
- (1) In section 43A(2)(d)(iii), delete “or FDP account”.
- (2) In section 43A(6)(b)(i), delete “or FDP account”.
- 283 Section 68 repealed (Statement when FDP credit attached to dividend)**
- Repeal section 68. 30
- 284 Section 69 amended (Annual ICA return)**
- Repeal section 69(1)(g).
- 285 Section 71 repealed (Annual FDPA return)**
- Repeal section 71.

286	Cross-heading above section 71B repealed (Foreign dividends)	
	Repeal the cross-heading above section 71B.	
287	Section 71B repealed (Return requirements for refunds: foreign dividends)	
	Repeal section 71B.	
288	Section 72 repealed (Annual FDP A return to be furnished where Commissioner so requires, or where company ceases to be resident in New Zealand)	5
	Repeal section 72.	
289	Section 73 repealed (Annual FDP A returns of consolidated groups)	
	Repeal section 73.	10
290	Section 78D amended (Evidential requirements for tax credits)	
(1)	In section 78D, before paragraph (a), delete “, LF,”.	
(2)	Repeal section 78D(b).	
291	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”.	15
292	Section 81A amended (Disclosure of information under approved information sharing agreement)	
	In section 81A, replace “personal information about an identifiable individual” with “information”.	20
293	Section 90AF amended (Imputation arrangement to obtain tax advantage)	
	In section 90AF(1)(c), delete “or FDP credit”.	
294	New heading and new section 91AAU inserted	
	After section 91AAT, insert:	25
<i>Determinations relating to approved issuer levy</i>		
91AAU	Determination relating to approved issuers and registered securities	
(1)	For the purposes of section 86G of the Stamp and Cheque Duties Act 1971, the Commissioner may determine that—	
(a)	a category of person is eligible to register a security:	30
(b)	money lent by a category of person to an approved issuer is eligible to be a registered security:	
(c)	a category of transaction is eligible to be a registered security.	

- (2) In making a determination, the Commissioner may take into account the following:
- (a) whether a member of the category of person is in a position, or is highly likely, to treat correctly for tax purposes a payment of interest as made to an associated person: 5
 - (b) whether a member of the category of person is highly unlikely to be associated with the person who is lending money under the registered security:
 - (c) whether a category of transaction is highly unlikely to involve associated persons. 10
- (3) A determination may be made for income years specified in the determination.
- (4) A determination may provide for the extension, limitation, variation, cancellation, or revocation of an earlier determination.
- (5) The Commissioner must—
- (a) notify the making of a determination within 30 days of the date of the determination in a publication chosen by the Commissioner; and 15
 - (b) publish the determination in a publication of the department as soon as possible.

295 Section 108 amended (Time bar for amendment of income tax assessment)

After section 108(1B), insert:

- (1C) In relation to ancillary tax, subsection (1) applies to a tax return furnished by a taxpayer treating, for the purposes of this section,— 20
- (a) the tax return as an income tax return; and
 - (b) the furnishing of the return as the making of an assessment of the amount of the tax by the taxpayer. 25
- (1D) For approved issuer levy payable under section 86K of the Stamp and Cheque Duties Act 1971, subsection (1) applies to a statement furnished by a taxpayer in relation to the levy treating, for the purposes of this section,—
- (a) the statement as an income tax return; and
 - (b) the furnishing of the statement as the making of an assessment of the amount of the levy by the taxpayer. 30
- (1E) For the purposes of subsection (1), a taxpayer who furnishes a statement referred to in **subsection (1D)** is treated as having met the requirements for furnishing a tax return for non-resident withholding tax.

296 Section 113B amended (Amended assessments if dividend recovered or repaid) 35

In section 113B(2), delete “or FDP credit”.

- 297 Section 125 amended (Certain rights of objection not conferred)**
In section 125(j)(iii), replace “RM 2 to RM 4” with “RM 2, RM 4”.
- 298 Section 140B amended (Imputation penalty tax payable where end of year debit balance)**
In section 140B(1), delete “or OC 30”. 5
- 299 Section 166 amended (Tax paid in excess may be set off against additional tax when assessment reopened)**
Replace section 166(1), text above paragraph (a), with:
- (1) Subject to sections OA 2(5), RA 19, RA 20, RM 13 to RM 17, RM 32, and RZ 6 of the Income Tax Act 2007 and section 104B of this Act, in any case where, upon the investigation by the Commissioner of the liability of a taxpayer for tax over a group of successive years,— 10
- 300 Section 174AA amended (Power of Commissioner in respect of small amounts of refunds or tax payable)**
- (1) Replace section 174AA(b) with: 15
- (b) the tax paid, withheld, or deducted is not more than \$5.
- (2) **Subsection (1)** applies to the tax on income derived in the 2008–09 and later income years.
- 301 Section 180 amended (Remissions and refunds of imputation penalty tax)**
In section 180(1)(c), delete “OB 38,” and “OP 36,”. 20
- 302 Section 185 amended (Payment out of Crown Bank Account)**
Repeal section 185(1)(b).

Amendments to Goods and Services Tax Act 1985

- 303 Goods and Services Tax Act 1985**
Sections 304 to 327 amend the Goods and Services Tax Act 1985 25
- 304 Section 2 amended (Interpretation)**
- (1) This section amends section 2(1).
- (2) Insert, in appropriate alphabetical order:
- non-taxable use**, for goods or services, means use of the goods or services for making exempt supplies or other than for making supplies 30
- (3) In the definition of **secondhand goods**, replace paragraph (b) with:
- (b) secondhand goods which are—
- (i) manufactured or made from, or to the extent to which they are manufactured or made from, gold, silver, platinum, or other sub-

- stance, that would be fine metal if it were of the required fineness; and
- (ii) of a kind not manufactured for sale to the public; or
- (4) Insert, in appropriate alphabetical order:
- taxable use**, for goods or services, means use of the goods or services for making taxable supplies 5
- (5) **Subsection (3)** applies for a registered person and a taxable period ending in or after the period that—
- (a) begins from the date that is 4 years before the date (the **assent date**) on which the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act **2016** receives the Royal assent; and 10
- (b) ends with the assent date.
- (6) A registered person who, in the period referred to in **subsection (5)**, pays, makes a return of, or is assessed by the Commissioner for, tax for a taxable period calculated consistently with the definition of **secondhand goods**, paragraph (b) as it is immediately before being amended by **subsection (3)**,— 15
- (a) is liable to pay, for the taxable period, tax calculated consistently with the definition of **secondhand goods** as amended by **subsection (3)**:
- (b) may issue a notice of proposed adjustment for the taxable period, relying on **paragraph (a)**, despite section 89DA of the Tax Administration Act 1994. 20
- 305 Section 3 amended (Meaning of term financial services)**
- (1) Replace section 3(1)(kaa) with:
- (kaa) the provision or transfer of ownership of a financial option:
- (2) In section 3(1)(ka), replace “retirement scheme” with “retirement scheme, financial option”. 25
- 306 Section 5 amended (Meaning of term supply)**
- (1) Replace section 5(2)(a) with:
- (a) the supply of those goods would not be a taxable supply if those goods were sold by the first person (notwithstanding that the first person may not be the owner of those goods) and the first person has furnished to the second person a statement in writing stating fully and correctly the reasons why that supply would not be a taxable supply; or 30
- (2) After section 5(3B), insert:
- (3C) For an asset affected by subsection (3) or (3B), if a transfer of ownership of the asset would be a financial service, the subsection deems the person to make a supply of the asset by a transfer of ownership. 35
- (3) After section 5(11C), insert:

(11CB) For the purposes of this Act, if a registered person in the course of a taxable activity enters a horse in a horse race conducted by a racing club, a prize received by the person from the racing club for the performance of the horse in the horse race is treated as being consideration for a service provided by the person to the racing club in the course of the taxable activity. 5

(11CC) For the purposes of **subsection (11CB)**, **racing club** has the meaning set out in section 5(1) of the Racing Act 2003.

307 Section 6 amended (Meaning of term taxable activity)

In section 6(5), replace “subsections (3)(b), (c)(iii), and (4)” with “subsection (3)(b) and (c)(iii)”. 10

308 Section 9 amended (Time of supply)

(1) Replace section 9(6) with:

(6) Subject to the other subsections of this section, where a supply is made under an agreement and the whole of the consideration for the supply is not determined at a time when an invoice for a part of the consideration is issued by the supplier or recipient or when a payment, not relating to an invoice, of a part of the consideration is due or received, the supply is deemed to take place at that time, to the extent of the part of the consideration. 15

(2) **Subsection (1)** applies for a person and a supply and a taxable period beginning before the date on which this Act receives the Royal assent if the person includes the supply in a return for the taxable period consistently with **section 9(6)** of the Goods and Services Tax Act 1985, as inserted by **subsection (1)**. 20

309 Section 10 amended (Value of supply of goods and services)

(1) In section 10(13), replace “section 12” with “subsection (12)”. 25

(2) In section 10(14), in paragraph (b), replace “supply” with “supply, reduced by the total amount of input tax for supplies for which the prizes are treated as being consideration”. 25

310 Section 11 amended (Zero-rating of goods)

(1) In section 11(1)(k), words before subparagraph (i), replace “section 11A(1)(h) or section 11A(1)(i)” with “paragraph (i) or section 11A(1)(h) or (i)”. 30

(2) Replace section 11(8) with:

(8) The Commissioner may extend the 60-day period if the Commissioner is satisfied, upon the written application of the supplier, that the export of the boat or aircraft within the period is or has been prevented by circumstances that are beyond the control of the supplier and the recipient or that relate to supplies to which subsection (1)(k) or **section 11A(1)(ib)** applies. 35

(3) After section 11(8D)(a), insert:

- (ab) a supply that is a surrender of a right to a payment under an agreement for the supply of an interest in land is a supply under subsection (1)(mb) if the supply of the interest in land meets the requirements set out in that subsection:
- (4) Replace section 11(8D)(b) with: 5
- (b) a supply of an interest in land that meets the requirements of subsection (1)(mb), and is made under an agreement providing for periodic payments for the supply, is not a supply under that subsection for the purposes of a payment paid or payable under the agreement if—
- (i) each amount payable under the agreement that is not a regular payment is anticipated, when the agreement is entered, to be 25% or less of the consideration specified in the agreement; and 10
- (ii) the payment, if not a regular payment, is 25% or less of the consideration specified in the agreement; and
- (iii) each amount that is paid or payable before the payment, and is not a regular payment, is 25% or less of the consideration specified in the agreement; and 15
- (iv) the consideration specified in the agreement is treated as being the amount of consideration calculated for the agreement and the longer of 1 year and the shortest possible fixed term of the agreement: 20
- (5) Replace section 11(8D)(c) with:
- (c) a supply by a person who is the lessee under a lease agreement is a supply under subsection (1)(mb) if—
- (i) the supply is to a person who is not the lessor supplying an interest in land under the lease agreement to the lessee; and 25
- (ii) the supply is made under an arrangement that consists of the lessee’s surrender to the lessor of the interest in land and the supply by the lessor of the interest in land under another lease agreement to a person other than the lessee; and 30
- (iii) the supplies of the interest in land under the lease agreements meet the requirements set out in subsection (1)(mb).
- (6) After section 11(8D)(c), insert:
- (d) a registered person who is a non-profit body that is resident in New Zealand and acquires land is treated, to the extent to which the person acquires the land with an intention of using it other than for making exempt supplies, as acquiring the land with the intention of using it for making taxable supplies. 35
- 311 Section 11A amended (Zero-rating of services)**
- (1) Replace section 11A(1)(e) with: 40

- (e) the services are supplied directly in connection with a parcel of land situated outside New Zealand, or with an improvement to such land, or are supplied in connection with such land or improvement and are intended to enable or assist a change in the physical condition, or ownership or other legal status, of the land or improvement; or 5
- (2) After section 11A(1)(i), insert:
- (ib) the services are supplied directly in connection with goods to which section 11(1)(i) applies; or
- (3) Replace section 11A(1)(k)(i) and (ii) with:
- (i) services which are supplied directly in connection with a parcel of land situated in New Zealand, or with an improvement to such land, or are supplied in connection with such land or improvement and are intended to enable or assist a change in the physical condition, or ownership or other legal status, of the land or improvement; or 10
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- (ii) services which are supplied directly in connection with moveable personal property, other than choses in action or goods to which paragraph (h) or (i) applies, situated in New Zealand at the time the services are performed; or
- (iii) the acceptance of an obligation to refrain from carrying on a taxable activity, to the extent to which the activity would have occurred within New Zealand; or 20
- (4) After section 11A(1)(r), insert:
- (rb) the services are financial services supplied in the course of an activity of obtaining funds by a registered person who does not principally make supplies of financial services, to the extent to which the funds are used by the registered person for expenditure in an activity of making taxable supplies, if the financial services— 25
- (i) do not give rise to a deduction under section 20C; and
- (ii) are not referred to in paragraphs (q) and (r); and 30
- (iii) are the issue or allotment of a debt security or equity security, the renewal of a debt security or equity security, the payment of an amount of interest, principal, or dividend in respect of a debt security or equity security, or the provision or variation of a guarantee of the performance of obligations in the issue, allotment, or renewal, of a debt security or equity security; or 35
- 312 Section 15 amended (Taxable periods)**
- Replace section 15(2) with:
- (2) A person's taxable period may be a 6-month period if the person applies to the Commissioner to pay on that basis and— 40

- (a) the person’s taxable supplies in a 12-month period are no more, and are not likely to be more, than \$500,000:
- (b) the person makes most or all of the person’s taxable supplies for a 12-month period during a period of 6 months or less that ends with or near the end of the 12-month period.

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313 Section 15C amended (Changes in taxable periods)

(1) Replace section 15C(1) with:

(1) A person to whom section 15(1)(b) or (c) applies may change the person’s taxable period to a 6-month period if the person meets the requirements of **section 15(2)**.

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(2) Replace section 15C(2) with:

(2) A person to whom section 15(1)(a) applies, who does not meet the requirement of **section 15(2)(b)** and fails to meet the requirement of **section 15(2)(a)** in relation to a 12-month period, is required to change the person’s taxable period at the end of the taxable period ending on or after the end of the 12-month period, if **subsection (2B)** does not apply.

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(2B) A person is relieved from changing the person’s taxable period under **subsection (2)** after failing to meet the requirement of **section 15(2)(a)** in relation to a 12-month period if the person—

(a) is likely to meet the requirement of **section 15(2)(a)** in relation to the following 12-month period; and

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(b) is not relieved by this subsection from changing the person’s taxable period for a failure to meet the requirement of **section 15(2)(a)** in relation to the preceding 12-month period.

314 Section 20 amended (Calculation of tax payable)

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(1) In section 20(3)(e), replace “and 21F” with “21F, and 21FB(2)”.

(2) In section 20(3D), replace the words before paragraph (a) with “A registered person who makes both taxable and exempt supplies is not required to apportion input tax for an adjustment period between such supplies if the registered person has reasonable grounds to believe that the total value of exempt supplies will not exceed the lesser of—”.

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(3) In section 20(3E), paragraph (a), replace “subsections (3C) to (3J)” with “subsections (3C), (3D), and (3G) to (3M)”.

(4) After section 20(3E), insert:

(3EB) A registered person may choose to use, for apportioning input tax in relation to a supply of goods and services made to the registered person, a fair and reasonable method of apportionment that—

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(a) has regard to the tenor of subsections (3C), (3D), and (3G) to (3M); and

(b) is agreed with the Commissioner by—

- (i) the registered person, if the registered person reasonably expects to make supplies of goods or services with a value of more than \$24,000,000 in a 12-month period that includes the month in which the registered person proposes the agreement:
- (ii) an industry association, if the method is intended by the Commissioner and the industry association to be available to a person such as the registered person. 5
- (5) In section 20(3F), replace “subsections (3C) to (3J)” with “subsections (3C) to **(3EB)**, and (3G) to (3M)”.
- (6) Replace section 20(3J)(a)(iii) with: 10
- (iii) treat as output tax, for attribution to a taxable period under section 20(4), an amount that is the same proportion of the nominal GST component as the proportion of the use of the goods and services that is non-taxable use; and
- (7) In section 20(3K), replace “subsections (3) and (3C)” with “subsections (3), (3C), and (3J)”. 15
- (8) In section 20(4)(c), after “(3)(b)”, insert “or 21FB(4)”.
- 315 Section 21 amended (Adjustments for apportioned supplies)**
- (1) After section 21(2)(a), insert: 20
- (ab) the person is a non-resident who has incurred input tax as defined in section 3A(1)(b) for goods and who—
- (i) exports the goods in or before the adjustment period; and
- (ii) disposes of the goods overseas in the adjustment period or holds the goods overseas at the end of the adjustment period:
- (2) After section 21(4), insert: 25
- (4B) A registered person may choose to use, for making adjustments to which sections 21A to 21H apply, a fair and reasonable method of calculating adjustments that—
- (a) has regard to the tenor of sections 21A to 21H; and
- (b) is agreed with the Commissioner by— 30
- (i) the registered person, if the registered person reasonably expects to make supplies of goods or services with a value of more than \$24,000,000 in a 12-month period that includes the month in which the registered person proposes the agreement:
- (ii) an industry association, if the method is intended by the Commissioner and the industry association to be available to a person such as the registered person. 35

316	Section 21D amended (Calculating amount of adjustment)	
	In section 21D(3)(b), replace “account for it under section 21A” with “attribute it to a taxable period under section 20(4)”.	
317	Section 21HC amended (Transitional rules relating to members of unit title bodies corporate)	5
(1)	In section 21HC(1), words before paragraph (a), replace “on or before 26 February 2015 and in a taxable period ending on or after 1 November 2010” with “in a taxable period that ends on or after 1 November 2010 and before 3 November 2015, or that includes 3 November 2015,”.	
(2)	In section 21HC(1)(c), omit “before 3 November 2015,”.	10
318	Section 21I amended (Fringe benefits and entertainment expenses)	
	In section 21I(4), paragraph (a), replace “for a consideration in money” with “with a value”.	
319	New section 25AB inserted (Consequences of change in contract for secondhand goods)	15
	After section 25AA, insert:	
25AB	Consequences of change in contract for secondhand goods	
(1)	This section applies to a supply of secondhand goods to a registered person if—	
(a)	the supply is affected by an event referred to in section 25(1)(a) to (c); and	20
(b)	the registered person returns input tax on the supply as a deduction from the amount of output tax for a taxable period in the calculation of tax payable by the registered person for the taxable period; and	
(c)	as a result of the event referred to in paragraph (a) , the amount of input tax on the supply returned by the registered person exceeds the correct amount of input tax for the supply; and	25
(d)	the supplier does not provide a tax invoice or debit note in relation to the supply.	
(2)	An amount equal to the amount of the excess referred to in subsection (1)(c) is treated as being tax charged in relation to a taxable supply made by the registered person for the taxable period in which the event referred to in subsection (1)(a) occurs.	30
320	Section 26 amended (Bad debts)	
	After section 26(3), insert:	35
(4)	This section does not apply when the taxable supply is made by an agent to a principal as described in section 60(2B)(b) .	

- 321 Section 45 amended (Refund of excess tax)**
- (1) In section 45(4), words before paragraph (a), replace “subsection (2) or (3)” with “subsection (1), (2), or (3)”.
- (2) **Subsection (1)** applies for an overpayment to which section 45(1) of the Goods and Services Tax Act 1985 applies if the 4-year period referred to in the subsection ends—
- (a) on or after, or less than 4 years before, the day on which the Taxation (Annual Rates for 2016–17, Closely Held Companies and Remedial Matters) Act **2016** receives the Royal assent:
- (b) less than 4 years before the day on which the Commissioner receives an application for the refund of the overpayment, if the Commissioner receives the application before that Act receives the Royal assent.
- 322 Section 46 amended (Commissioner’s right to withhold payments)**
- (1) In section 46(4), words before paragraph (a), replace “give a request” with “issue a request”.
- (2) In section 46(5), words before paragraph (a), replace “notify the registered person” with “issue to the registered person a notice”.
- 323 Section 51B amended (Persons treated as registered)**
- Replace section 51B(1)(b) with:
- (b) if goods are supplied by a sale to which section 5(2) applies,—
- (i) the person selling the goods, if the requirements of section 5(2)(a) are met or the person makes the decision referred to in section 5(2)(b); or
- (ii) the person whose goods are sold, if **subparagraph (i)** does not apply:
- 324 Section 54B amended (Non-residents: registration)**
- (1) Replace section 54B(1)(b) with:
- (b) the person’s input tax for the first taxable period after the date of registration in New Zealand is likely to be more than \$500 or likely to consist of tax levied under section 12(1) in relation to the importation of goods that are received by another person or that the person delivers to another person; and
- (2) In section 54B(1)(c), replace “who is not a registered person” with “other than in the course of making taxable or exempt supplies”.
- 325 Section 55 amended (Group of companies)**
- (1) Replace section 55(7)(g) with:

- (g) a member of the group is liable jointly and severally with all other members of the group for all tax payable by the representative member for each taxable period, or part of a taxable period, in which the member is part of the group, even if the member is no longer part of the group or a representative member ceases to exist; and 5
- (2) In section 55(8), replace the words before paragraph (a) with “If the members of a group of 2 or more registered persons include a person that is not a company or is a limited partnership and the Commissioner is satisfied in relation to the members of the group that—”.
- 326 Section 60 amended (Agents and auctioneers)** 10
- After section 60(2), insert:
- (2B) Despite subsection (2), when a principal and their agent agree in writing, either in relation to a particular supply or for a type of supply, that this subsection applies to a supply of goods or services, the supply by a person is treated for the purposes of the Act as 2 separate supplies, being— 15
- (a) a supply of goods and services from the person to the agent, treating the agent as if they were the principal for the purpose of the supply; and
- (b) a supply of those goods and services from the agent to the principal.
- 327 Section 61 amended (Liability for tax payable by company left with insufficient assets)** 20
- In section 61, after “goods and services tax” insert “and as if the term time bar referred to the time bar under section 108A of the Tax Administration Act 1994”.
- Amendments to Stamp and Cheque Duties Act 1971*
- 328 Stamp and Cheque Duties Act 1971** 25
- Sections 329 to 333** amend the Stamp and Cheque Duties Act 1971.
- 329 Section 86F amended (Interpretation)**
- In section 86F, replace the definition of **registered security** with:
- registered security** means—
- (a) at any time any transaction involving money lent to an approved issuer that is— 30
- (i) registered by the Commissioner under section 86H on the application of the approved issuer; or
- (ii) one of a class of transactions so registered; or
- (b) a transaction involving money lent to an approved issuer that is treated by the Commissioner as a registered security because the approved issuer has paid interest under the transaction, and— 35

- (i) the transaction is a notional loan under **section FG 2** of the Income Tax Act 2007, and NRWT was not withheld from the interest under section RF 3 of that Act; or
- (ii) an amount of the interest was apportioned to a New Zealand source under **section YD 5(4)** of the Income Tax Act 2007, and NRWT was not withheld from the amount under section RF 3 of that Act. 5

330 Section 86G replaced (Application to register securities)

Replace section 86G with:

- 86G Application to register securities** 10
- (1) A person (the **approved issuer**) may apply to the Commissioner to register a transaction as a registered security for the purposes of this Part if—
- (a) they are a person described in **subsection (2)**;
 - (b) the transaction falls into 1 or more of the categories set out in **subsection (3)**; 15
 - (c) the interest payment threshold requirements of **subsection (4)** are met for the income year of registration.
- (2) The person—
- (a) is a state enterprise as defined in section YA 1 of the Income Tax Act 2007; 20
 - (b) is the Crown;
 - (c) is a widely-held company;
 - (d) is a wholly-owned subsidiary of a widely-held company;
 - (e) is a local authority;
 - (f) meets the requirements set out in a determination made by the Commissioner under **section 91AAU** of the Tax Administration Act 1994. 25
- (3) The transaction is—
- (a) a transaction involving money lent to an approved issuer in relation to which 75% of the total principal is, or will be, provided by 1 or more of— 30
 - (i) a widely-held company;
 - (ii) a wholly-owned subsidiary of a widely-held company;
 - (iii) a foreign PIE equivalent;
 - (iv) an entity that would be a foreign PIE equivalent if they met the requirements of section HM 10 of the Income Tax Act 2007: 35

(v)	an entity that meets the requirements set out in a determination made by the Commissioner under section 91AAU of the Tax Administration Act 1994:	
(b)	a transaction involving money lent by a financial institution that—	
(i)	is in the business of lending money to the public; and	5
(ii)	has outstanding lending to 100 or more persons:	
(c)	a transaction arranged through a peer-to-peer lender that is regulated under the Financial Markets Conduct Act 2013:	
(d)	a transaction that meets the requirements set out in a determination made by the Commissioner under section 91AAU of the Tax Administration Act 1994.	10
(4)	The interest payment requirements are that—	
(a)	the approved issuer, or a wholly-owned group of which they are a member, must pay, or reasonably expect to pay, interest to non-resident persons; and	15
(b)	the interest payments must be, or be reasonably expected to be, more than \$500,000 for any 1 or more of the 3 income years that are the previous income year, the current income year, or the next income year.	
(5)	Despite section 86I(1C) , the Commissioner may cancel the registration of a security that meets the requirements of subsection (4) but meets none of the requirements of subsection (2) or (3) from the date on which the relevant application is made if the approved issuer—	20
(a)	has not paid the expected interest payments referred to in subsection (4) ; and	
(b)	had no reasonable expectation that the interest payments would meet the required amount when the application for registration was made.	25
(6)	An application under this section must be in a form approved by the Commissioner.	
(7)	For the purposes of this section, a transaction includes a class of transactions.	
(8)	In this section, the terms “approved issuer”, “financial institution”, “foreign PIE equivalent”, “income year”, “interest”, “local authority”, “money lent”, “non-resident”, “pay”, “wholly-owned group”, and “widely-held company” have the meanings given in section YA 1 of the Income Tax Act 2007.	30
86GB Transitional provisions for certain registered securities		
	To the extent to which approved issuer levy is or has been paid by a person in relation to an amount that is treated as paid under section RZ 12(2) of the Income Tax Act 2007, the person may apply to the Commissioner for a refund of the amount of the levy.	35

331 Section 86GB amended (Transitional provisions for certain registered securities)

Insert in **section 86GB**, as subsections (1) and (2) before subsection (3):

- (1) For a security registered under **section 86G** before 1 April 2017, the security is treated from that date as meeting the requirements of **section 86G(1)** as if it were a newly registered security. This subsection is overridden by— 5
- (a) **subsection (2)**;
- (b) **section 86I(1B)**, for an arrangement and an interest payment made after 1 April 2018.
- (2) If a security would not be able to be registered if registration were sought on 1 April 2018 through a failure to meet the requirements set out in **section 86G(1)**, registration is cancelled from 1 April 2018. 10

332 Section 86I amended (Application of approved issuer levy and zero-rating)

- (1) In section 86I, insert as subsection (2):
- (2) For the purposes of **sections 86G** and **subpart FG** of the Income Tax Act 2007, when a payment is made by a New Zealand branch of a foreign bank that is notional interest under **section FG 3** of that Act,— 15
- (a) the payment is treated as made by an approved issuer; and
- (b) the notional loan referred to in **section FG 2(1)** of that Act is a registered security that meets the requirements of **section 86G**. 20
- (2) After section 86I(1), insert:
- (1B) For the purposes of **section 86G**, a payment of interest made at a time by a person on a registered security is treated as not paid by an approved issuer if the directors of the person know, or could reasonably be expected to know, without making enquiries specifically for the purposes of applying Part 6B, that the security would not be able to be registered if registration was sought at the time the interest was paid, because none of the requirements of **section 86G(2) or (3)** were met at the time. 25
- (1C) Subject to **section 86G(5)**, a payment of interest made by a person on a registered security does not fall within the ambit of **subsection (1B)** if the person met the requirements of **section 86G(4)** at the later of— 30
- (a) the date of registration;
- (b) 1 April 2018.
- (1D) In **subsection (1B)**, **director** has the meaning given in section YA 1 of the Income Tax Act 2007. 35

333 New section 86IC inserted (When payment of approved issuer levy compulsory)

After section 86IB, insert:

861C When payment of approved issuer levy compulsory

An approved issuer must pay approved issuer levy if they pay interest under a transaction, and—

- (a) the transaction is a notional loan under **section FG 2** of the Income Tax Act 2007, and NRWT was not withheld from the interest under section RF 3 of that Act; or 5
- (b) an amount of the interest was apportioned to a New Zealand source under **section YD 5(4)** of that Act, and NRWT was not withheld from the amount under section RF 3 of that Act.

Amendments to Student Loan Scheme Act 2011 10

334 Schedule 3 amended (Adjustments to net income for purposes of section 73, applying from 1 April 2014 for 2014–2015 and later tax years)

(1) In schedule 3 of the Student Loan Scheme Act 2011, after clause 12A(3), insert:

(4) In calculating under subclause (3) the amount of fringe benefit tax on a facility, the person may use— 15

- (a) the rate of fringe benefit tax used by the person’s employer in calculating the fringe benefit tax payable on the facility:
- (b) the maximum basic rate of fringe benefit tax specified in the Income Tax Act 2007, schedule 1, part C, table 1. 20

(2) In schedule 3 of the Student Loan Scheme Act 2011, after clause 14, insert:

14B Remission income of discharged bankrupt excluded

The adjusted net income of a person who is discharged from bankruptcy does not include an amount that is income of the person under section CG 2B of the Income Tax Act 2007. 25

(3) **Subsection (2)** applies for discharges from bankruptcy after 1 April 2014.

335 Schedule 3 amended (Adjustments to net income for purposes of section 73, applying from 1 April 2014 for 2014–2015 and later tax years)

In **schedule 3** of the Student Loan Scheme Act 2011, repeal **clause 14B**.

Amendments to Income Tax Act 2004 30

336 Income Tax Act 2004

Sections 337 to 343 amend the Income Tax Act 2004.

337 Section CD 4 amended (What is a transfer of value?)

(1) Replace section CD 4(2), other than the heading, with:

- (2) A company provides money’s worth to a person if the person is released from an obligation to pay money to the company, either by agreement or by operation of law, except to the extent to which—
- (a) the obligation the person is released from is an amount of debt to which **section EW 46B(2)** (Consideration when debt forgiven within economic group) applies; and 5
 - (b) the person is a company that is a member of the same wholly-owned group as the company.
- (2) In section CD 4, in the list of defined terms, insert “wholly-owned group”.
- (3) **Subsections (1) and (2)** apply for the 2006–07 and later income years, except for income years before the 2008–09 income year for which a person has taken a tax position in a return of income that is inconsistent with the amendment made by **subsection (1)**. 10
- 338 Section CD 32 amended (Available subscribed capital amount)**
- (1) After section CD 32(6)(b), insert: 15
- (bb) the amount of debt to which **section EW 46B(2)** (Consideration when debt forgiven within economic group) applies, treating the amount as consideration for the issue of a share for the purposes of the item **subscriptions** in subsection (2)(b); and
- (2) **Subsection (1)** applies for the 2006–07 and later income years, except for income years before the 2008–09 income year for which a person has taken a tax position in a return of income that is inconsistent with the amendment made by **subsection (1)**. 20
- 339 Section CD 33 amended (Available capital distribution amount)**
- (1) Replace section CD 33(9), other than the heading, with: 25
- (9) For the purposes of this section, a company that disposes of capital property for an amount of consideration less than the cost of the property to the company incurs a capital loss, of an amount equal to the deficit reduced by the amount of depreciation loss allowed as a deduction to the company for the property.
- (2) In section CD 33, list of defined terms, insert “deduction” and “depreciation loss”. 30
- (3) **Subsection (1)** applies for the 2005–06 and later income years.
- 340 New section CX 17B inserted (Transport in vehicle other than motor vehicle)**
- (1) After section CX 17, insert: 35
- CX 17B Transport in vehicle other than motor vehicle**
- A benefit that an employer provides to an employee in the form of transport of the employee in a vehicle is not a fringe benefit if the vehicle—

<p>(a) is not a motor vehicle; and (b) is not designed principally for the carriage of passengers. Defined in this Act: employer, employee, fringe benefit, motor vehicle</p>	<p>5</p>
<p>(2) Subsection (1) applies for the 2005–06 and later income years.</p>	<p>5</p>
<p>341 Section EE 42 amended (Amount of depreciation recovery income when item partly used for business)</p>	<p>5</p>
<p>(1) In section EE 42(8), replace “section EE 41(1)” with “section EE 41(1)(a)”.</p>	<p>5</p>
<p>(2) Subsection (1) applies for the 2005–06 and later income years, except as provided in subsection (3).</p>	<p>5</p>
<p>(3) Subsection (1) does not apply for a person and an income year that is the 2005–06 or a later income year and a tax position taken by the person—</p>	<p>10</p>
<p>(a) before the date on which the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Bill is introduced; and</p>	<p>10</p>
<p>(b) that is inconsistent with the amendment made by subsection (1).</p>	<p>10</p>
<p>342 New section EW 46B inserted (Consideration when debt forgiven within economic group)</p>	<p>15</p>
<p>(1) After section EW 46, insert:</p>	<p>15</p>
<p>EW 46B Consideration when debt forgiven within economic group</p> <p><i>When this section applies</i></p>	
<p>(1) This section applies when—</p>	<p>20</p>
<p>(a) a debtor is not a natural person, or has a capacity different from the creditor; and</p>	<p>20</p>
<p>(b) the creditor is a member of the creditor group of the debtor; and</p>	<p>20</p>
<p>(c) the debt owed to the creditor is a pari passu debt; and</p>	<p>20</p>
<p>(d) the debt is forgiven.</p>	<p>25</p>
<p><i>Consideration</i></p>	
<p>(2) The debtor is treated as having paid the group member debt on the date on which the creditor forgives it, and the creditor is treated as having been paid the debt on the date on which the creditor forgives it.</p>	<p>25</p>
<p><i>Two points about subsections (1) and (2)</i></p>	
<p>(3) For the purposes of subsections (1) and (2),—</p>	<p>30</p>
<p>(a) the debtor’s debt includes an amount accrued and unpaid at the time of the forgiveness; and</p>	<p>30</p>
<p>(b) the means by which the debt is forgiven is immaterial.</p>	<p>30</p>
<p><i>Some definitions</i></p>	
<p>(4) For the purposes of this section,—</p>	<p>35</p>

(a)	creditor group means, for a debtor, the group of people to whom the debtor owes money and who also have creditor’s interests in the debtor, or who also have creditor’s associates that have creditor’s interests in the debtor:	
(b)	creditor’s associate means, for a creditor, a person associated with the creditor if—	5
(i)	the associated person is a member of the same wholly-owned group of companies as the creditor:	
(ii)	the creditor is a natural person who has natural love and affection for the associated person:	10
(c)	creditor’s interest means, for a person, their direct ownership interest and ownership interest, in the case of a company.	
(d)	pari passu debt —	
(i)	means a debt for a creditor group member (member debt), if the member debt, expressed as a fraction of the total member debt for the debtor, corresponds to the creditor group member’s creditor’s interests in the debtor, expressed as a fraction of total creditor interests held by all creditor group members (treating the creditor group member as having the creditor’s interests of their creditor’s associates, to the extent to which the associates are not creditors of the debtor); and	15 20
(ii)	does not include a member debt, if the creditor group member is a non-resident who was not originally issued the debt.	
	Defined in this Act: amount, associated person, consideration, creditor group, creditor’s associate, creditor’s interest, income, non-resident, ownership interest, pari passu debt, pay	25
(2)	Subsection (1) applies for the 2006–07 and later income years, except for income years before the 2008–09 income year for which a person has taken a tax position in a return of income that is inconsistent with the amendment made by subsection (1) .	
343	Section OB 1 amended (Definitions)	30
(1)	This section amends section OB 1.	
(2)	Insert, in appropriate alphabetical order: creditor group is defined in section EW 46B (Consideration when debt forgiven within economic group)	
(3)	Insert, in appropriate alphabetical order: creditor’s associate is defined in section EW 46B (Consideration when debt forgiven within economic group)	35
(4)	Insert, in appropriate alphabetical order: creditor’s interest is defined in section EW 46B (Consideration when debt forgiven within economic group)	40

- (5) Insert, in appropriate alphabetical order:
pari passu debt is defined in **section EW 46B** (Consideration when debt forgiven within economic group)
- (6) In the definition of **trading stock**, paragraph (a), repeal subparagraphs (i), (xix), (xxiii), (xxiv), and (xxvii). 5
- (7) In the **definition** of **trading stock**, after paragraph (a), insert:
(ab) in sections CD 37, FB 3, FE 6, FG 4, and HF 1 (which apply to livestock) means property that is—
(i) trading stock under section EB 2:
(ii) livestock: 10
- (8) **Subsections (2), (3), (4), and (5)** apply for the 2006–07 and later income years.
- (9) **Subsections (6) and (7)** apply for the 2005–06 and later income years, except in relation to a tax position taken by a person before 5 December 2014 that is inconsistent with the amendments made by **subsections (6) and (7)**. 15

Amendment to Goods and Services Tax (Grants and Subsidies) Order 1992

344 Goods and Services Tax (Grants and Subsidies) Order 1992 amended

In the Goods and Services Tax (Grants and Subsidies) Order 1992, schedule, repeal clause 1.