

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

Government Bill

As reported from the Finance and Expenditure Committee

## **Commentary**

### **Recommendation**

The Finance and Expenditure Committee has examined the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Bill and recommends that it be passed with the amendments shown.

### **Introduction**

This omnibus bill proposes amendments to several Acts and regulations. The key proposals would:

- change certain look-through company (LTC)<sup>1</sup> rules and the dividend rules as they apply to closely held companies
- change non-resident withholding tax (NRWT) and approved issuer levy (AIL) rules as they apply to interest paid on debt provided by non-residents
- change several provisions in the Goods and Services Tax Act 1985.

The bill would also set the annual rates of income tax for the 2016–17 tax year.

This commentary covers the main amendments we recommend to the bill. It does not cover minor or technical amendments. We are also recommending various changes throughout the bill to improve the clarity of the drafting.

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<sup>1</sup> A limited liability company that, for tax purposes, can transfer its income and expenditure to its shareholders directly.

## **Closely held companies**

Closely held companies are companies that have only a few shareholders. This bill would amend the tax rules for these companies. The changes aim to simplify the rules to reduce compliance costs.

In particular, two types of closely held company would be affected by the proposals: Qualifying Companies (QCs) and look-through companies (LTCs).

The bill proposes amendments to tighten the eligibility criteria for a company electing to become an LTC to ensure that the rules are targeted at the intended entities.

Other companies would be affected by proposed changes to the dividend rules.

## **Transitional provision for existing look-through companies**

This bill proposes alterations to the rules about what type of entity can be an LTC and who can hold LTC interests. It is primarily focussed on strengthening the rules around the requirement for an LTC to have no more than five counted owners.

As a result, some LTCs may lose their status and need to become an ordinary company during the 2017–18 tax year. Should this happen, the parties would pay tax on unrealised gains held on revenue account. We propose inserting a transitional rule (new section HZ 4E of the Income Tax Act 2007) in clause 118B to enable the tax book values to be rolled over to the ordinary company.

## **Māori authorities and charities look-through company interests**

The bill proposes to grandparent current Māori authorities that acquired interests in look-through companies before the introduction of the bill (3 May 2016). However, the current wording of this provision provides wider concessions than intended.

We recommend amending subclauses 262(48) and 262(56) so that the grandparenting provision in the bill for Māori authorities would be tightened. This would mean that it would only apply to interests held before 3 May 2016.

The bill also proposes that charities should not be owners of an LTC. Some submitters expressed concern with this proposal and that existing structures would be affected. They suggested that the proposed amendment should not apply to existing charities with LTC interests. This would align with the amendment proposed for Māori authorities. We agree, and propose to grandparent charities' LTC interests as at 3 May 2016.

We recommend amending subclauses 262(47B) and 262(56) to reflect this.

## **Counting trustees and beneficiaries as look-through counted owners**

We recommend amending clause 262(58) to confirm that the trustees of a trust will be a single look-through counted owner if no distribution of income has been made. This will ensure that an LTC has at least one counted owner, and when an LTC is owned by multiple trusts that make no distributions to beneficiaries, that each trust is recognised as an owner.

**Look-through company debt remission**

Debt remission refers to the extinguishing of a debtor's (borrower's) liability by operation of law or forgiveness by the creditor (lender). It results in taxable debt remission income to the debtor. The amendments proposed by the bill aim to provide relief in certain situations. We support the aim, but consider that the rule, as proposed, needs to be made clearer. We also feel there would be value in extending the rule to cover liquidations and cessations of entities.

We therefore recommend inserting clauses 38B and 56B, and amending clause 56, to provide that creditors of look-through entities that are also owners or partners automatically have a right to a deduction for a base-price adjustment as a result of a self-remission.

We also recommend amending the definition of "self-remission" in clause 262(97).

**Qualifying companies: sale of shares to a close relative**

The bill introduces a continuity of ownership test for qualifying companies. Under the proposed rule, qualifying company status would be lost if there is a greater than 50 percent change in the ownership of the shares in the company.

We recommend inserting new subclause 98(3B) to give an exception for sales of shares to close relatives. This would allow for intergenerational planning.

**Look-through company foreign income**

The bill proposes a rule that would restrict the foreign income able to be earned by an LTC that is controlled by non-resident shareholders. Such entities would be restricted to a maximum foreign income threshold that is the greater of \$10,000 or 20 percent of the LTC's gross income. We agree that when determining whether a trust that is an LTC owner is non-resident, the trust should only be counted as non-resident to the extent that non-resident settlors have provided settlements to the trust. Accordingly, we recommend amending the definition of foreign LTC holder in clause 262(43).

**Non-resident withholding tax**

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. This is to ensure that NRWT and AIL would be applied consistently to transactions that are economically similar and consistent with the underlying policy.

**Non-resident financial arrangement income**

The bill would introduce a new concept of non-resident financial arrangement income (NRFAI) as a new category of non-resident passive income under certain financial arrangements between associated parties.

We recommend refining the definition of NRFAI so that amounts paid to parties other than the non-resident related party lender should not be included in the calculation of NRFAI. This would amend clause 253, section RF 12D, which describes how to calculate NRFAI. We recommend making equivalent modifications to the general rules

relating to expenditure (subsection (1C)), spreading method (subsection (1D)), and forex movements (subsection (1E)).

We recommend amending clause 248, section RF 2B(5), to further define items in the formula for the deferral calculation of NRFAI which is proposed in section RF 2B(4). The numerator and denominator should be the same; they should refer to all payments and accruals.

We recommend amending clause 247 to insert new section RF (2B) to specify an interest exception. It would exclude from interest that is non-resident passive income an amount that has given rise to NRFAI under clause 253, section RF 12E.

We recommend further amending clauses 247 and 248 to exclude amounts from NRFAI for onshore branch exemption. NRFAI should not be derived when the lender is a non-resident acting through their New Zealand branch, as this is a valid use of the onshore branch exemption.

We also recommend amending clause 5(4) to insert new paragraph 5(4)(c) to extend onshore branch grandparenting to certain securitisation vehicles.

### **Indirect associated lending and back-to-back loans**

Non-resident withholding tax is required to be deducted from payments of interest on loans between a New Zealand borrower and an offshore lender where the two parties are associated persons. The bill proposes to treat the interest being paid by the New Zealand borrower to the direct lender (for example a bank) as agent for the indirect lender (the offshore associated person).

We recommend amending clause 253 to insert new sections RF 12J(2) to RF 12J(5) to clarify “as agent” treatment of indirect associated funding, and add an intention test to prevent application to genuine commercial arrangements. We further recommend amending clause 253 to insert new sections RF 12I(2)(b) and (c) to clarify the application when a borrower and direct lender are associated. We also recommend amending section RF 12H (1)(a)(ii), deleting section RF 12I(5), and adding new section RF 12H(3) to restructure the “acting together” provisions.

### **Approved issuer levy**

Where a person is an “approved issuer” and the security under which they are making interest payments is a “registered security”, the borrower is able to pay approved issuer levy (AIL) at 2% rather than deducting NRWT from the interest payments.

The proposal under the bill is to limit the availability of AIL to three categories of people. The first two categories are people whom the Commissioner of Inland Revenue has determined are highly unlikely to treat a payment to an associated person as being eligible for AIL when it should be subject to NRWT. The third category is New Zealand borrowers who make interest payments of at least \$500,000 per annum to non-residents.

We are concerned that these proposals would impose compliance costs on many borrowers who are already compliant.

We therefore recommend that clauses 246(3), 294, 330, 331, and 332(2) be deleted from the bill.

## **Goods and Services Tax**

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

The bill proposes to zero-rate certain financial service supplies. We recommend inserting new clause 314B which would replace the zero-rating rule with a deduction rule. This would allow taxpayers to claim back the GST incurred on their costs of capital raising, but without being required to undertake a valuation exercise for their supplies of financial services made to raise funds for a taxable activity.

Under the bill as introduced, clause 322 would give the Commissioner 15 working days to issue a request for more information or to notify a registered person of the intention to investigate their GST return. This would replace the current requirement that the notice must be received within 15 working days. We recommend that this clause be deleted. Taxpayers are required to post a GST payment two weeks prior to the due date so that it arrives on time. We recommend that the same rule should apply for refunds that are being withheld.

## **Related parties debt remission**

The bill would change the treatment of debt remission, including remission by the capitalisation of debt, when the lender and borrower are related.

We consider that these provisions could be simplified to assist taxpayers, while still achieving their aim. This can be achieved by minor drafting amendments, which are not discussed in this commentary. The more substantial issues for which we recommend changes to the bill are described below.

### **Nominal shareholdings**

We recommend inserting subclause (64B) into clause 262 to refer to the definition of nominal shareholdings in section EW 46C. This would ensure that nominal shareholdings are ignored when calculating ownership and debt percentages.

### **Available subscribed capital and cost base**

Available subscribed capital is share capital of a company that, in appropriate circumstances, can be returned tax-free to shareholders.

We recommend amendments to clauses 22, 23, 41B, 338, 339, and 340B, so that when available subscribed capital is created, the owner would receive an uplift in the carrying cost of their shareholding in the debtor. If a debt remission does not result in available subscribed capital, it should also not result in the debtor receiving a capital profit as this could lead to the artificial conversion of retained earnings into capital gains.

We recommend that available subscribed capital be attributed to the class of shares that the shareholder owns that carries the most rights in the company.

**Dividend if remission of debt owed by foreign debtor**

We consider that the remission of debt owed by a foreign shareholder in a New Zealand creditor company should continue to be taxed as a dividend. We therefore recommend an amendment to clauses 16 and 337 so that the proposed exception applies when the dividend is derived by a company that is resident in New Zealand, or that is a subsidiary of such a company wheresoever resident, and is derived from a company that is in the same wholly-owned group of companies as the recipient at the time the dividend is derived.

**Wholly owned group dividend exemption**

The bill proposes that no dividend will arise if a wholly owned New Zealand company remits a debt owned by another wholly owned company. This would make section CW 10(4) of the Income Tax Act 2007 redundant, and we therefore recommend that it be repealed by amending clause 29C

**Limiting the application of the bad debt rule**

We recommend amending clause 41 to ensure that the bad debt rule would be limited to situations when the debtor has obtained a tax deduction in New Zealand for the financial arrangement expenditure.

**Debt guarantees**

We recommend amending clause 59 to ensure that the creation of a new debt is limited to guarantees with recourse to the debtor.

**Aircraft overhaul expenses**

The bill sets out new rules for the deductibility and timing of the cost of an aircraft engine and the cost of an aircraft engine overhaul component. They are intended to result in the costs relating to the engine overhaul component being treated separately from the depreciation rules, and the engine overhaul component no longer being included as part of the aircraft itself for depreciation purposes.

We recommend amendments to clause 42 to insert new subsection (5B) in section DW 5, and to clause 43B to insert new subsections EA 2(1) and (2). These changes would clarify the difference in treatment for parts used in aircraft engine overhaul, and parts used in other repairs and maintenance.

We also recommend amending clauses 43 and 53 to specify the timing of elections, and to clarify that a person electing the single aircraft method does not have a transitional deduction.

In the ACT member's opinion it has been impossible to reconcile differences between different taxpayers and Inland Revenue due to different operating procedures.

**Ancillary taxes and time bar**

The bill proposes to clarify that the time bar would apply to ancillary taxes including PAYE, fringe benefit tax, resident withholding tax, non-resident withholding tax, and AIL.

We recommend amending clause 295, section 108(1C), to clarify that the time bar for ancillary tax and AIL would start from the end of the period in which the relevant return or statement is filed.

## Appendix

### Committee process

The Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Bill was referred to the committee on 15 June 2016. The closing date for submissions was 29 July 2016. We received and considered 36 submissions from interested groups and individuals. We heard oral evidence from 16 submitters in Wellington.

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

### Committee membership

David Bennett (Chairperson)

Andrew Bayly

Chris Bishop

Hon Clayton Cosgrove

Julie Anne Genter (until 12 October 2016)

Stuart Nash

Rt Hon Winston Peters

Grant Robertson

Jami-Lee Ross

Alastair Scott

David Seymour

James Shaw (from 12 October 2016)



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**Key to symbols used in reprinted bill**

**As reported from a select committee**

text inserted unanimously

~~text deleted unanimously~~



*Hon Michael Woodhouse*

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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. 5
- (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.
- (3) **Section 306(2)** comes into force on 1 October 1986. 10
- (3B) Section 272(1) comes into force on 14 December 1993.
- (3C) Section 309(1) comes into force on 1 August 2003.
- (4) **Sections 321, 338(1B) and (1C), 339, 340, 340B, 341, 342B, 342C, and 343(6), (7), and (9)** come into force on 1 April 2005.
- (5) **Sections 337, 338(1) and (2), 342, and 343(2), (3), (4), (5), and (8) (4B), (4C), (5), and (8)** come into force on 1 April 2006. 15
- (6) **Sections 7, 8, 8B, 16, 20, 22(1), (8B), and (9), 23(1), (4), (1A), (1), (4), (5B), and (6), 29D, 33, 41B, 51, 57, 73, 81, 82(1) and (3), 91, 99B, 102, 122(1) and (5), 123, 124, 135, 136, 141(1), 144(1), (2), (3), and (6), 145(1), 169, 179, 209, 231, 234, 238, 238B, 262(8), (10B), (10C), (16), (17), (18), (74), (64B), (85B), (85C), (106), (107), (114) and (116), 265, and 300** come into force on 1 April 2008. 20
- (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. 25
- ~~(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. 30
- (12) **Sections 38, 40B, 62B, 69(1) and (4), and 262(6), (82), and (113)** come into force on 1 July 2010.
- (13) **Section 262(19), (71), (79), and (83)** comes into force on 4 September 2010.
- (14) **Sections 38B, 56, 56B, 106, 122(2) and (6), 262(97), and 310(3) and (4)** come into force on 1 April 2011. 35
- ~~(15) Section 29 comes into force on 1 July 2011.~~
- (15) Sections 29 and 29E come 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.
- (20) **Section 41(2) and (3)** comes into force on 20 May 2013. 5
- (21) **Sections 52, 125, 138, 139, 146(1), (2), (3), and (7), 147(1), 324(3) and (4), and 334** come into force on 1 April 2014.
- (22) **Section 310(5) and (7)** comes into force on 30 June 2014.
- (22B) **Section 332B** comes into force on 1 December 2014.
- (23) **Sections 29C, 61(1) and (3), (3), and (3B), 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. 10
- (24) **Sections 9, 10, 11, and 12, 29B, and 85B** come into force on 1 September 2015. 15
- (25) **Section 272(3)** comes into force on 3 December 2015.
- (26) **Sections 61(1B), (1C), and (2B), 148, 272(4) and (5), 278B, and 291** come into force on 1 April 2016.
- (26B) **Section 274B** comes into force on 14 May 2016.
- (26C) **Sections 273C, 273D, and 291D(1)** come into force on 2 June 2016. 20
- (26D) **Section 82B** comes into force on 1 July 2016.
- (27) **Sections 167, 175, 180, 181, 182, 186, 187(4) and (7), 188(4) and (6), and 262(49), 307B, 311(2B) and (5), 318B, and 324(1A)** come into force on 1 October 2016.
- (28) **Sections 13, 14, 17, 18, 19, 21, 22(5), (6), (7), and (8), 24, 28, 36, 37, 39, 41(1), (4), and (5), 42, 43, 43B, 43C, 47, 49B, 50(3) and (4), 51B, 51C, 51D, 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, 118B, 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, 157(2), 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), (9), (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), (47B), (48), (50), (56), (56B),** 25  
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**(57), (58), (59), (60), (61), (62), (63), (86), (87), (88), (92), (95), (99), (101), (103), (104B), (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), 331311(1) and (3), 314(1B), 314B, and 332(2)** come into force on 1 April 2017. 5

(28B) **Sections 41(1) and 57B** come into force on 1 July 2017.

(29) **Section 318** comes into force on 1 April 2018.

(30) **Sections 273B, 274C, 274D, 291B, 291C, 291D(2) to (6), 292B, 292C, 292D, 292E, 292F, 292G, 292H, 334AB, 335C, 343C, and 343D** come into force on the date appointed by the Governor-General by Order in Council. 10

(31) One or more Orders in Council may be made under **subsection (30)** appointing different dates for different provisions.

## Part 1

### Annual rates of income tax 15

#### 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 20

#### 4 Income Tax Act 2007

Part 2 amends the Income Tax Act 2007.

#### 5 Application of provisions related to non-resident financial arrangement income

(1) This section provides for the application of— 25

(a) **section 15**, which amends section CC 4:

(b) **section 55**, which amends section EW 11:

(bb) **section 80(1)**, which amends section FE 2:

(bc) **section 80B**, which amends section FE 4:

(c) **section 246**, which amends section RF 1: 30

(d) **section 247(1), (1B), (2), (4), (5), and (6)**, which amends section RF 2:

(e) **section 248**, which inserts **new section RF 2B**~~sections RF 2BA and RF 2B~~:

(f) ~~**section 252**~~, which amends section RF 12: 35

- (g) **section 253**, which inserts **new sections RF 12D to RF 12J**:
- (h) **section 261**, which inserts **new section RZ 12RZ 13**:
- (i) **section 262(41), (64), (68), (7B), (30B), (42), (51), (52), (64), (68), (68B), (70), (75), and (90)**, which amends, in section YA 1, the definitions of **balance date**, **expenditure**, **foreign bank**, **interest**, **money lent**, **non-resident financial arrangement income**, **non-resident owning body**, **NRFAI due date**, **pay**, and **related-party debt**: 5
- (j) **section 269**, which amends section YD 4:
- (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,— 10
- (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—
- (i) that is entered into under a binding contract by all parties before the date of enactment; or 15
- (ii) to which the person becomes a party before the date of enactment; or
- (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. 20
- (4) Despite ~~**subsection (2)**~~, ~~**section 247(1)**~~ **subsections (2) and (5), section 247(1) and (1B)** apply 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, if— 25
- (a) ~~when~~ the interest—
- (i) is derived by the non-resident who is not associated with the payer; and 30
- (ii) is paid by a payer who is not a member of a New Zealand banking group; or
- (b) ~~when~~ the interest is paid by a member of a New Zealand banking group; or 35
- (c) the interest is paid by a securitisation vehicle that is a trustee of a trust that, as its core business,—
- (i) has no trust property other than financial arrangements and property incidental to financial arrangements; and



- (ii) has total debt that is sourced from another securitisation vehicle, a person who is not associated with the trustee, or an authorised deposit-taking institution regulated by the Australian Prudential Regulation Authority; and
- (iii) provides funds, directly or indirectly, only to a resident who is not associated with the trustee, unless the association arises because the resident, or another person associated with them, is a settlor of the trust as an incident of the arrangement. 5
- (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
- (5) Despite **subsection (2)**, **section 247(1) and (1B)** apply from the date of enactment for a person who lends money to an associated person that is not a person referred to in **subsection (4)(b) or (c)**.
- (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. 15
- (7) Despite **subsection (2)**, **sections 247(1) and (1B)**, **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. 20
- 6 Section BH 1 amended (Double tax agreements)** 25
- (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.
- (2) In section BH 1(4), replace “subsection (5) or (5B)” with “subsection (5) or (5B) or section BG 1 (Tax avoidance)”. 30
- ~~**7 Section CB 6 amended (Disposal: land acquired for purpose or with intention of disposal)**~~
- (1) ~~Repeal section CB 6(3).~~
- (2) ~~**Subsection (1)** applies for the 2008–09 and later income years.~~ 35
- 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”.

<b>8B</b>	<b><u>Section CB 6 amended (Disposal: land acquired for purpose or with intention of disposal)</u></b>	
(1)	<u>Repeal section CB 6(3).</u>	
(2)	<b><u>Subsection (1)</u></b> applies for the 2008–09 and later income years.	
<b>9</b>	<b><u>Section CB 9 amended (Disposal within 10 years: land dealing business)</u></b>	<b>5</b>
	In section CB 9(3), replace “Subsections” with “Subsection (2) is overridden by the exclusion for bodies controlled by a local authority in <b>section CB 15C</b> and subsections”.	
<b>10</b>	<b><u>Section CB 10 amended (Disposal within 10 years: land development or subdivision business)</u></b>	<b>10</b>
	In section CB 10(3), replace “Subsections” with “Subsection (2) is overridden by the exclusion for bodies controlled by a local authority in <b>section CB 15C</b> and subsections”.	
<b>11</b>	<b><u>Section CB 11 amended (Disposal within 10 years of improvement: building business)</u></b>	<b>15</b>
	In section CB 11(3), replace “Subsections” with “Subsection (2) is overridden by the exclusion for bodies controlled by a local authority in <b>section CB 15C</b> and subsections”.	
<b>12</b>	<b><u>New heading and new section CB 15C inserted</u></b>	<b>20</b>
	After section CB 15B, insert:	
	<i>Exclusions for bodies controlled by local authorities</i>	
	<b>CB 15C Council-controlled organisations and other companies</b>	
	<i><u>Exclusion from application of some land provisions: kinds of associated persons</u></i>	
(1)	Sections CB 9(2), CB 10(2), and CB 11(2) do not apply to a person ( <b>person A</b> ) despite the activities of an associated person ( <b>person B</b> ) if—	<b>25</b>
(a)	person A is a local authority or—	
(i)	a council-controlled organisation that is <del>controlled by</del> <u>linked by ownership or control</u> to the local authority:	
(ii)	an entity referred to in section 6(4)(a) to (ca) of the Local Government Act 2002, that is <del>controlled by</del> <u>linked by ownership or control</u> to the local authority:	<b>30</b>
(iii)	an entity that is associated with the local authority other than under section YB 14 (Tripartite relationship); and	
(b)	person B is—	<b>35</b>

- (i) the local authority or an organisation or entity of a ~~type~~ kind referred to in **paragraph (a)(i) to (iii)**;
- (ii) a person that is not associated with person A other than under section YB 14.

*Exclusion from application of some land provisions: members of consolidated group* 5

- (2) If person A and person B are members of a consolidated group, and **subsection (1)** applies to prevent an amount from being income of person A, the amount is not income of person A under section CV 2 (Consolidated groups: income of company in group). 10

Defined in this Act: associated person, consolidated group, 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)”. 15

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

- (1) Replace section CB 32C with:

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

*When this section applies* 20

- (1) This section applies for an income year when, in the income year, the person has,—
- (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: 25
  - (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. 30

*Income*

- (2) The person has an amount of income under,—
- (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. 35

*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— 5

(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)**: 10
- (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: 15
- (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— 20

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: 25
- (i) it disposed of all of its property, other than cash, to an unrelated person at market value for cash; and 30
- (ii) it met all of its liabilities at market value, excluding income tax payable through disposing of the property or meeting the liabilities; and
- (iii) it was liquidated, with the amount of cash remaining being distributed to shareholders without imputation credits attached: 35
- (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:

(c) **exit exemption** is the amount given by the formula in section CX 63(2) (Dividends derived after ~~ceasing~~ceased 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.

5

*Formula*

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

$$((\text{balances} \div \text{tax rate} - \text{balances}) + \text{balances imputation credit}) \times \text{effective interest.}$$

10

*Definition of items in formula*

(9) In the formula in **subsection (8)**,—

(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:

15

(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:

20

(d) **effective interest** is the person’s effective look-through interest for a LTC on the relevant day under **subsection (1)(a) or (b)**.

*Relevant day*

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(10) In **subsections (7) and (9)(a)**, the relevant day for measuring relevant items in the formulas is—

(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.

30

*Income tax and refund*

(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):

35

- (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).

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

5

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

### 15 Section CC 4 amended (Payments of interest)

- (1) After section CC 4(2), insert:

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*Non-resident financial arrangement income*

- (3) Non-resident financial arrangement income derived by a person is income of the person.

- (2) In section CC 4, list of defined terms, insert “non-resident financial arrangement income”.

15

### 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—

20

- (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.

25

- (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)**.

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### 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 (the **creditor**) provides money’s worth to a person (the **debtor**) if the debtor is released from an obligation to pay money to the creditor, either by agreement or by operation of law, except to the extent to which—

35

- (a) the obligation the debtor is released from is an amount of debt to which **section EW 46C(3)** (Consideration when debt forgiven within economic group) applies; and

- (b) at the time the debtor is released, the debtor is a company that is a member of the same wholly-owned group as the creditor, and the debtor is described in **section EW 46C(1)(a) or (b)**.
- (2) In section CD 5, list of defined terms, insert “wholly-owned group of companies”. 5
- (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)**.
- 17 Section CD 15 amended (Tax credits linked to dividends)** 10
- (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.
- (2) In section CD 15, list of defined terms, delete “FDP credit”. 15
- 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). 20
- (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:
- (c) the amount payable by the company is— 25
- (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”.
- (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— 30
- (a) in a tax return filed before the introduction date; and 35

- (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”.
- (2) In section CD 40(2), delete “the FDP rules,”. 5
- (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. 10
- (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:
- (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 15
- (1B) After section CD 43(6), insert:
- When subsection (6D) applies* 20
- (6B) **Subsection (6D)** applies if—
- (a) **section EW 46C(1)(a) or (b)** applies to a creditor of any company in the same wholly-owned group of companies as the company (the **calculation company**) for which the calculation in subsection (1) is being performed; and 25
- (b) the creditor has, before the application of section YC 4 (Look-through rule for corporate shareholders), or the calculation company has, before the application of section YC 4,—
- (i) voting interests in the creditor’s debtor, to whom **section EW 46C(1)(a) or (b)** applies; or 30
- (ii) market value interests in the creditor’s debtor, to whom **section EW 46C(1)(a) or (b)** applies, if a market value circumstance exists for the debtor.
- When subsection (6D) applies*
- (6C) **Subsection (6D)** also applies if **section EW 46C(1)(c)** applies to a creditor or single creditor group under that section, and the company for which the calculation in subsection (1) is being performed (the **calculation company**)— 35
- (a) is the creditor’s debtor, to whom **section EW 46C(1)(c)** applies:



- (b) has, before the application of section YC 4, either voting interests in the creditor’s debtor, to whom **section EW 46C(1)(c)** applies, or market value interests in the creditor’s debtor, to whom **section EW 46C(1)(c)** applies, if a market value circumstance exists for the debtor.
- Subscriptions amount: debt forgiven within economic group* 5
- (6D) The subscriptions amount is treated as including the amount of debt to which **section EW 46C(3)** applies for the creditor and relevant debtor, for the class of shares that the creditor has the most voting interests for, or, if the creditor is the single creditor group under **section EW 46C(1)(c)**, for the class of shares for which a member has the most voting interests. The maximum subscriptions amount included for an amount of debt for a calculation company is— 10
- (a) if the calculation company is the debtor, the amount of debt:
- (b) if the calculation company is not the debtor, the amount of debt multiplied by 1 of the following interests, determined before the application of section YC 4: 15
- (i) the calculation company’s voting interests in the creditor’s debtor;  
or
- (ii) the calculation company’s market value interest in the creditor’s debtor, if there is a market value circumstance.
- (2) In section CD 43(7), replace the heading with “*Subscriptions amount: exclusions for bonus issues*”. 20
- (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: 25
- (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): 30
- (8) In section CD 43, list of defined terms, delete “FDP”, “FDP credit”, and “FDP ratio”.
- (8B) In section CD 43, list of defined terms, insert “market value circumstance”, “market value interest”, and “voting interest”. 35
- (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)**.

**23 Section CD 44 amended (Available capital distribution amount)**

(1A) After section CD 44(8), insert:

*Capital gain amount: consideration when debt forgiven within economic group*

(8B) The amount of a debt to which **section EW 46C** (Consideration when debt forgiven within economic group) applies does not give rise to a capital gain amount if **section CD 43(6D)** does not apply to it. 5

(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

*When capital losses arise*

(9) For the purposes of this section, a company incurs a capital loss if it disposes of capital property for an amount of consideration that is less than—

(a) the adjusted tax value of the property at the date of disposal, if the property is an item of depreciable property; or 15

(b) the cost of the property to the company at the date of disposal, if the property is not an item of depreciable property.

*Capital loss amount*

(9BA) The capital loss amount for a disposal referred to in **subsection (9)** is equal to the deficit referred to in that subsection for the disposal. 20

(2) In section CD 44(10B), replace “subsection (10C)” with “subsections (7)(c) and (10C)”.

(3) Replace section CD 44(10B) and (10C) with:

*Company common interest transactions* 25

(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,— 30

(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~~ on the 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. 35

<i>Formula</i>	
(10C) For the purposes of <b>subsection (10B)(b)</b> , for an owning company, the formula is—	
commonality interest × ownership interest.	
<i>Definition of items in formula</i>	
(10D) In the formula in <b>subsection (10C)</b> ,—	5
(a) <b>commonality interest</b> 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—	10
(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) <b>ownership interest</b> is the percentage ownership of the property, by market value, for the owning company.	15
<i>Relationship between subsections</i>	
(10E) <b>Subsection (10B)</b> is overridden by subsection (7)(c).	
(3B) <u>Repeal section CD 44(14B).</u>	
(4) <u>In section CD 44, list of defined terms, insert “deduction” and “depreciation loss”.</u>	20
(4) <u>In section CD 44, list of defined terms, insert “adjusted tax value” and “depreciable property”.</u>	
(5) In section CD 44, list of defined terms, insert “group of persons”, “market value circumstance”, “market value interest”, and “voting interest”.	25
(5B) <b>Subsection (1A)</b> applies for a person for the 2008–09 and later income years, <u>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 <b>subsection (1A)</b>.</u>	
(6) <del><b>Subsection (1)</b></del> <b>Subsections (1) and (3B)</b> apply for the 2008–09 and later income years.	30
<b>24 Section CD 53 amended (Prevention of double taxation of share cancellation dividends)</b>	
In section CD 53(2), delete “or FDP credit”.	
<b>25 Section CE 5 amended (Meaning of expenditure on account of an employee)</b>	35
(1) Repeal section CE 5(2).	
(2) Repeal section CE 5(3)(f) to (i).	

- 26 Section CG 2 amended (Remitted amounts)**
- (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: 5
- (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:
- (2) In section CG 2(4)(b), delete “the Insolvency Act 2006 or”. 10
- (3) Replace section CG 2(5) with:
- Relationship with sections CG 2C to CG 2E*
- (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,— 15
- (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. 20
- 27 Section CG 2B repealed (Remitted amounts on discharge from bankruptcy)**
- Repeal section CG 2B.
- 28 New section CG 9 inserted (Recovery of deductions for aircraft engine overhaul)** 25
- 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.
- 29 Section CQ 5 amended (When FIF income arises)** 30
- (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”.
- 29B Section CV 2 amended (Consolidated groups: income of company in group)** 35
- After section CV 2(2), insert:

<i>Relationship with section CB 15C</i>	
(3)	<u>This section is overridden by <b>section CB 15C</b> (Council-controlled organisations and other companies).</u>
<b>29C</b>	<b><u>Section CW 10 amended (Dividend within New Zealand wholly-owned group)</u></b> 5
	Repeal section CW 10(4).
<b>29D</b>	<b><u>Section CW 14 replaced (Dividends derived by qualifying companies)</u></b>
(1)	Replace section CW 14 with:
	<b><u>CW 14 Dividends derived by qualifying companies</u></b>
	<i>When this section applies</i> 10
(1)	<u>This section applies when a company derives a dividend (the <b>derived dividend</b>) after it becomes a qualifying company, if—</u>
	(a) <u>the derived dividend is derived less than 7 years after the company ceases to be a qualifying company; and</u>
	(b) <u>section CW 10 or CW 11 applies to the derived dividend; and</u> 15
	(c) <u>the company paid a dividend that section CW 15 applied to, when the company was a qualifying company.</u>
	<i>Dividend not exempt income</i>
(2)	<u>The derived dividend is not exempt income under section CW 10 or CW 11, except to the extent to which section CW 9 applies.</u> 20
	<i>Defined in this Act: company, dividend, exempt income, qualifying company</i>
(2)	<b><u>Subsection (1)</u></b> applies for the 2008–09 and later income years.
<b>29E</b>	<b><u>Section CW 14 amended (Dividends derived by qualifying companies)</u></b>
(1)	<u>In <b>section CW 14</b>,—</u>
	(a) <u>in <b>subsection (1)(b)</b>, replace “section CW 10 or CW 11” with “section CW 10”;</u> 25
	(b) <u>in <b>subsection (2)</b>, replace “section CW 10 or CW 11” with “section CW 10”.</u>
(2)	<b><u>Subsection (1)</u></b> applies for income years beginning on or after 1 July 2011.
<b>30</b>	<b><u>Section CW 19 amended (Amounts derived during short-term visits)</u></b> 30
(1)	Replace section CW 19(1)(b) with:
	(b) <u>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</u>
(2)	<b><u>Subsection (1)</u></b> applies for a person for a visit beginning on or after the day on this Act receives the Royal assent <sup>1</sup> April 2017. 35

**30B Section CW 39 amended (Local authorities)**

In section CW 39(4)(c),—

- (a) in subparagraph (i), replace “organisation,” with “organisation linked by ownership or control to the local authority,”:
- (b) in subparagraph (ii), replace “an organisation” with “an organisation linked by ownership or control to the local authority”. 5

**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: 10

*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: 15
  - (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: 20
  - (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.
- (2) Repeal section CX 16(4).
- (3) Repeal section CX 16(5). 25
- (4) Repeal section CX 16(6).
- (5) In section CX 16, list of defined terms, insert “de facto partner” and “premium”.

**33 New section CX 19B inserted (Transport in vehicle other than motor vehicle) 30**

- (1) After section CX 19, insert:

**CX 19B 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—

- (a) is not a motor vehicle; and 35

	(b) is not designed principally for the carriage of passengers. Defined in this Act: employer, employee, fringe benefit, motor vehicle	
(2)	<b>Subsection (1)</b> applies for the 2008–09 and later income years.	
<b>34</b>	<b>Section CX 47 amended (Government grants to businesses)</b> In section CX 47(4)(a), replace “technology development grant or under a technology transfer voucher” with “research and development growth grant”.	5
<b>35</b>	<b>Heading and section CX 48D repealed</b>	
(1)	Repeal the heading before section CX 48D.	
(2)	Repeal section CX 48D.	
<b>36</b>	<b>Section CX 63 amended (Dividends derived after company ceased to be look-through company)</b>	10
(1)	In section CX 63(4)(c), delete “or FDP credits”.	
(2)	In section CX 63, list of defined terms, delete “FDP credit”.	
<b>36B</b>	<b><u>Section CZ 9 amended (Available capital distribution amount: 1965 and 1985–1992)</u></b>	15
	<u>In section CZ 9(1)(a), delete “, and not section 4(5A) of the Income Act 1976.”.</u>	
<b>36C</b>	<b><u>Section CZ 9B repealed (Available capital distribution amount: 1988 to 2010)</u></b>	
	<u>Repeal section CZ 9B.</u>	20
<b>37</b>	<b>New section <del>CZ-33</del>CZ 34 inserted (Income arising from tax accounting provision for aircraft engine overhauls)</b> After section <del>CZ-32</del> CZ 33, insert:	
	<b><del>CZ-33</del>CZ 34 Income arising from tax accounting provision for aircraft engine overhauls</b>	25
	Income arising for a person under <b>section DZ 23(2)(b)</b> (Aircraft maintenance: tax accounting provisions for expenditure incurred after 2016–17 income year) is income of the person.	
<b>38</b>	<b>Section DB 7 amended (Interest: most companies need no nexus with income)</b>	30
(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:	
	(bb) income exempted under section CW 59C (Life reinsurance outside New Zealand):	35

- (4) **Subsections (1), (2), and (3)** apply for the income year including 1 July 2010 and later income years.

**38B Section DB 11 amended (Negative base price adjustment)**

- (1) After section DB 11(1), insert:

*Deduction: self-remission*

5

- (1B) A person who has a negative base price adjustment under section EW 31(4) for a financial arrangement is allowed a deduction for an amount of the negative base price adjustment up to the maximum of their amount of self-remission for the financial arrangement.

- (2) In section DB 11, list of defined terms, insert “self-remission”. 10

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

**39 Section DB 13 amended (Repayment of debt ~~sold~~ disposed of at discount to associate of debtor)**

- (1) In the heading to section DB 13, replace “~~sold~~ disposed of at discount to associate of debtor” with “in certain circumstances”. 15

- (2) In section DB 13(1),—

(a) after “debtor”, insert “or **EW 49B(4)(b)** (Guarantees within economic group)”; and

(b) replace “that subsection” with “the relevant subsection”.

- (3) **Subsection (2)** applies for the 2017–18 and later income years. 20

**40 Section DB 19 amended (Expenses in application for resource consent)**

In section DB 19, list of defined terms, delete “accounting year”.

**40B Section DB 23 amended (Cost of revenue account property)**

- (1) In section DB 23(2)(b), replace “property.” with “property; and”.

- (2) After section DB 23(2)(b), insert: 25

(c) for a person who is a life insurer, the expenditure would, in the absence of this subsection, be a deduction included as their policyholder base allowable deduction.

- (3) In section DB 23, list of defined terms, insert “life insurer” and “policyholder base allowable deduction”. 30

- (4) **Subsections (1) and (2)** apply for income years that include 1 July 2010 and later income years.

**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~~

(1) After section DB 31(2)(b), insert:

(bb) the person is not associated with the debtor, or is associated with the debtor but the debtor has no deductions for the financial arrangement; and 5

(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: 10

(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 to the extent to which the amount arises solely because of the reduction in the value of the limited-recourse arrangement due to the financial arrangement’s relevant bad debt amount. 15

(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. 20

**41B New section DV 18B inserted (Cost base for shares when debt forgiven within economic group)**

(1) After section DV 18, insert:

**DV 18B Cost base for shares when debt forgiven within economic group**

For a shareholder of a company that is a calculation company under **section CD 43(6B) or (6C)** (Available subscribed capital (ASC) amount), an amount of the subscriptions amount under **section CD 43(6D)** for the calculation company is treated as expenditure incurred for the purchase of the shareholder’s shares in the calculation company. The maximum expenditure for the shareholder’s shares is the subscriptions amount under **section CD 43(6D)** for the calculation company multiplied by one of the following interests, determined before the application of section YC 4 (Look-through rule for corporate shareholders): 25 30

- (a) the shareholder’s voting interests in the calculation company; or
- (b) the shareholder’s market value interest in the calculation company, if there is a market value circumstance. 35

Defined in this Act: amount, company, expenditure, market value circumstance, market value interest, share, voting interest

- (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 this section.

**42 New sections DW 5 and DW 6 inserted** 5

- (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—
- (a) the person carries on a business involving the operation of an aircraft that includes an aircraft engine; and 10
  - (b) the person is required to maintain and repair the aircraft engine, and pieces of the aircraft engine, when operating the aircraft, 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)**—
    - (i) is an increase in the cost of the aircraft to the person, if the aircraft engine is an unpriced aircraft engine; or 25
    - (ii) is an increase in the cost of the aircraft engine to the person, otherwise.

*Deduction for aircraft engine when acquired for price*

- (2B) A person who acquires an aircraft engine for use with an aircraft, other than as an unpriced aircraft engine with the aircraft, has a deduction of an amount given by **subsection (3)**— 30
- (a) for expenditure incurred in acquiring the aircraft engine, if the aircraft engine is acquired other than under a finance lease; or
  - (b) 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. 35

*Amount of deduction under subsection (2B)*

- (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—~~The amount of the person's deduction under **subsection (2B)** is—
- (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
    - (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
  - (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*

- (3B) ~~A person who acquires an aircraft including an unpriced aircraft engine has a deduction of an amount given by **subsection (4)**—~~
- (a) ~~for part of the expenditure incurred in acquiring the aircraft, if the aircraft is acquired other than under a finance lease; or~~
  - (b) ~~for part of the value of the aircraft determined under section EW 32, if the aircraft is acquired under a finance lease.~~

*Amount of deduction under subsection (3B)*

- (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—~~The amount of the person's deduction under **subsection (3B)** is—
- (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 air-

	craft 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	5
	(c) equal to a fraction, agreed with the Commissioner, of the expenditure incurred in acquiring the aircraft including the unpriced aircraft engine.	
	<i>Exception: person making election under section EJ 26</i>	
(5)	If a person has made an election under <b>section EJ 26</b> (Allocation of expenditure on aircraft engine overhauls: election by operator of single aircraft),—	10
	(a) the person is not allowed a deduction referred to in <b>subsection (3) or (4)(2B) or (3B)</b> ; and	
	(b) each aircraft engine of the person is an unpriced aircraft engine for the purposes of this section.	15
	<i>Expenditure on piece fitted to aircraft in aircraft engine overhaul</i>	
(5B)	<u>The amount of expenditure incurred by a person, in carrying out an aircraft engine overhaul, for a piece that is fitted as a replacement piece to the aircraft as part of the aircraft engine overhaul is—</u>	
	(a) <u>the adjusted tax value of the piece for the person before the piece is fitted, if the piece is an item of depreciable property before being fitted;</u>	20
	(b) <u>the portion of the person’s expenditure on the piece that is unexpired before the piece is fitted, otherwise.</u>	
	<i>Link with subpart DA</i>	
(6)	This section overrides the capital limitation. The other general limitations still apply.	25
	Defined in this Act: <u>adjusted tax value, aircraft engine, aircraft engine overhaul, business, capital limitation, deduction, depreciable property, finance lease, general limitation, scheduled overhaul period, unpriced aircraft engine</u>	
<b>DW 6</b>	<b>Aircraft operators: payments and adjustments under finance leases</b>	30
	<i>When this section applies</i>	
(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 <b>section DW 5(1)</b> for being allowed a deduction for expenditure incurred in performing an aircraft engine overhaul of the aircraft engine.	35
	<i>Payments during lease to lessor towards aircraft engine maintenance</i>	
(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.

*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. 5

*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,— 10
- (a) an amount that the person is required to pay is allowed as a deduction of the person; and 15
- (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).

*Relationship with section CG 4*

- (5) This section overrides section CG 4 (~~Receipts for expenditure or loss from insurance, indemnity, or otherwise~~). 20

Defined in this Act: aircraft engine, aircraft engine overhaul, deduction, finance lease, 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** 25

- (1) After section DZ 21, insert:

**DZ 22 Aircraft maintenance: aircraft engines acquired before 2017–18 income year**

*When this section applies*

- (1) This section applies when— 30
- (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~~perform aircraft engine overhauls of the aircraft engine when operating the aircraft; and 35
- (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; total deductions increased); and

(d) the person does not make an election under **section EJ 26** (Allocation of expenditure on aircraft engine overhauls: election by operator of single aircraft) for the 2017–18 income year.

*Deduction if aircraft engine overhaul since acquisition*

- (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)**. 5

*Deduction in absence of aircraft engine overhaul since acquisition*

- (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,— 10
- (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: 15
- (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. 20

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** 25

*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. 30

*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— 35
- (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
- (b) if the anticipated deduction for such expenditure exceeds the amount of the expenditure in the income year, derives income under **section** 40

**CZ 33CZ 34** (Income arising from tax accounting provision for aircraft engine overhauls) equal to the amount of the excess.

*Expenditure on aircraft engine overhauls*

- (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,— 5
- (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
- (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 10
- (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. 15

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.

**43B Section EA 2 amended (Other revenue account property)**

- (1) After section EA 2(1)(fb), insert: 20
- (fc) property fitted to an aircraft engine as part of an aircraft engine overhaul to which **section DW 5** (Aircraft operators: aircraft engines and aircraft engine overhauls) applies:
- (2) In section EA 2, list of defined terms, insert “aircraft engine” and “aircraft engine overhaul”. 25

**43C Section EA 3 amended (Prepayments)**

- (1) In section EA 3(3)(b), after “prepayments”, insert “, if **subsection (4B)** does not apply”.
- (2) After section EA 3(4), insert: 30
- Expenditure on goods used in aircraft engine overhaul*
- (4B) The unexpired portion of expenditure on pieces that are fitted to an aircraft engine as part of an aircraft engine overhaul is treated as being expenditure incurred in carrying out the aircraft engine overhaul for the purposes of **sections DW 5 and DW 6** (which relate to the acquisition, overhaul, and leasing of aircraft engines). 35
- (3) In section EA 3, list of defined terms, insert “aircraft engine” and “aircraft engine overhaul”.

- 44 Section EC 26B amended (Entering partners' cost base)**  
 In section EC 26B, list of defined terms, insert “exiting partner”.  
In section EC 26B, list of defined terms, insert “entering partner” and “exiting partner”.
- 45 Section ED 1 amended (Valuation of excepted financial arrangements)** 5  
 (1) After section ED 1(4), insert:  
*Valuation when disposal of shares acquired under taxable bonus issue*  
 (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. 10  
 (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. 15
- 46 Section EE 1 amended (What this subpart does)**  
 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)EE 7(f), insert:  
 (hb) ~~property that is a piece of an aircraft engine, if—~~ 20  
     (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:~~ 25  
 (fb) property that is a piece of an item of depreciable property that is an aircraft or an aircraft engine, if the expenditure on the piece is treated under **section DW 5(5B)** (Aircraft operators: aircraft engines and aircraft engine overhauls) as being expenditure incurred in carrying out an aircraft engine overhaul: 30
- (2) In section EE 7, list of defined terms, insert “aircraft engine” and “aircraft engine overhaul”.  
 (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)** 35  
 In section EE 41(2)(b)(i), replace “section FO 11 or FO 15” with “section FO 11 or FO 16 (Amortising property)”.



- 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”.
- 49B Section EE 45 amended (Consideration for purposes of section EE 44)** 5
- (1) After section EE 45(11), insert:  
*Item fitted to aircraft or aircraft engine in aircraft engine overhaul*
  - (12) The amount that the person derives from the event referred to in section EE 47(11) is the adjusted tax value of the item before it is fitted as a replacement piece to an aircraft or aircraft engine as part of the aircraft engine overhaul. 10
  - (2) In section EE 45, list of defined terms, insert “adjusted tax value”, “aircraft engine”, and “aircraft engine overhaul”.
- 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”. 15
  - (2) In section EE 47(1), replace “EE 48 to EE 52” with “EE 48 to EE 51”.
  - (3) After section EE 47(10), insert:  
*Item fitted to aircraft or aircraft engine in aircraft engine overhaul*
  - (11) The tenth event is the fitting of an item of property to an aircraft or aircraft engine as a replacement piece as part of an aircraft engine overhaul to which **section DW 5** (Aircraft operators: aircraft engines and aircraft engine overhauls) applies. 20
  - (4) In section EE 47, list of defined terms, insert “aircraft engine” and “aircraft engine overhaul”.
- 51 Section EE 49 amended (Amount of depreciation recovery income when item partly used for business)** 25
- (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— 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) that is inconsistent with the amendment made by **subsection (1)**.

**51B Section EE 57 amended (Base value in section EE 56 when none of sections EE 58, EE 59, and EZ 22(1) applies)**

In section EE 57(3)(d)(ii), replace “EZ 22(2)(b)” with “EZ 22(2)(b) or **EZ 23BA(2)** (Aircraft acquired before 2017–18 income year: adjusted tax value, base value, reduced; total deductions increased)”.

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**51C Section EE 58 amended (Base value in section EE 56 when no previous deduction)**

(1) In section EE 58(2), after “business for the purpose of deriving assessable income”, insert “, reduced for an item that is an aircraft engine or aircraft by an amount referred to in **section EZ 23BA(2)** (Aircraft acquired before 2017–18 income year: adjusted tax value, base value, reduced; total deductions increased) for the item”.

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(2) In section EE 58, list of defined terms, insert “aircraft engine”.

**51D Section EE 60 amended (Total deductions in section EE 56)**

(1) In section EE 60(2)(d), replace “1995).” with “1995); and”.

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(2) After section EE 60(2)(d), insert:

(e) **section EZ 23BA(3)** (Aircraft acquired before 2017–18 income year: adjusted tax value, base value, reduced; total deductions increased).

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

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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**

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*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.

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*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

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income year being equal to the proportion of the scheduled overhaul period that occurs in the income year.

*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. 5

*Exception: allocation of deduction when lease ends* 10

- (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 overhaul that would otherwise be allocated under **subsection (2)** to a later income year. 15

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** 20

*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— 25
- (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 30
  - (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~~ must quantify and allocate deductions ~~for an income year under~~ **section DW 5 or DW 6** for an assessment to which the election applies 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. 35

	<i>Currency of election</i>	
(3)	<u>An election under this section applies for each assessment that is made by the person—</u>	
	(a) <u>after the person—</u>	
	(i) <u>reaches any necessary agreement under <b>subsection (2)</b> with the Commissioner; and</u>	5
	(ii) <u>notifies the Commissioner of the election when or before making a return based on the elected approach; and</u>	
	(iii) <u>is notified that the Commissioner accepts the election, if the Commissioner has previously notified the person under <b>paragraph (d)</b>; and</u>	10
	(b) <u>before the person’s return for an income year for which the person does not meet the requirements of <b>subsection (1)</b>; and</u>	
	(c) <u>before the person notifies the Commissioner, when or before making a return based on an approach other than the elected approach, that the election is revoked; and</u>	15
	(d) <u>before the person is notified that the Commissioner will not accept assessments based on the elected approach.</u>	
	<i>Grounds for Commissioner’s refusal</i>	
(4)	<u>The Commissioner may give to the person a notice referred to in <b>subsection (3)(d)</b>, or may refuse to give to the person a notice referred to in <b>subsection (3)(a)(iii)</b>, if the Commissioner considers that the person has, in making an assessment, departed significantly from an agreement with the Commissioner or from the requirements of the IFRS rules.</u>	20
	Defined in this Act: aircraft engine, Commissioner, deduction, finance lease, financial statements, IFRS, income year, lease, New Zealand resident, <u>notice, notify, return</u>	25
<b>EJ 26</b>	<b>Allocation of expenditure on aircraft engine overhauls: election by operator of single aircraft</b>	
	<i>Election</i>	
(1)	A person may elect to quantify and allocate under this section the amount of a deduction allowed by <b>section DW 5 or DW 6</b> (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	35
	(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.	
	<i>Expenditure on acquisition and overhaul of aircraft engines</i>	
(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**.

*Currency of election*

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(3) An election under this section applies for each assessment that is made by the person—

- (a) after the person notifies the Commissioner of the election, when or before making a return based on the approach required by **subsection (2)**; and
- (b) before the person’s return for the third consecutive income year in which the person does not meet the requirements of **subsection (1)**; and
- (c) before the person notifies the Commissioner, when or before making a return based on an approach other than the elected approach, that the election is revoked.

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

**EJ 27 Disposal of aircraft engine or aircraft**

*When this section applies*

- (1) This section applies when a person—

  - (a) is allowed a deduction under **section DW 5 or DZ 22** (~~Aircraft operators: aircraft engines and aircraft engine overhauls~~which relate to deductions for expenditure on aircraft engine maintenance) in relation to an aircraft engine or an aircraft including an unpriced aircraft engine; and
  - (b) disposes of the aircraft engine or aircraft.

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*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 or DZ 22** for the preceding acquisition or aircraft engine overhaul that ~~would otherwise be allocated to a later income year~~is not allocated to an earlier income year.

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*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.

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*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~~ a fair and reasonable apportionment, if there is no agreed apportionment under **paragraph (a)**.
- Recovery income*
- (5) The person derives from the disposal an amount of income equal to— 5
- (a) the total amount of deductions under **section DW 5 or DZ 22** 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
- (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. 10
- Sections CC 11 and FA 9: consideration paid by lessee for lease asset*
- (6) For the purposes of sections CC 11 and FA 9 (which relate to a lessee acquiring a lease asset when a lease ends), the amount of consideration paid by a lessee or an associated person of a lessee to acquire an aircraft engine or aircraft, after the term of a finance lease of the aircraft engine or aircraft, does not include the amount allocated under **subsection (3)** to the unexpired portion of the scheduled overhaul period for the aircraft engine or aircraft. 15
- Sections CC 12 and FA 10: consideration derived by lessor from disposal of lease asset*
- (7) For the purposes of sections CC 12 and FA 10 (which relate to a lessor acquiring a lease asset when a lease ends), the amount of consideration received by the lessor for a disposal of an aircraft engine or aircraft after the term of a finance lease of the aircraft engine or aircraft does not include an amount of consideration allocated under **subsection (3)** to the unexpired portion of the scheduled overhaul period for the aircraft engine or aircraft. 25
- Defined in this Act: aircraft engine, aircraft engine overhaul, deduction, depreciable year, dispose, finance lease, income, income year, scheduled overhaul period, unpriced aircraft engine*
- (2) **Subsection (1)** applies for the 2017–18 and later income years. 30
- 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 arrangements rules do not apply to)** 35
- (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):
- (2) ~~In section EW 11, list of defined terms, insert “amount” and “non-resident financial arrangement income”.~~
- (2) In section EW 11, list of defined terms, insert “non-resident financial arrangement income”. 5
- 56 Section EW 31 amended (Base price adjustment formula)**
- (1) Replace section EW 31(11), other than the heading, with:
- (11) **Amount remitted—**
- (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.
- (2) ~~After section EW 31(11), insert:~~ 15
- 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.~~ 20
- (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.~~
- (4) **Subsection (1)** applies for income years beginning on or after 1 April 2011. 25
- 56B Section EW 39 amended (Consideration affected by unfavourable factors)**
- (1) After section EW 39(3), insert:
- Consideration is market value: self remission*
- (4) The amount of self-remission for the financial arrangement is subtracted from the market value, under subsection (3), of the accrued entitlement on the date of the disposal. 30
- (2) In section EW 39, list of defined terms, insert “self-remission”.
- (3) **Subsection (1)** applies for income years beginning on or after 1 April 2011.
- 57 New section EW 46C inserted (Consideration when debt forgiven within economic group)** 35
- (1) After section EW 46B, insert:

**EW 46C Consideration when debt forgiven within economic group***When this section applies*

- (1) This section applies when—
- (a) a debtor is not a natural person, or has a capacity different from the creditor; and 5
  - (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.

*Consideration*

- (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. 10

*Two points about subsections (1) and (2)*

- (3) For the purposes of **subsections (1) and (2)**,—
- (a) the debtor's debt includes an amount accrued and unpaid at the time of the forgiveness; and 15
  - (b) the means by which the debt is forgiven is immaterial.

*Some definitions*

- (4) For the purposes of this section,—
- (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: 20
  - (b) **creditor's associate** means, for a creditor, a person associated with the creditor if— 25
    - (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,— 30
    - (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: 35
  - (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. 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

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(ii) does not include a member debt, if the creditor group member is a non-resident who was not originally issued the debt.

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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)**.

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**57** New section EW 46C inserted (Consideration when debt forgiven within economic group)

(1) After section EW 46B, insert:

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**EW 46C** Consideration when debt forgiven within economic group

*When this section applies*

(1) This section applies to the extent to which an amount of debt is forgiven and—

(a) the creditor is a member of the same wholly-owned group of companies as the debtor and the debtor is a New Zealand resident company;

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(b) the creditor is a member of the same wholly-owned group of companies as the debtor and, for the debtor, a group of persons who are New Zealand resident companies hold, before section YC 4 (Look-through rule for corporate shareholders) is applied to the group in relation to their interests,—

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(i) common voting interests that add up to 100%; and

(ii) if a market value circumstance exists for a company that is part of a group of companies to which the debtor belongs, common market value interests that add up to 100%;

(c) if the debtor is a company, the creditor is not a member of the same wholly-owned group of companies as the debtor and the creditor has ownership interests or, as applicable, market value interests in the debtor;

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(d) if the debtor is a partnership, the creditor has a partner's interest in the income of the debtor;

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- (e) if the debtor is a look-through company, the creditor has an effective look-through interest in the debtor.
- Some points about this section*
- (2) For the purposes of this section,—
- (a) the means by which an amount of debt is forgiven is immaterial: 5
- (b) a group of natural persons (the **single creditor group**) who are creditors or who have interests in the debtor are treated as one creditor holding the total debts and interests of the group, if each person has natural love and affection for the others. However, a trust may join the single creditor group if— 10
- (i) the trust was established mainly to benefit a natural person for whom each person of the single creditor group has natural love and affection; and
- (ii) the amount given by dividing the amount that the trust forgives the debtor by the trust’s proportional ownership ratio is less than the amount given by dividing the amount that the single creditor group forgives the debtor by the group’s proportional ownership ratio (for example: \$100 forgiven by the trust ÷ 40% ownership is greater than \$100 forgiven by the group ÷ 50% ownership, so the trust may not join the group, even if the required natural love and affection exists). 15 20
- When this section does not apply*
- (3) This section does not apply if—
- (a) the creditor and debtor are members of the same wholly-owned group of companies; and 25
- (b) the creditor is a non-resident; and
- (c) the debt has been held by a person that is not a member of the wholly-owned group of companies.
- Consideration: debtor*
- (4) The debtor is treated as having paid the amount of debt on the date on which the creditor forgives it, if— 30
- (a) the relevant debt, creditor, and debtor are described in **subsection (1)(a) or (b)**:
- (b) the proportional debt ratio for the amount equals the proportional ownership ratio. 35
- Consideration: creditor*
- (5) The creditor is treated as having been paid the amount of debt on the date on which the creditor forgives it, if—

<p>(a) <u>the relevant debt, creditor, and debtor are described in <b>subsection (1)(a) or (b)</b>:</u></p> <p>(b) <u>the proportional debt ratio for the amount equals the proportional ownership ratio.</u></p> <p><i>Some definitions</i></p> <p>(6) <u>For the purposes of this section,—</u></p> <p><b>nominal shares</b> <u>are shares held by the trustee of a share purchase scheme, or employees or former employees of the debtor, if the total of those shares represent voting interests in the debtor that add up to no more than 3%, or, as applicable, market value interests in the company that add up to no more than 3%</u></p> <p><b>proportional debt ratio</b> <u>means, for a creditor and an amount of debt, the percentage that the creditor’s amount bears to the total amounts of debt to which this section applies forgiven at the time the creditor’s debt is forgiven</u></p> <p><b>proportional ownership ratio</b> <u>means the creditor’s percentage of the ownership interests or, as applicable, market value interests, total partner’s interests, or total effective look-through interests for the debtor, ignoring nominal shares.</u></p> <p><small>Defined in this Act: amount, consideration, employee, group of persons, income, look-through company, look-through interest, market value interest, New Zealand resident, nominal share, non-resident, partnership, partner’s interests, pay, proportional debt ratio, proportional ownership ratio, share, trustee, voting interest, wholly-owned group of companies</small></p> <p>(2) <b>Subsection (1)</b> <u>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 <b>subsection (1)</b>.</u></p> <p><b>57B Section EW 46C amended (Consideration when debt forgiven within economic group)</b></p> <p>After <b>section EW 46C(2)(a)</b>, insert:</p> <p>(ab) <u>the debt includes an amount accrued and unpaid at the time of the forgiveness:</u></p> <p><b>58 Section EW 49 amended (Income and deduction when debt sold-disposed of at discount to associate of debtor)</b></p> <p>In section EW 49(5)(b), replace “Repayment of debt <del>sold-disposed of</del> at discount to associate of debtor” with “Repayment of debt in certain circumstances”.</p> <p><b>59 New section EW 49B inserted (Guarantees within economic group)</b></p> <p>(1) After section EW 49, insert:</p>	<p>5</p> <p>10</p> <p>15</p> <p>20</p> <p>25</p> <p>30</p> <p>35</p>
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**EW 49B Guarantees within economic group***When this section applies*

- (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. 5

*Economic debt*

- (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.

*New debt*

- (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.~~ 10

- (3) If a base price adjustment for the debt to the creditor is performed,—  
 (a) the debt that the guarantor is treated as acquiring and holding is treated as repaid; and 15  
 (b) if the guarantor has recourse to the debtor in relation to the guarantee payment, the guarantor is treated as having provided the debtor with an interest-free loan for the amount of the economic debt.

*Repayment: income and deduction* 20

- (4) If the debtor later repays the guarantor more than the economic debt, the excess paid by the debtor is—  
 (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). 25

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)**In section EX 46(1), replace paragraph (b) ~~Replace section EX 46(1)(b) with:~~ 30

- (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) ~~After section EY 2(2)(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 16B**:~~ 35

- (ab) for consideration for services provided to policyholders by the life insurer in administering and managing funds intended for use in meeting future policyholder claims under savings product policies that are not profit participation policies, under **section EY 16B**:
- (1B) Replace section EY 2(3), other than the heading, with: 5
- (3) A life insurer’s **schedular policyholder base income** is the amount calculated by subtracting, from the assessable income in the policyholder base income for the income year, the amounts of policyholder base allowable deductions incurred in the income year, or available in the income year under **subsection (5) or (5B)**, in the order in which the amounts are incurred. 10
- (1C) In section EY 2(4), replace “carried forward to the current year under subsection (5)” with “available in the income year under **subsection (5) or (5B)**”.
- (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
- (2B) After section EY 2(5), insert:
- Transfer of policies with excess policyholder base allowable deductions*
- (5B) If a life insurer (the **transferor**) transfers a life insurance policy to another life insurer (the **transferee**) in an income year and, immediately before the transfer, the transferor has an amount (the **transferred amount**) of policyholder base allowable deductions for the life insurance policy and the income year, at the time of the transfer— 20
- (a) the amount of policyholder base allowable deductions of the transferor for the income year is reduced by the transferred amount; and 25
- (b) the amount of policyholder base allowable deductions incurred by or available to the transferee in the income year is increased by the transferred amount, which is treated as being incurred by the transferee for the life insurance policy at the time of the transfer. 30
- (3) **Subsection (1)** applies for income years beginning on or after 1 April 2015.
- (3B) **Subsection (1)** applies for a person, and an income year that includes 1 July 2010 or begins 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) Act **2016** receives the Royal assent; and 35
- (b) depending on **section EY 2(2)(ab)** as inserted by **subsection (1)**.
- (3C) **Subsections (1B) and (1C)** apply for the 2016–17 and later income years.

- (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.
- (5) **Subsection (2B)** applies for transfers occurring on or after the beginning of the 2016–17 income year. 5
- 62 Section EY 3 amended (Shareholder base)**
- (1) ~~In section EY 3(1), after paragraph (a)~~After section EY 3(1)(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**:~~ 10
- (ab) for consideration for services provided to policyholders by the life insurer in administering and managing funds intended for use in meeting future policyholder claims under savings product policies that are not profit participation policies, under **section EY 19B**:
- (2) In section EY 3, list of defined terms, insert “savings product policy”. 15
- (3) **Subsection (1)** applies for income years beginning on or after 1 April 2015.
- (4) **Subsection (1)** applies for a person, and an income year that includes 1 July 2010 or begins 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) Act **2016** receives the Royal assent; and 20
- (b) depending on **section EY 3(1)(ab)** as inserted by **subsection (1)**.
- 62B Section EY 16 amended (Policyholder base allowable deductions: non-participation policies)** 25
- In section EY 16(1), before paragraph (a), replace “policyholder allowable deduction” with “policyholder base allowable deduction”.
- 63 New section EY 16B inserted (Policyholder base allowable deductions: consideration for investment management services)**
- (1) After section EY 16, insert: 30
- EY 16B Policyholder base allowable deductions: consideration for investment management services**
- (1) ~~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 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.~~ 35

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 deduction equal to the amount that is—

- (a) credited to the shareholder base in the income year as consideration for services provided to policyholders in administering and managing funds intended for use in meeting future policyholder claims under the policies; and 5
- (b) not included in the policyholder base allowable deduction under section EY 16.

Defined in this Act: amount, class of policies, income year, life insurer, policyholder base allowable deduction, profit participation policy, savings product policy, shareholder base 10

- (2) **Subsection (1)** applies for income years beginning on or after 1 April 2015.
- (3) **Subsection (1)** applies for a person, ~~for~~ and an income year that includes 1 July 2010 or ~~commences~~ begins after 1 July 2010 and before 1 April 2015, and a tax position taken by the person— 15
  - (a) before the date on which the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) ~~Bill is introduced~~ Act 2016 receives the Royal assent; and
  - (b) ~~relying~~ depending on **section EY 16B** as inserted by **subsection (1)** and **section EY 19B** as inserted by **section 66**. 20

**64 Section EY 17 amended (Policyholder base income: profit participation policies)**

- (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”. 25
- (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.
- (4) **Subsections (1) and (2)** apply for a person, and an income year that includes 1 July 2010 or begins after 1 July 2010 and before the day on which the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act **2016** receives the Royal assent, 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) Act 2016 receives the Royal assent; and 35
  - (b) depending on section EY 17 as amended by **subsections (1) and (2)**.

- 65** ~~Section EY 19 amended (Shareholder base income: non-participation policies)~~
- (1) In section EY 19(1), replace paragraph (b) with:
- (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.~~ 5
- (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~~ 10
- (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)**
- (1) After section EY 19, insert: 15
- 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. 20
- 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 that is— 25
- (a) credited to the shareholder base in the income year as consideration for services provided to policyholders in administering and managing funds intended for use in meeting future policyholder claims under the policies; and
- (b) not included in the shareholder base income under section EY 19. 30
- 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.
- (3) **Subsection (1)** applies for a person, and 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— 35
- (a) before the date on which the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Bill is introduced**Act 2016** receives the Royal assent; and



- (b) ~~relying~~depending 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”. 5
- (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. 10
- (4) **Subsections (1) and (2)** apply for a person, and an income year that includes 1 July 2010 or begins after 1 July 2010 and before the date on which the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act **2016** receives the Royal assent, and a tax position taken by the person— 15
- (a) before the date on which the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act **2016** receives the Royal assent; and
- (b) depending on section EY 21 as amended by **subsections (1) and (2)**. 20

**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,”.
- (2) In section EY 23(2), after “class of policies”, insert “that includes life insurance policies to which this section applies”. 25
- (3) In section EY 23(4), before paragraph (a), 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:
- (6) **PSR period** means, for an income year and a policy in a class of policies, a period— 30
- (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— 35
- (i) the amounts of the life risk components of premiums payable in the period are level or substantially level:

- (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. 5
- 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: 10
- 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 15
- (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. 20
- (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,— 25
- (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. 30
- (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. 35
- 70 Section EY 28 amended (Shareholder base other profit: profit participation policies that are existing business)**
- (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 for the current year”. 5
- (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 for the current year”.
- (4) Replace section EY 28(5)(e) with: 10
- (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:
- (5) Replace section EY 28(5)(f) with: 15
- (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. 20
- (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— 25
- (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 30
- ~~(e) does not include anticipated bonus declarations or bonus declarations for another income year.~~
- (c) does not include bonus declarations that vest after the current 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)**”. 35
- (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 or after the date on which the Taxation (Annual Rates

for 2016–17, Closely Held Companies, and Remedial Matters) Act **2016** receives the Royal assent.

- (10) **Subsections (2) and (3)** apply for a person, and an income year that includes 1 July 2010 or begins after 1 July 2010 and before the date on which the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act **2016** receives the Royal assent, 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) Act **2016** receives the Royal assent; and
- (b) depending on section EY 28 as amended by **subsections (2) and (3)**.

**71 Section EY 29 amended (Shareholder base other profit: profit participation policies that are new business)**

- (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 for the current year”.
- (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 for the current year”.
- (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:
- (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.
- (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—

- (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~~
- (c) does not include bonus declarations that vest after the current year; and 10
- (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)**”. 15
- (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~~ or after the date on which the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act **2016** receives the Royal assent. 20
- (10) **Subsections (2) and (3)** apply for a person, and an income year that includes 1 July 2010 or begins after 1 July 2010 and before the date on which the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act **2016** receives the Royal assent, and a tax position taken by the person— 25
- (a) before the date on which the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act **2016** receives the Royal assent; and
- (b) depending on section EY 29 as amended by **subsections (2) and (3)**.
- 72 **New section EZ 23BA inserted (Aircraft acquired before 2017–18 income year: adjusted tax value, base value, reduced; total deductions increased)** 30
- (1) After section EZ 23, insert:
- EZ 23BA Aircraft acquired before 2017–18 income year: adjusted tax value, base value, reduced; total deductions increased**
- When this section applies* 35
- (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 <del>replace pieces of the aircraft engine when performing an aircraft engine overhaul</del> perform aircraft engine overhauls on <u>the aircraft engine when operating an aircraft</u> ; 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 <del>the cost to the person of the pieces referred to in <b>paragraph (b)</b></del> the cost of an aircraft engine overhaul of the aircraft engine; and	5
(d)	<u>the person does not make an election under <b>section EJ 26</b> (Allocation of expenditure on aircraft engine overhauls: election by operator of single aircraft) for the 2017–18 income year.</u>	10
	<i>Removal of cost of pieces from base value</i>	
	<i>Base value reduced by cost of overhaul</i>	
(2)	The item base value referred to in <b>subsection (1)(c)</b> <u>for the aircraft engine or aircraft</u> is reduced at the beginning of the 2017–18 income year by the included amount referred to in that paragraph.	15
	<i>Removal of cost of pieces from adjusted tax value</i>	
	<i>Adjusted tax value reduced by depreciated cost of overhaul</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 <del>pieces referred to in <b>subsection (1)(b)</b></del> aircraft engine overhaul referred to in <b>subsection (1)(c)</b> .	20
	<i>Total deductions increased by reduction in base value</i>	
(4)	<u>For the purposes of section EE 56, the amount of the reduction in base value under <b>subsection (2)</b> is included as an increase in the item total deductions for the aircraft engine or aircraft.</u>	25
	<i>Fair and reasonable proportion of base value and adjusted tax value</i>	
(5)	<u>For the purposes of <b>subsections (2) and (3)</b>, the proportion of the base value or adjusted tax value that corresponds to the cost or depreciated cost to the person of the aircraft engine overhaul is the amount that is fair and reasonable, taking into consideration—</u>	30
(a)	<u>the principles used in determining the amount of a deduction allowed under <b>section DW 5</b> (Aircraft operators: aircraft engines and aircraft engine overhauls) for an aircraft engine or aircraft in the 2017–18 or a later income year;</u>	35
(b)	<u>historical figures for the cost of an aircraft engine overhaul as a proportion of the cost of a similar aircraft and engine.</u>	
	Defined in this Act: adjusted tax value, aircraft engine, aircraft engine overhaul, unpriced aircraft engine	40

- (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)**
- (1) In section FA 4(2)(b), replace “the amount” with “the cost to the shareholder of the cancelled share”. 5
- (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—
- (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 10
- (b) that is inconsistent with the amendment made by **subsection (1)**.
- 74 Section FA 9 amended (Treatment when lease ends: lessee acquiring asset)**
- (1) After section FA 9(4), insert:
- Payment relating to aircraft engine overhaul* 15
- (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.
- (2) In section FA 9, list of defined terms, insert “aircraft engine”, “consideration”, and “unpriced aircraft engine”. 20
- (3) **Subsection (1)** applies for the 2017–18 and later income years.
- 75 Section FA 10 amended (Treatment when lease ends: lessor acquiring asset)**
- (1) After section FA 10(7), insert: 25
- Payment relating to aircraft engine overhaul*
- (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. 30
- (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)** 35
- (1) After section FA 11(7), insert:

	<i>Payment relating to aircraft engine overhaul</i>	
(8)	Expenditure of a person that relates to an aircraft including an unpriced aircraft engine and is deductible for the person under <b>sections DW 5 and DW 6</b> (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.	5
(2)	In section FA 11, list of defined terms, insert “aircraft engine”, “consideration”, and “unpriced aircraft engine”.	
(3)	<b>Subsection (1)</b> applies for the 2017–18 and later income years.	
<b>77</b>	<b>Section FC 1 amended (Disposals to which this subpart applies)</b>	10
	In section FC 1(1), <del>words before paragraph (a)</del> , replace “the following transactions:” with “the transactions referred to in <b>section FC 10</b> and under transactions that are—”.	
<b>78</b>	<b>Section FC 2 amended (Transfer at market value)</b>	
(1)	In section FC 2(1), <del>words before paragraph (a)</del> , replace “under section FC 1(1)” with “in circumstances described in section FC 1(1)”.	15
(2)	In section FC 2(3), replace “FC 3 to FC 6” with “FC 3 to FC 6 and <b>FC 10</b> ”.	
<b>79</b>	<b>New heading and new section FC 10 inserted</b>	
	After section FC 9, insert:	
	<i>Bankruptcy or insolvency of person under Insolvency Act 2006</i>	20
<b>FC 10</b>	<b>Transfers from person to Official Assignee under Insolvency Act 2006</b>	
	<i>When this section applies</i>	
(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.	
	<i>Transfer of revenue account property subject to section EA 1</i>	25
(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 <b>transfer date</b> ) on which the person is adjudicated bankrupt or the procedure under Part 5 of the Insolvency Act 2006 is approved by the Court.	30
	<i>Transfer of revenue account property subject to section EA 2</i>	
(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	35



(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.	
	<i>Transfer of depreciable property</i>	
(4)	If depreciable property of the person vests in the Official Assignee,—	5
(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	10
(ii)	without incurring an amount of expenditure as consideration for the transfer.	
	<i>Deductions not already allocated to period before transfer</i>	
(5)	<b>Subsection (6)</b> 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 <b>unallocated deductions</b> ) are not allocated to a period ending before the transfer date.	15
	<i>Official Assignee and unallocated deductions</i>	
(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—	20
(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.	25
<b>80</b>	<b>Section FE 2 amended (When this subpart applies)</b>	
(1)	After section FE 2(1), insert:	
	<i>Non-resident owning bodies</i>	
(1B)	<u>For the purposes of this subpart and the definition of <b>non-resident owning body</b>,—</u>	30
(a)	<u>a non-resident includes a person who meets the requirements of sections FE 2(1)(cc), (d), or (db):</u>	
(b)	<u>in determining the relationship between the amount of a company’s debt relating to a member and the level of ownership interests in the company relating to the member, the level of each type of ownership interest in the company is considered, despite section FE 39.</u>	35
(2)	In section FE 2, list of defined terms, insert “double tax agreement”.	

- 80B Section FE 4 amended (Some definitions)**
- (1) In section FE 4(1), repeal the definition of **non-resident owning body**.
- (2) Repeal section FE 4(2).
- (3) In section FE 4, replace the list of defined terms with “**excess debt entity, income year, New Zealand banking group, reporting bank, trustee**”. 5
- 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.”
- 82 Section FE 28 amended (Identifying members of New Zealand group)**
- (1) In section FE 28(2)(b),— 10
- (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—”:
- (b) in subparagraph (iii), replace “parent; or” with “parent; and”: 15
- (c) repeal subparagraph (iv).
- (2) In section FE 28(2)(b),—
- (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—”:
- (b) in subparagraph (iii), replace “parent; or” with “parent.”: 20
- (c) repeal subparagraph (iv).
- (3) **Subsection (1)** applies for the 2008–09 and later income years.
- (4) **Subsection (2)** applies for income years beginning on or after 1 July 2009.
- 82B Section FE 36B amended (Identifying members of the New Zealand banking group: Crown-owned, no interest apportionment)** 25
- (1) Replace section FE 36B(1)(a) with:
- (a) each voting interest in the registered bank is held by—
- (i) the Sovereign in right of New Zealand:
- (ii) a public authority; and
- (2) In section FE 36B, list of defined terms, insert “public authority” and “voting interest”. 30
- (3) **Subsection (1)** applies for the 2016–17 and later income years.
- 83 New subpart FG inserted (Treatment of notional loans to New Zealand branches of foreign banks)**
- (1) Before subpart FL, insert: 35

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 and the Stamp and Cheque Duties Act 1971, when— 5
- (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 as a loan in the branch’s accounting records for the accounting records of the branch for an income year; and 10
  - (c) in calculating its income tax liability for anthe 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 15
    - (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.~~ 20
- (2) In this subpart, **foreign bank** means a non-resident that is—
- (a) a registered bank; and
  - (b) engaged in business in New Zealand through a fixed establishment in New Zealand. 25

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

**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~~, NRWT rules and the Stamp and Cheque Duties Act 1971, is treated as money lent to the branch by the bank. 30

*Amounts excluded*

- (1B) The amount of the notional loan does not include an amount provided as funding to the bank under a financial arrangement if NRWT or approved issuer levy is paid, in the absence of this subpart, in relation to interest that— 35
- (a) is derived under the arrangement; and
  - (b) has a source in New Zealand.

*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 an~~ income year, the amount is treated as a repayment of some or all of the amount of the notional loan. 5

Defined in this Act: amount, ~~money lent, pay~~ approved issuer levy, financial arrangement, income year, interest, money lent, NRWT, NRWT rules, pay, source in New Zealand

**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,~~ an expense in relation to the notional loan in an income year is treated as interest that is non-resident passive income— 10

- (a) paid by the branch to the bank on the last day of the ~~income year~~ third month that follows the balance date of the branch; and  
 (b) ~~incurred by the branch in the income year~~; and 15  
 (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~~ Foreign Bank Ltd is treated as making a loan to the branch on which it ~~makes~~ receives an interest payment of NZ\$42m. 20 25

Defined in this Act: amount, balance date, deduction, income year, interest, non-resident passive income, pay

- (2) **Subsection (1)** applies— 30
- (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) for an amount made available by a foreign bank to its New Zealand branch that is recorded in the relevant accounting records before the date on which this Act receives the Royal assent, 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; or 35  
 (c) in all other cases, from the date of enactment. 40

- 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.”
- 85 Section FM 7 amended (Treatment of amounts derived or expenditure incurred)** 5  
In section FM 7, replace “Sections FM 8 to FM 30” with “Sections FM 8 to FM 23”.
- 85B Section FM 9 amended (Amounts that are company’s income)**  
After section FM 9(2), insert:  
*Relationship with section CB 15C* 10  
(3) This section is overridden by **section CB 15C(2)** (Council-controlled organisations and other companies).
- 86 Section FM 27 repealed (Refunds of FDP)**  
Repeal section FM 27.
- 87 Section FM 28 repealed (Refund when consolidated group has loss)** 15  
Repeal section FM 28.
- 88 Section FM 29 repealed (Treatment of credit balance in consolidated group’s FDP account)**  
Repeal section FM 29.
- 89 Section FM 30 amended (Application of certain provisions to consolidated groups)** 20  
(1) Repeal section FM 30(1) to (3).  
(2) In section FM 30, list of defined terms, delete “policyholder credit account”.
- 90 Section FM 30 ~~repealed~~ amended (Application of certain provisions to consolidated groups)** 25  
(1) Repeal section FM 30(4), (5), and (7).  
(2) In section FM 30, list of defined terms, delete “FDP account”, “FDP penalty tax”, “FDPA company”, “foreign dividend”, and “further FDP”.
- 91 Section FO 12 amended (Financial arrangements: resident’s restricted amalgamation, companies in wholly-owned group)** 30  
(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”.~~

- (1) In section FO 12(1)(d), replace “except to the extent to which the loss balance is attributed to the amalgamated company under section IE 2 (Treatment of tax losses by amalgamating company)” with “except if section IE 2 (Treatment of tax losses by amalgamating company) 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”. 5
- (2) **Subsection (1)** applies for the 2008–09 and later tax years.
- 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)”. 10
- 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)** 15
- (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 20
- (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: 25
- (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)** 30
- (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: 35
- (5) In this section and section 90AF of the Tax Administration Act 1994,—

	<b>account advantage</b> 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)	
	<b>tax credit advantage</b> means a tax credit allowed under section LE 1 (Tax credits for imputation credits).	5
(5)	In section GB 36, list of defined terms, delete “FDP account” and “FDP credit”.	
<b>96</b>	<b>Section GB 41 repealed (FDPA arrangements for carrying amounts forward)</b>	
	Repeal section GB 41.	10
<b>97</b>	<b>Heading and section GB 50 amended (Arrangements involving partners)</b>	
(1)	In the heading before section GB 50, replace “ <i>partners</i> ” with “ <i>partners and owners</i> ”.	
(2)	In the heading to section GB 50, replace “ <b>partners</b> ” with “ <b>partners and owners</b> ”.	15
(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)”.	20
(5)	In section GB 50, list of defined terms, insert “look-through company”.	
<b>98</b>	<b>Section HA 6 amended (Corporate requirements)</b>	
(1)	After section HA 6(2), insert:	
	<i>Exclusion: loss of continuity</i>	25
(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%.	
	<i>Exception for close relatives</i>	
(3B)	<u>For the purposes of <b>subsection (3)</b>, a share transferred by a transferor to a close relative is treated as being held by a single notional person for the company from the time that the transferor acquired the share. A share subsequently transferred to a close relative of a subsequent transferor is similarly treated as held by the same single notional person.</u>	30
	<i>Some definitions</i>	35
(4)	In this section—	

- minimum QC interest**, for a person and the QC continuity period, means the lowest voting interest or market value interest they have in the company during the QC 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. 5
- (2) ~~In section HA 6, list of defined terms, insert “market value interest”, “minimum QC interest”, “QC continuity period”, and “voting interest”.~~
- (2) In section HA 6, list of defined terms, insert “close relative”, “market value interest”, “minimum QC interest”, “QC continuity period”, and “voting interest”. 10
- (3) **Subsection (1)** applies for the 2017–18 and later income years.
- 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: 15  

$$\text{attached imputation credit} \div \text{tax rate.}$$
- (3) Repeal section HA 15(3)(b).
- (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: 20
- (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:
- (b) **amount of the dividend** is the amount before any imputation credits are attached: 25
- (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. 30
- (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.
- (8) In section HA 15(9), delete “or FDP credit”. 35
- (9) In section HA 15, list of defined terms, delete “FDP”, “FDP account”, “FDP credit”, “FDP rules”, and “FDPA company”.



- 99B Section HA 17 amended (Dividends derived by qualifying companies)**
- (1) In section HA 17(1)(a), replace “a company derived after it becomes” with “is derived by”.
- (2) **Subsection (1)** applies for the 2008–09 and later income years.
- 100 Section HA 18 amended (Treatment of dividends when qualifying company status ends) 5**
- (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: 10
- (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.
- (2) In section HA 19, list of defined terms, delete “FDP account” and “FDP credit” 15
- 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— 20
- (a) a tax loss that does not include an attributed CFC net loss, or a FIF net loss, to which subsection (6) applies:
- (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: 25
- (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) **Subsections (1) and (2)** do not apply for a person, an income year referred to in **subsection (4)**, and a tax position if— 30
- (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
- (b) the tax position is inconsistent with the amendments made by **subsections (1) and (2)**; and 35

- (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.

**103 Section HA 41 amended (Calculating qualifying company election tax)**

- (1) In section HA 41(3)(c), delete “or FDP credits”. 5
- (2) Repeal section HA 41(4)(b).
- (3) In section HA 41, list of defined terms, delete “FDP account” and “FDP credit”.

**104 Section HB 4 amended (General provisions relating to disposals)**

- (1) After section HB 4(6), insert: 10
- 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.
- (2) In section HB 4, list of defined terms, insert “financial arrangement”. 15

**105 Section HB 11 amended (Limitation on deductions by ~~person~~ persons with interests in look-through companies)**

- (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,— 20
- (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
- (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 described in section HG 1 (Joint venturers) that includes another LTC. 25
- (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.

**106 Section HB 13 amended (LTC elections)**

- After section HB 13(5), insert: 30

*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.~~

*Valuation transfer*

(6) An entity that ceases to be a company upon becoming an LTC is treated as having, as an LTC, the same status, intention, purpose, and tax book values it had as a company for its assets, liabilities, and associated legal rights and obligations.

5

**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”.

**108 Section HG 5 amended (Disposal of partner’s interests)**

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- (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**)”.
- (2) In section HG 6, list of defined terms, insert “exiting partner”.

15

**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)**

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- (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)**

- (1) In section HG 9(1), delete “(the **exiting partner**)”.
- (2) ~~In section HG 9, list of defined terms, delete “disposal”.~~
- (2) In section HG 9, list of defined terms,—

25

- (a) delete “disposal”;
- (b) insert “dispose” and “exiting partner”.

- (3) ~~In section HG 9, list of defined terms, insert “dispose” and “exiting partner”.~~

30

**113 Section HG 11 amended (Limitation on deductions by partners in limited partnerships)**

- (1) In section ~~HG 11(8)~~HG 11(8)(c), 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**)”.
- (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”. 5
- 115 Section HM 19 amended (Requirements for listed PIEs: fully crediting distributions)**
- (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)** 10  
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). 15
- (2) In section HM 70, list of defined terms, delete “FDP credit”.
- 118 Section HM 76 repealed (Transition: FDPA companies)**  
Repeal section HM 76.
- 118B New section HZ 4E inserted (Transition out of LTC regime for Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2016)** 20  
After section HZ 4D, insert:
- HZ 4E Transition out of LTC regime for Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2016)**
- When this section applies* 25
- (1) This section applies when an entity that is a look-through company (an LTC) at the end of the 2016–17 income year ceases to be an LTC because of an amendment to LTC-related provisions, in **section 262** of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act **2016** (the **cessation**). 30
- Exemption*
- (2) Section HB 4(6) (General provisions relating to disposals) does not apply to the cessation.

*Company steps into place*

- (3) An entity that ceases to be an LTC is treated as having, as a company, the tax position it has, ignoring section HB 1(4) (Look-through companies are transparent), immediately before it ceases, and the owners are treated as not having that tax position.

5

Defined in this Act: company, income year, look-through company, tax position

**119 New section HZ 8 inserted (Retrospective transitional provision for market valuation under section HB 4)**

After section HZ 7, insert:

**HZ 8 Retrospective transitional provision for market valuation under section HB 4**

10

*When this section applies*

- (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.

15

*Income*

- (2) The person has an amount of income for the 2017–18 income year calculated using the formula—

retrospective amount – current amount.

*Definition of items in formula*

20

- (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:

25

(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.

30

**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).  
(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”.

35

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

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

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

5

- (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—
- (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.

10

*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.

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- (2) **Subsection (1)** applies for a person who, on or after the day on which this Act receives the Royal assent,—

- (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.

20

**122 Section IA 7 amended (Restrictions relating to ring-fenced tax losses)**

- (1) In section IA 7(7), after “sections”, insert “HA 24 (Treatment of tax losses other than certain foreign losses) and”.

25

- (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).

- (4) In section IA 7, list of defined terms, delete “new start grant”.

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- (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)**

- (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”.

35

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

**124 Section IE 3 replaced (Treatment of tax losses by amalgamated company)**

- (1) Replace section IE 3 with:

**IE 3 Treatment of tax losses by amalgamated company**

*When this section applies*

- (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—
- (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.

*Requirements for tax loss components to be used or made available before amalgamation*

- (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 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—
- (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
  - (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.

*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.

	<i>Relationship with sections IA 3, IA 4, and IA 5</i>	
(5)	This section overrides sections IA 3 and IA 4 (which relate to the general use of tax losses) and IA 5.  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	5
(2)	<b>Subsection (1)</b> applies for the 2008–09 and later tax years.	
(2)	<b>Subsection (1)</b> applies for the 2008–09 and later tax years, except for a tax year for which the person takes a tax position—	
(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)	that is inconsistent with the amendment made by <b>subsection (1)</b> .	
<b>125</b>	<b>Section IS 1 amended (General treatment of mineral miners’ net losses)</b>	
(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.	15
(2)	In section IS 1, list of defined terms, insert “tax loss”.	
(3)	<b>Subsection (1)</b> applies for the 2014–15 and later income years.	20
<b>126</b>	<b>Section LA 6 amended (Remaining refundable credits: PAYE, RWT, and certain other items)</b>	
(1)	Repeal section LA 6(1)(d).	
(2)	Repeal section LA 6(1)(db).	
<b>127</b>	<b>Section LE 1 amended (Tax credits for imputation credits)</b>	25
	In section LE 1(1), delete “and FDP credits”.	
<b>128</b>	<b>Section LE 6 amended (Partners in partnerships)</b>	
(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”.	
(3)	In section LE 6, list of defined terms, delete “FDP credit”.	30
<b>129</b>	<b>Section LE 8 amended (Application of imputation ratio)</b>	
	In section LE 8(1), delete “and FDP credits”.	
<b>130</b>	<b>Section LE 9 repealed (Application of combined imputation and FDP ratio)</b>	
	Repeal section LE 9.	35



<b>131</b>	<b>Subpart LF repealed (Tax credits for foreign dividend payment (FDP) credits)</b>	
	Repeal subpart LF.	
<b>132</b>	<b>Section LJ 1 amended (What this subpart does)</b>	
(1)	Replace section LJ 1(4), other than the heading, with:	5
(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.	10
(2)	Repeal section LJ 1(5).	
(3)	In section LJ 1, list of defined terms, delete “foreign tax”.	
<b>133</b>	<b>Section LJ 3 amended (Meaning of foreign income tax)</b>	
	Replace section LJ 3, other than the heading, with:	
	For the purposes of this Part, <b>foreign income tax</b> means—	15
(a)	an amount of a tax of another country meeting the requirements of section YA 2(5) (Meaning of income tax varied):	
(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.	20
<b>134</b>	<b>Section LJ 8 repealed (Repaid foreign tax: effect on FDP liability)</b>	
	Repeal section LJ 8.	
<b>135</b>	<b>Section LP 2 amended (Tax credits for supplementary dividends)</b>	
(1)	In section LP 2(2), formula, replace “attached imputation credit” with “credit amount”.	25
(2)	In section LP 2(3), replace “ <b>attached imputation credit</b> ” with “ <b>credit amount</b> ”.	
(3)	In section LP 2(3B)(a), replace “ <b>attached imputation credit</b> ” with “ <b>credit amount</b> ”.	
<b>136</b>	<b>Section LP 3 amended (Use of remaining credits)</b>	30
(1)	Replace section LP 3(1) to (4) with:	
	<i>When this section applies</i>	
(1)	This section applies when a company ( <b>company A</b> ) has a tax credit arising under section LP 2 remaining for a tax year (the <b>current year</b> ) under section LA 5(3) (Treatment of remaining credits).	35

	<i>Use of remaining credits by group companies</i>	
(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 ( <b>company B</b> ) that belongs to the wholly-owned group for the corresponding income year.	5
	<i>Carrying amount back to earlier tax years</i>	
(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—	10
	(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.	15
	<i>Carrying amount forward</i>	
(4)	If company A has an amount of the tax credit remaining for the current year after applying <b>subsections (2) and (3)</b> , and the amount has not been previously carried back under <b>subsection (3)</b> , the amount is carried forward under section LA 5(3) to the tax year following the current year.	20
(2)	<b>Subsection (1)</b> applies for the 2008–09 and later tax years.	
<b>137</b>	<b>Section LP 5 amended (Application of benchmark dividend rules and imputation credit ratio)</b>	25
	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)”.	
<b>138</b>	<b>Section MB 7B amended (Family scheme income from employment benefits: employees not controlling shareholders)</b>	30
	After section MB 7B(2), insert:	
	<i>Calculating fringe benefit tax on benefit</i>	
(3)	In calculating under subsection (2)(b) the amount of fringe benefit tax on a benefit, the person may use—	
	(a) the rate of fringe benefit tax used by the person’s employer in calculating the fringe benefit tax payable on the benefit:	35
	(b) the maximum basic rate of fringe benefit tax specified in schedule 1, part C, table 1 ( <u>Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits</u> ).	

- 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). 5
- 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)** 10
- 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— 15
- (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)**: 20
- (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 25
- (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).
- (3) **Subsection (2)** applies for dependent children born on or after 1 April 2015. 30
- 142 Section MD 2 amended (Calculating net contributions to credits)**
- (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— 35
- (entitlement period abatement amount – amount used) × 365 ÷ 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): 5
- (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. 10
- 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
- (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—”. 15
- (3) In section MD 11, list of defined terms, insert “tax year”.
- 144 Section MD 12 amended (Calculation of parental tax credit)**
- (1) In section MD 12(1), after “section MD 11”, insert “in an entitlement period”. 20
- (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)~~After section MD 12(4), insert: 25
- Modification where 56-day period crosses 2 tax years and credit paid in lump sum*
- (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— 30
- (i) in the parental entitlement period; and
- (ii) in an entitlement period in the tax year following the tax year of the birth; and 35
- (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 <b>section MD 12B(3)(a)(ii)</b> .	
(4)	In the heading to <b>section MD 12(5)</b> , replace “56-day” with “70-day”.	
(5)	In <b>section MD 12(5)</b> , words before paragraph (a), replace “56-day” with “70-day”.	5
(6)	In section MD 12, list of defined terms, insert “entitlement period” and “tax year”.	
(7)	<b>Subsections (4) and (5)</b> apply for dependent children born on or after 1 April 2015.	
<b>145</b>	<b>New section MD 12B inserted (Additional parental tax credit amount included in lump sum if 56-day period crosses 2 tax years)</b>	10
(1)	After section MD 12, insert:	
	<b>MD 12B Additional parental tax credit amount included in lump sum if 56-day period crosses 2 tax years</b>	
	<i>When this section applies</i>	15
(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	
	(c) the birth occurs less than 56 days before the end of the tax year; and	20
	(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.	25
	<i>Definition of items in formula</i>	
(3)	In the formula in <b>subsection (2)</b> ,—	
	(a) <b>daily parental tax credit amount</b> is the amount of parental tax credit that the person would be entitled to for an entitlement period consisting of—	30
	(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	
	(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 <b>subparagraph (i)</b> does not apply;	35
	(b) <b>extra entitlement days</b> is the number of days, each of which is—	

<ul style="list-style-type: none"> <li>(i) in the parental entitlement period; and</li> <li>(ii) in an entitlement period in the tax year following the tax year of the birth.</li> </ul>	5
<p>Defined in this Act: amount, entitlement period, parental entitlement period, parental tax credit, pay, tax year</p>	
<ul style="list-style-type: none"> <li>(2) In the heading to <b>section 12B MD 12B</b>, replace “56-day” with “70-day”.</li> <li>(3) In <b>section 12B(1)(e)MD 12B(1)(c)</b>, replace “56” with “70”.</li> <li>(4) <b>Subsections (2) and (3)</b> apply for dependent children born on or after 1 April 2015.</li> </ul>	
<b>146 Section MD 13 amended (Calculation of family credit abatement)</b>	10
<ul style="list-style-type: none"> <li>(1) Replace the heading to section MD 13(4) with: <ul style="list-style-type: none"> <li><i>When 56-day period crosses 2 tax years and parental tax credit paid in instalments</i></li> </ul> </li> <li>(2) In section MD 13(4), <del>words before</del> paragraph (a), replace “56-day period that includes 31 March” with “56-day period that crosses 2 tax years”.</li> <li>(3) After section MD 13(4), insert: <ul style="list-style-type: none"> <li><i>When 56-day period crosses 2 tax years and parental tax credit paid in lump sum</i></li> </ul> </li> <li>(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— <ul style="list-style-type: none"> <li>(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— <ul style="list-style-type: none"> <li>(i) in the parental entitlement period; and</li> <li>(ii) in an entitlement period in the tax year following the tax year of the birth; and</li> </ul> </li> <li>(b) the formula in subsection (2) should not be used to calculate an amount of parental tax credit abatement for the days described in <b>paragraph (a)</b>, 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).</li> </ul> </li> <li>(4) In the heading to <b>section MD 13(4B)</b>, replace “56-day” with “70-day”.</li> <li>(5) In <b>section MD 13(4B)</b>, <del>words before</del> <b>paragraph (a)</b>, replace “56-day” with “70-day”.</li> <li>(6) In section MD 13(5), replace “referred to” with “appearing as the amount of the threshold”.</li> <li>(7) <del>In section MD 13, list of defined terms, insert “entitlement period” and “tax year”.</del></li> </ul>	<p>15</p> <p>20</p> <p>25</p> <p>30</p> <p>35</p>

- (7) In section MD 13, list of defined terms, insert “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)**
- (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”**. 5
- (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)**
- (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”.~~ 10
- (1) Replace section MX 7(2), other than the heading, with:
- (2) If subsection (1)(a)(i) 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 equal to the lesser of— 15
- (a) the total of the company’s R&D loss tax credits, for the tax years in the period that begins with the earliest credit year and ends with the tax year corresponding to the reinstatement year, minus the total amount of— 20
- (i) the company’s terminal tax, plus tax credits giving rise to imputation credits, minus refundable tax credits giving rise to imputation debits, for the tax years in the period:
- (ii) earlier payments of R&D repayment tax relating to R&D loss tax credits for the tax years in the period: 25
- (b) the amount calculated for the reinstatement year using the formula—
- intangibles’ market value × basic tax rate for a company.
- (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
- (2) Replace section MX 7(4), other than the heading, with:
- (4) 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 tax years in the period that begins with the earliest credit year and ends with the tax year corresponding to the reinstatement year, equal to the lesser of— 35

- (a) the total of the company’s R&D loss tax credits for the tax years in the period minus the total amount of—
- (i) the company’s terminal tax, plus tax credits giving rise to imputation credits, minus refundable tax credits giving rise to imputation debits, for the tax years in the period: 5
- (ii) earlier payments of R&D repayment tax relating to R&D loss tax credits for the tax years in the period:
- (b) the total of the amounts calculated for each tax year in the period using the formula—
- shares’ market value × basic tax rate for a company. 10
- (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—”.~~
- (3) Replace section MX 7(6), other than the heading, with:
- (6) If subsection (1)(a)(ii) or (iii) applies, the company is liable for an amount of R&D repayment tax equal to the total of the company’s R&D loss tax credits, for the tax years in the period that begins with the earliest credit year and ends with the tax year corresponding to the reinstatement year, minus the total amount of— 15
- (a) the company’s terminal tax, plus tax credits giving rise to imputation credits, minus refundable tax credits giving rise to imputation debits, for the tax years in the period: 20
- (b) earlier payments of R&D repayment tax relating to R&D loss tax credits for the tax years in the period.
- (3B) In section MX 7, list of defined terms, insert “tax year”. 25
- (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”. 30
- 150 Section OA 5 amended (Credits)**
- (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”. 35
- (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”.
  - (3) In section OA 6, list of defined terms, delete “PCA company” and “PCA person”. 5
- 152 Section OA 7 amended (Opening balances of memorandum accounts)**
- (1) Repeal section OA 7(2)(b).
  - (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”. 10
- 153 Section OA 8 amended (Shareholder continuity requirements for memorandum accounts)**
- (1) In section OA 8(3B)(a), delete “and FDP account, as applicable”.
  - (2) Repeal section OA 8(6)(b). 15
  - (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)**
- (1) Repeal section OA 10(1)(b). 20
  - (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”. 25
  - (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)**
- Repeal section OA 11.
- 156 Section OA 13 repealed (Policyholder credit account on resident’s restricted amalgamation)** 30
- Repeal section OA 13.

- 157 Section OA 14 amended (Continuity of shareholding when group companies amalgamate)**
- (1) In section OA 14(1), ~~words before~~ paragraph (a), replace “sections OA 15 to OA 17” with “sections OA 15 and OA 16”.
- (2) In section OA 14(1), before paragraph (a), replace “sections OA 15 and OA 16” with “section OA 15”. 5
- 158 Section OA 15 amended (When credits or debits due to consolidated group but not recorded)**
- (1) Repeal section OA 15(1)(b).
- (2) Repeal section OA 15(1)(d). 10
- (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.
- (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”. 15
- 159 Section OA 16 repealed (When FDP account ends on resident’s restricted amalgamation)**
- Repeal section OA 16.
- 160 Section OA 17 repealed (When policyholder credit account ends on resident’s restricted amalgamation)** 20
- Repeal section OA 17.
- 161 Section OA 18 amended (Calculation of maximum permitted ratios)**
- (1) In section OA 18(1), before paragraph (a), replace “, an FDP credit, and” with “and”.
- (2) Repeal section OA 18(1)(b). 25
- (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). 30
- (2) Repeal section OB 4(3)(eb).
- (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)~~After section OB 6(3)(a), insert: 35

(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

5

**164 Section OB 7C repealed (ICA expenditure on research and development)**

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)**

10

Repeal section OB 12.

**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*

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(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.

*Table reference*

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(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).

*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

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(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).

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(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”.
- 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)~~After section OB 26(2)(a), insert: 5  
 (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
- (3) ~~In section OB 26(3), after paragraph (d)~~After section OB 26(3)(d), insert: 10  
 (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).
- (4) ~~In section OB 26(4), after paragraph (a)~~After section OB 26(4)(a), insert:  
 (ab) the entitlement is transferred; or
- (5) **Subsections (1) to (4)** apply for the 2008–09 and later income years. 15
- 170 Section OB 36 repealed (ICA refund of FDP)**  
 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). 20
- (3) Repeal section OB 37(3)(c).
- (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)** 25
- (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”.
- (2) In section OB 45(7)(a), delete “and FDP credits”. 30
- (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:

**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. 5

*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).

*Credit/Debit date*

- (3) The debit date is the day on which the imputation credit is transferred. 10

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). 15  
 (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”. 20

**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)** 25

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)**

- (1) In section OB 67(2), ~~words~~ before the formula, replace “reduced by” with “reduced to”. 30  
 (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. 35

- (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**”. 5
- (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 10
- (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
- (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. 15
- (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”.
- (5) In section OB 71(5), ~~words~~ before paragraph (a), replace “wholly-owned group” with “former group”. 20
- (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 in each place where it appears~~.
- (8) In section OB 71(8), replace “wholly-owned group” with “former group”. 25
- (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: 30
- (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
- (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 35

- (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”. 5
- 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: 10
- (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*”. 15
- (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)~~ Replace section OB 72B(5)(b) with: 20
- (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— 25
- (a) may be refunded for an imputation credit if—
- (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: 30
- (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:
- (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 35
- (b) may be used to satisfy a tax liability referred to in **subsection (5C)**.

	<i>Tax liability in subsection (5) or (5B)</i>	
(5C)	A tax liability referred to in subsection (5) or <b>(5B)</b> is a tax liability of—	
	(a) the ICA company:	
	(b) a company (the <b>member</b> ) 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.	5
(7)	In section OB 72B(6), replace “subsection (5)” with “subsection (5) or <b>(5B)</b> ”.	
(8)	In section OB 72B(7),—	
	(a) in paragraph (a), replace “subsection (5)(a)” with “subsection (5)(a) or <b>(5B)(a)</b> ”:	10
	(b) in paragraph (b), replace “subsection (5)(b)” with “subsection (5)(b) or <b>(5B)(b)</b> ”.	
(9)	In section OB 72B(8)(a), delete “wholly-owned”.	
<b>183</b>	<b>Section OB 76 repealed (Statutory producer boards attaching FDP credits)</b>	15
	Repeal section OB 76.	
<b>184</b>	<b>Section OB 81 repealed (Co-operative companies attaching FDP credits)</b>	
	Repeal section OB 81.	
<b>185</b>	<b>Section OB 82 amended (When and how co-operative company makes election)</b>	20
	In section OB 82(1), before paragraph (a), replace “OB 78, OB 79, or OB 81” with “OB 78 or OB 79”.	
<b>186</b>	<b>New heading and new sections OB 83 and OB 84 inserted</b>	
(1)	After section OB 82, insert:	
	<i>Election by group company for transfer of imputation credits with transfer of tax loss</i>	25
<b>OB 83</b>	<b>Group companies transferring imputation credits with transfer of tax loss</b>	
	<i>Election</i>	
(1)	When a company that is an ICA company (the <b>loss company</b> ) makes a tax loss available under section IC 5 (Company B using company A’s tax loss) to another ICA company (the <b>profit company</b> ) for a tax year, the loss company may choose that the loss company or another company meeting the requirements of <b>subsection (5)</b> be able to transfer, when or after the tax loss is made available, imputation credits to the profit company.	30 35



*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*

- (3) The amount of imputation credits for which the loss company makes the election in **subsection (1)** is calculated using the formula— 5  
 $(\text{loss offsets} + \text{subvention payments}) \times \text{tax rate}.$

*Definition of items in formula*

- (4) In the formula—
- (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: 10
  - (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: 15
  - (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*

- (5) A company that is an ICA company may transfer imputation credits to the profit company under the election in **subsection (1)** if— 20
- (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 25
  - (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~~ arises and ending with the transfer of the imputation credits; and 30
  - (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~~ tax loss arises; and 35
  - (f) notice of the election meeting the requirements of **section OB 84** is given to the Commissioner.

*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.

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*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*

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- (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.

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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

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**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)**.

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

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*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:
  - (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:

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- (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:
- (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

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- (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. 10
- (3) In table O1, repeal row 10.
- (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”. 15
- (7) **Subsection (4)** applies for the 2017–18 and later income years.

**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”. 20
- (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, FDP debit”.
- (6) **Subsection (4)** applies for the 2017–18 and later income years.

**189 Subpart OC repealed (Foreign dividend payment accounts (FDPA))** 25

Repeal subpart OC.

**190 Table O3 repealed (FDP credits)**

Repeal table O3.

- 191 Table O4 amended (FDP debits)**  
In table O4, repeal row 12.
- 192 ~~Table O4 repealed (FDP debits)~~**  
Repeal ~~table O4~~.
- 193 Section OE 19 amended (BETA person’s payment of income tax on foreign income)** 5  
In section OE 19, list of defined terms,—  
(a) delete “foreign tax”;  
(b) insert “tax credit”.
- 194 Section OK 1 amended (General rules for Maori authorities with Maori authority credit accounts)** 10  
(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.  
(2) In section OK 1, list of defined terms, delete “FDP credit” and “FDPA company”. 15
- 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)** 20  
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)** 25  
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”. 30
- 200 Table O17 amended (Maori authority credits)**  
(1) In table O17, repeal row 4B.  
(2) In table O17, repeal row 7.

<b>201</b>	<b>Table O18 amended (Maori authority debits)</b> In table O18, repeal row 6.	
<b>202</b>	<b>Section OP 5 amended (When credits and debits arise only in consolidated imputation group accounts)</b>	
(1)	In section OP 5(2)(c), replace “credit:” with “credit.”	5
(2)	Repeal section OP 5(2)(d).	
(3)	Repeal section OP 5(4)(e).	
<b>203</b>	<b>Section OP 7 amended (Consolidated ICA payment of tax)</b>	
(1)	Repeal section OP 7(3)(f).	
(2)	Repeal section OP 7(3)(fb).	10
(3)	In section OP 7, list of defined terms, delete “FDP credit”.	
<b>204</b>	<b>Section OP 9 amended (Consolidated ICA transfer from tax pooling account)</b> <del>In section OP 9(3), after paragraph (a)</del> After section OP 9(3)(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	15
<b>205</b>	<b>Section OP 11B repealed (Consolidated ICA expenditure on research and development)</b> Repeal section OP 11B.	20
<b>206</b>	<b>Section OP 13 repealed (Consolidated ICA dividend derived with FDP credit)</b> Repeal section OP 13.	25
<b>207</b>	<b>Section OP 18 repealed (Consolidated ICA transfer from group company’s FDP account)</b> Repeal section OP 18.	
<b>208</b>	<b>Section OP 19 repealed (Consolidated ICA transfer from group’s FDP account)</b> Repeal section OP 19.	30
<b>209</b>	<b>Section OP 23 amended (Consolidated ICA elimination of double debit)</b>	
(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)~~After section OP 23(2)(a), insert:
- (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)~~After section OP 23(3)(d), insert: 5
- (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)~~After section OP 23(4)(a), insert: 10
- (ab) the entitlement is transferred; or
- (6) **Subsections (1) to (5)** apply for the 2008–09 and later income years.
- 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). 15
- (2) Repeal section OP 35(1B).
- (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. 20
- 213 Section OP 45 amended (Consolidated ICA redemption debit)**
- (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)** 25
- (1) In table O19, repeal row 6B.
- (2) In table O19, repeal row 8.
- (3) In table O19, repeal row 13.
- (4) In table O19, repeal row 14. 30
- 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**
- (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)** 5
- 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)** 10
- Repeal table O21.
- 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**. 15
- 222 Section OZ 3 amended (Overpaid income tax or foreign dividend payment for pre-imputation income year)**
- (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. 20
  - (3) In section OZ 3(2), before paragraph (a), delete “and FDP”.
  - (4) In section OZ 3(3), delete “or FDP”. 25
  - (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”;
  - (b) insert “tax credit”. 30
- 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”.
- (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)** 5
- (1) In the heading to section OZ 8, delete “and FDP credits”.
- (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)** 10
- (1) In section OZ 9(2), delete “or FDP ratio”.
- (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”. 15
- (2) In section OZ 10(1)(b), before subparagraph (i), delete “and FDP credits”.
- (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: 20
- (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.
- (7) In section OZ 10, list of defined terms, delete “combined imputation and FDP ratio”, “FDP credit”, and “FDP ratio”. 25
- 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 words~~ before paragraph (i) with: 30
- (b) the dividend, and the imputation credits attached to the dividend, have—
- (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”. 35



- (7) In section OZ 11(2), delete “or (ii)”.
- (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. 5
- (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”. 10
- 229 Section OZ 12 amended (Tax credits for non-resident investors)**
- (1) Repeal section OZ 12(1)(b)(i).
- (2) In section OZ 12(4), replace “OB 61, OC 28 (which relate to imputation and FDP credit ratios)” with “OB 61 (which relate to imputation credit ratios)”.
- (3) In section OZ 12, list of defined terms, delete “combined imputation and FDP ratio”. 15
- 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)** 20
- (1) In section RA 15(3)(b), replace “RF 13(3)” with “RF 3, RF 13(3)”.
- (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). 25
- (2) In section RA 19, list of defined terms, delete “FDP”.
- 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)** 30
- (1) In section RD 3(2), heading, replace “*close companies*” with “*close companies and some others*”.
- (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”. 35

- (3) In section RD 3(3), replace “close company” with “company”.
- (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:

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*Choices for shareholders of some companies who are employees: section RD 3B*

- (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—
- (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**.

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*Choices for shareholders of some companies who are employees: section RD 3C*

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- (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—
- (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**.

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*Choices for shareholders of some companies who are employees: once-and-for-all effect of election*

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- (4) An election under **subsection (2) or (3)** can not be changed, and only 1 election can ever be made.

*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.

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**235 Section RD 3 amended (PAYE income payments)**

- (1) In section RD 3(1)(b)(ii), replace “subsection (2)” with “**section RD 3B or RD 3C**”.
- (2) Repeal section RD 3(2) to (4).
- (3) Replace section RD 3(5) with:

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*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 **section RD 3B or RD 3C**, the Commissioner must determine the matter.

**236 New sections RD 3B and RD 3C inserted**

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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—
- (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
- (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.

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*When this section does not apply*

- (1B) This section does not apply for an income year if it or **section RD 3C** did previously apply but then, for 1 of the last 3 income years, ceased to apply for the person.

*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.

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

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**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—
- (a) the person derives as an employee payments of salary or wages of a regular amount for regular pay periods; but

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(b)	an amount is paid as income that may later be allocated to the person as an employee for the income year.	
	<i>When this section does not apply</i>	
(1B)	<u>This section does not apply for an income year if it or <b>section RD 3B</b> did previously apply but then, for 1 of the last 3 income years, ceased to apply for the person.</u>	5
	<i>PAYE</i>	
(2)	All amounts described in <b>subsection (1)(a)</b> 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.	10
	<i>Income other than PAYE</i>	
(3)	All amounts described in <b>subsection (1)(b)</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	15
<b>237</b>	<b>Section RD 5 amended (Salary or wages)</b>	
	Replace section RD 5(5) with:	
	<i>Payments to Governors-General, members of Parliament, and other office holders</i>	20
(5)	A payment to a person is included in salary or wages of the person if it is made as—	
(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:	25
(d)	salary or allowances to a member of the Employment Relations Authority.	
<b>238</b>	<b>Section RD 21 amended (When amounts of tax not withheld or payment insufficient)</b>	30
(1)	In section RD 21(3), replace “amount of a PAYE income payment” with “amount of money included in a PAYE income payment”.	
(2)	<b>Subsection (1)</b> applies for the 2008–09 and later income years.	
<b>238B</b>	<b>Section RD 36 amended (Repayment of employment-related loans)</b>	
(1)	Replace section RD 36(2)(b) with:	35
(b)	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; and
- (2) In section RD 36, list of defined terms, insert “fully-imputed dividend”.
- (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—
- (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.
- 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:
- (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:
- (i) has an imputation ratio of 30/70 or more; and
- (4) In section RE 2, list of defined terms, insert “fully imputed”.
- (4) In section RE 2, list of defined terms,—
- (a) delete “combined imputation and FDP ratio” and “FDP ratio”;
- (b) insert “fully imputed”.
- (5) In section RE 2, list of defined terms, delete “combined imputation and FDP ratio” and “FDP ratio”.
- (6) **Subsection (2)** applies for the 2017–18 and later income years.
- 240 Section RE 13 amended (Dividends other than non-cash dividends)**
- (1) After section RE 13(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 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 <b>section RE 14B</b> are met.	
(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”.	
<b>241</b>	<b>Section RE 14 amended (Non-cash dividends other than certain share issues)</b>	<b>5</b>
(1)	After section RE 14(1), insert: <i>When this section does not apply</i>	
(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	10
(b)	they choose to apply <b>section RE 14B</b> ; and	
(c)	the requirements of <b>section RE 14B</b> are met.	
(2)	In section RE 14(3)(c)(ii), replace “dividend:” with “dividend.”	15
(3)	Repeal section RE 14(3)(c)(iii).	
(4)	In section RE 14, list of defined terms, delete “FDP credit”.	
<b>242</b>	<b>New section RE 14B inserted (Combined cash and non-cash dividends)</b>	
	After <b>section RE 14</b> , insert:	
	<b>RE 14B Combined cash and non-cash dividends</b>	<b>20</b>
	<i>When this section applies</i>	
(1)	This section applies when a person has made an election in accordance with <b>sections RE 13(1B) and RE 14(1B)</b> 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 <b>subsection (2)</b> .	25
	<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—	
	(tax rate × (dividends + tax paid or credit attached)) – tax paid or credit attached.	30
	<i>Definition of items in formula</i>	
(3)	In the formula,—	
(a)	<b>tax rate</b> 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):	35

<p>(b) <b>dividends</b> is the total amount of the cash dividend and the non-cash dividend paid before the amount of tax is determined:</p> <p>(c) <b>tax paid or credit attached</b> is the total of the following amounts:</p> <p style="padding-left: 2em;">(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:</p> <p style="padding-left: 2em;">(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.</p> <p><i>Treatment as if amount of tax withheld for 1 combined dividend</i></p> <p>(4) The total amount of the cash dividend and the non-cash dividend is treated as 1 payment of 1 dividend (the <b>combined dividend</b>), and the amount calculated under the formula in <b>subsection (2)</b> is the amount that is required to be withheld from the combined dividend and paid under the RWT rules.</p>	<p>5</p> <p>10</p> <p>10</p>
<p><b>243 Section RE 15 amended (Bonus issues in lieu and shares issued under profit distribution plans)</b></p> <p>(1) In section RE 15(3)(c)(ii), replace “dividend:” with “dividend.”</p> <p>(2) Repeal section RE 15(3)(c)(iii).</p> <p>(3) In section RE 15, list of defined terms, delete “FDP credit”.</p>	<p>15</p>
<p><b>244 Section RE 17 amended (Replacement payments under share-lending arrangements)</b></p> <p>(1) In section RE 17(2), replace the formula with:</p> <p style="padding-left: 2em;">(tax rate × payment ÷ (1 – tax rate)) – credit attached – credit transferred.</p> <p>(2) In section RE 17(3)(d), replace “payment:” with “payment.”</p> <p>(3) Repeal section RE 17(3)(e).</p> <p>(4) In section RE 17, list of defined terms, delete “FDP credit”.</p>	<p>20</p> <p>25</p>
<p><b>245 Section RE 23 repealed (When amount of tax treated as FDP credit)</b></p> <p>Repeal section RE 23.</p>	
<p><b>246 Section RF 1 amended (NRWT rules and their application)</b></p> <p>(1) After section RF 1(1)(a), insert:</p> <p style="padding-left: 2em;">(ab) <b>subpart FG</b> (Treatment of notional loans to New Zealand branches of foreign banks); and</p> <p>(2) After section RF 1(1)(d), insert:</p> <p style="padding-left: 2em;">(db) <b>section RZ 12RZ 13</b> (Treatment of prepayments); and</p>	<p>30</p>

- (dc) ~~section YD 5(1)(d), and (4) to (9) (which relate to apportionment of certain income to a source in New Zealand)~~(Apportionment of income derived partly in New Zealand); and
- (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”. 5
- 247 Section RF 2 amended (Non-resident passive income)**
- (1) Replace section RF 2(1)(d) with:
- (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 10
- (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 15
- (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:
- (d) interest, other than interest derived in the circumstances set out in **subsection (2B)**: 20
- (e) non-resident financial arrangement income.
- (1B) After section RF 2(2), insert:
- Interest exceptions*
- (2B) **Subsection (1)(d)** does not include interest derived from money lent by a non-resident— 25
- (a) for the purposes of a business they carry on in New Zealand through a fixed establishment in New Zealand; or
- (b) when the non-resident is—
- (i) a registered bank engaged in business in New Zealand through a fixed establishment in New Zealand; and 30
- (ii) not associated with the person to whom the money is lent; or
- (c) that has given rise to non-resident financial arrangement income under **section RF 12E(1)**.
- (2) After section RF 2(3)(d), insert— 35
- (e) interest when the person paying the interest is a member of a New Zealand banking group.



- (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”. 5
- (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. 10
- (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”. 15
- (6) In section RF 2, list of defined terms, insert “income year”, “money lent”, “New Zealand banking group”, “non-resident financial arrangement income”, and “registered bank”.
- 248 New section RF 2B inserted (Non-resident financial arrangement income)sections RF 2BA and RF 2B inserted** 20
- After section RF 2, insert:
- RF 2BA Non-resident financial arrangement income: outline and concepts**
- What this section does*
- (1) This section applies for the purposes of **sections RF 2B, and RF 12D to RF 12J** to provide an outline of the provisions relating to the taxation of non-resident financial arrangement income and to describe the key terms used in the provisions. This section— 25
- (a) operates only as an aid to understanding; and
- (b) does not override the definition of any term used in this Act; and
- (c) does not prevail in any case where a conflict arises between this section and another provision of this Act. 30
- Purpose*
- (2) The purpose of the rules for non-resident financial arrangement income is to ensure that the payment of NRWT on interest derived by a related-party lender is aligned with deductions for expenditure that a borrower has under the financial arrangements rules. 35
- Key concepts*
- (3) The following are the key concepts:

(a)	<u>non-resident financial arrangement income, which is the equivalent of interest derived by a lender, see <b>section RF 2B</b>:</u>	
(b)	<u>related-party debt which is a financial arrangement between associated persons, or persons who are regarded as associated, that provides funds to a borrower who is allowed a deduction for expenditure under the arrangement, see <b>section RF 12H</b> (Meaning of related-party debt):</u>	5
(c)	<u>indirect associated funding which is an arrangement involving some form of back-to-back lending, see <b>section RF 12I</b> (Concepts used for definition of related-party debt).</u>	
	<i>When does a lender derive non-resident financial arrangement income?</i>	10
(4)	<u>An offshore lender will derive non-resident financial arrangement income when—</u>	
(a)	<u>they are associated with or related to a borrower who is resident in New Zealand; and</u>	
(b)	<u>the funding is provided through a financial arrangement that is a related-party debt; and</u>	15
(c)	<u>interest payments on the arrangement are deferred when compared to interest deductions by the borrower; and</u>	
(d)	<u>the borrower's expenditure on related-party debt is more than a de minimis amount.</u>	20
	<i>How is the income calculated?</i>	
(5)	<u>The non-resident financial arrangement income of a lender is aligned with the amount of the expenditure incurred by the borrower on related-party debt, see <b>section RF 12D</b>.</u>	
	<i>What are first year adjustments?</i>	25
(6)	<u>An adjustment is made for the first year in which a lender derives non-resident financial arrangement income. The lender is treated as having derived an additional amount that is sufficient to reverse the deferral described in <b>subsection (4)(c)</b>, see <b>section RF 12F</b>.</u>	
	<i>How is the income taxed?</i>	30
(7)	<u>The lender's income is non-resident passive income from which NRWT must be withheld, see <b>section RF 2</b>.</u>	
	<u>Defined in this Act: amount, approved issuer, associated person, deduction, financial arrangement, financial arrangements rules, interest, non-resident financial arrangement income, non-resident passive income, NRWT, pay, related-party debt, resident in New Zealand</u>	35
	<b>RF 2B</b> <b>N</b> <u>Meaning of non-resident financial arrangement income</u>	
	<i>When this section applies</i>	
(1)	<u>This section, and <b>sections RF 12D to RF 12I</b><del>RF 12J</del>, apply for the purposes of the NRWT rules to a person (<b>person A</b>) who when—</u>	

<p>(a) a person (the <b>borrower</b>) is—</p> <p style="padding-left: 20px;">(i) <del>a person</del> resident in New Zealand; or</p> <p style="padding-left: 20px;">(ii) a non-resident carrying on a business in New Zealand through a fixed establishment in New Zealand; and</p> <p>(b) <del>is party to a financial arrangement with a non-resident (person B) through which funding is provided to person A.</del></p> <p>(b) <u>the borrower is party to a financial arrangement with a non-resident (the <b>lender</b>) through which funding is provided to the borrower, other than funding provided by the lender through a fixed establishment in New Zealand; and</u></p> <p>(c) <u>the financial arrangement—</u></p> <p style="padding-left: 20px;">(i) <u>gives rise to non-resident passive income under <b>section RF 2(1)(d)</b>; or</u></p> <p style="padding-left: 20px;">(ii) <u>would give rise to income referred to in <b>subparagraph (i)</b> in the absence of <b>section RF 2(2B)(c)</b>.</u></p> <p><i>Interest on related-party debt</i> <i>Meaning of non-resident financial arrangement income</i></p> <p>(2) <b>Non-resident financial arrangement income</b>, for a financial arrangement <u>and an income year</u>, means an amount having a source in New Zealand that is accrued on a related-party debt and derived by <del>person B</del> <u>in a lender in the</u> income year when—</p> <p style="padding-left: 20px;">(a) non-resident financial arrangement income was derived in relation to the arrangement by <del>person B</del> <u>a lender</u> in an earlier income year; or</p> <p style="padding-left: 20px;">(b) the following requirements are met for the income year:</p> <p style="padding-left: 40px;">(i) the total expenditure incurred by <del>person A</del> <u>the borrower</u> on related-party debt is more than the de minimis set out in <b>subsection (3)</b>; and</p> <p style="padding-left: 40px;">(ii) in relation to the financial arrangement, the deferral calculation set out in <b>subsection (4)</b> is less than 90%.</p> <p><i>Related-party de minimis</i></p> <p>(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 <del>person A</del> <u>the borrower</u>, and all companies that are in the same group of companies as <del>person A</del> <u>the borrower</u>, is \$40,000 or less.</p> <p><i>Deferral calculation</i></p> <p>(4) Subject to <b>subsection (7)</b>, the deferral calculation referred to in <b>subsection (2)(b)(ii)</b> is the percentage calculated using the formula—</p> <p style="padding-left: 40px;">accumulated payments ÷ accumulated accruals.</p>	<p>5</p> <p>10</p> <p>15</p> <p>20</p> <p>25</p> <p>30</p> <p>35</p>
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*Definition of items in formula*

- (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~~ the borrower for the period that—
- (i) starts on the day on which the financial arrangement first meets the requirements for a related-party debt; and
- (ii) ends on the NRFAI due date for ~~person A's~~ the borrower's income year:
- (b) **accumulated accruals** is an amount ~~determined under subsection (6)~~ equal to the total expenditure that the borrower incurs under the arrangement when the arrangement is a related-party debt for the period that—
- (i) starts on the day on which the financial arrangement first meets the requirements for a related-party debt; and
- (ii) ends on the last day of the income year before the income year referred to in **paragraph (a)(ii)**.

*Accumulated accruals*

- (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.

*When calculation treated as more than 90%*

- (7) For the purposes of the calculation in **subsection (4)**, the result of the formula is treated as more than 90% if—
- (a) the item **accumulated accruals** is zero;
- (b) the date in **subsection (5)(b)(ii)** occurs before the date in **subsection (5)(b)(i)**.

*NRFAI due date*

- (7B) 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.

*Foreign exchange movements*

- (8) For the purposes of ~~subsections (4) to (7)~~, amounts are calculated ~~subsections (4) and (5)~~, the calculation of total interest and total expenditure must be made in the currency of the financial arrangement.

*Choosing to disregard de minimis and deferral calculation*

- (9) See **section RF 12G** for elections to disregard the related-party de minimis and the deferral calculation.

**Example**

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  $(\$19,000 + \$20,000) \div \$42,000 = 92.9\%$ , so no NRFAI arises. However, at the end of the third year the deferral calculation is  $(\$19,000 + \$20,000 + \$21,000) \div (\$42,000 + \$50,000) = 65.2\%$ . 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.

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

**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)**

- (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”.

**251 Section RF 10 amended (Non-cash dividends)**

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

$$\text{rate A} \div (1 - \text{rate A}) \times \text{dividend payment.}$$

- (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.

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

$$\text{rate A} \times \text{dividend payment.}$$

- (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”.
- 252 Section RF 12 amended (Interest paid by approved issuers or transitional residents)** 5
- (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 10
- (2) In section RF 12(1)(a)(iii), replace “applies:” with “applies; and”.
- (3) After section RF 12(1)(a)(iii), insert:
- (iv) does not relate to related-party debt: 15
- (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 12J inserted**
- After section RF 12C, insert:
- Certain financial arrangements involving related-party debt*** 20
- RF 12D ~~Non-resident~~ Determining amount of non-resident financial arrangement income**
- Amount of income*
- (1) The amount of non-resident financial arrangement income derived by ~~person Ba~~ lender in an income year is an amount equal to the expenditure incurred in the income year on the related-party debt by ~~person A~~ the borrower. ~~For these purposes, a reference to an income year includes a reference to a part of an income year.~~ 25
- Applying general rule*
- (1B) **Subsections (1C), (1D), (1E), (2), and (3)** apply for the purposes of **sub-section (1)** and **sections RF 2BA, RF 2B, RF 12E to RF 12J, and RZ 13** (Treatment of prepayments). 30
- Expenditure*
- (1C) **Expenditure** excludes an amount that may be an expense of the borrower under the arrangement but is not, and will not be, an amount received by the lender. 35

	<i>Spreading method</i>	
(1D)	<u>For financial arrangements involving related-party debt, the spreading method that must be applied in determining the amount incurred is the method used by the borrower for the financial arrangement under subpart EW (Financial arrangements rules) excluding the following methods for which another spreading method must be substituted:</u>	5
	(a) <u>the fair value method:</u>	
	(b) <u>the market valuation method under section EW 18 (Market valuation method).</u>	
	<i>Foreign exchange movements</i>	10
(1E)	<u>The calculation of total interest and total expenditure must be made in the currency of the financial arrangement.</u>	
	<i>Calculation</i>	
(2)	<del>Despite <b>subsection (1)</b>, in the calculation of non-resident financial arrangement income,—</del>	15
	(a) <del>if person A has income on the related-party debt, the amount derived by person B is treated as zero:</del>	
	(b) <del>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.</del>	20
	<i>When lender's income zero</i>	
(2)	<u>In the calculation of non-resident financial arrangement income, if the borrower has income on the related-party debt, the amount derived by the lender is treated as zero.</u>	
	<i>Part years</i>	25
(3)	<u>For the purposes of <b>subsection (1)</b>, a reference to an income year includes a reference to a part of an income year.</u>	
	<b>Example</b>	
	NZ Sub B Ltd (B) has borrowed US\$100m from its non-resident parent and will repay US\$125m in 5 years' time. <del>The equivalent amount in NZ dollars is \$150m.</del> 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 \$200m. Because the hedge does not give rise to interest or NRFAI, <del>this amount</del> <u>income or expenditure relating to the hedge</u> is excluded from B's NRWT calculations.	30 35
	Defined in this Act: amount, expenditure, fair value method, financial arrangement, income, income year, non-resident financial arrangement income, related-party debt, spreading method	40

**RF 12E When non-resident financial arrangement income treated as paid**

~~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~~ 5
- ~~(b) in all other cases, the last day of the second month following the end of person A's income year.~~

*Amount paid*

- (1) An amount of non-resident financial arrangement income is treated as paid on the last day of the second month following the end of the borrower's income year. 10

*When debt matures, ends, or no longer qualifies*

- (2) Despite **subsection (1)**, if a related-party debt matures, ends, or no longer qualifies as a related-party debt during the borrower's income year, the non-resident financial arrangement income is treated as paid on the last day of the second month following the relevant event. 15

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** 20*When this section applies*

- (1) This section applies for the first income year in which ~~person B~~ a lender derives non-resident financial arrangement income under a financial arrangement with ~~person A~~. It increases ~~person B's~~ the lender's income by adding an amount that ~~person B~~ the lender would have derived if the financial arrangement had always given rise to non-resident financial arrangement income. 25

*Formula*

- (2) The amount is calculated using the formula—  
total accrual income – total interest.

*Definition of items in formula* 30

- (3) In the formula,—
- (a) **total accrual income** is the total expenditure incurred by ~~person A~~ the borrower 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~~ the borrower became party to the arrangement; and
    - (ii) ends on the last day of the income year that precedes the first income year: 35



- (b) **total interest** is the total interest paid by ~~person A~~ the borrower to all non-residents for the period that—
- (i) starts on the date on which ~~person A~~ the borrower became party to the arrangement; and
  - (ii) ends on the NRFAI due date for ~~person A's~~ the borrower'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 amount~~ of  $(\$42,000 + \$50,000) - (\$19,000 + \$20,000 + \$21,000) = \$32,000$ .

Defined in this Act: amount, financial arrangement, income, income year, interest, non-resident, 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~~ the borrower is party to a financial arrangement described in **section RF 2B(1)(b)**.

*Elections related to de minimis*

- (2) ~~Person A~~ The borrower 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~~ the borrower is, or is treated as, more than 90%, ~~person A~~ they 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~~ they reasonably expects non-resident financial arrangement income will arise for a later income year.

*Making elections*

- (4) The election must be made by ~~informing~~ notifying 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 debt ~~de minimis is met~~reached. However, C expects that once the related party debt ~~de minimis is met~~reached, 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, notify, related-party debt

**RF 12H Meaning of related-party debt***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~~ a person (the lender) is party to an arrangement that provides funds to person A another person (the borrower) when—

(i) ~~person A and person B~~ the lender and borrower are associated persons; or

(ii) ~~there is indirect associated funding~~ the funding is provided through an indirect associated funding arrangement, as described in **section RF 12I(2)**; or

(iii) ~~person B~~ the lender is a member of a non-resident owning body that is associated with the borrower, as described in **section RF 12I(3)RF 12I(4)**; and

(b) expenditure arises for ~~person A~~ the borrower for which they are allowed a deduction.

*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.

*New Zealand banking group exclusion*

(2) **Subsection (1)**, other than **paragraph (a)(ii)**, 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.

*Associated persons*

(3) When **subsection (1)(a)(iii)** applies, the borrower and the member of the non-resident owning body are treated as if they were associated for the pur-

poses of this section, and **sections RF 2B, RF 12, RF 12D to RF 12G, RF 12I, and RF 12J** and **section 32M** of the Tax Administration Act 1994.

Defined in this Act: amount, associated person, deduction, financial arrangement, income year, New Zealand banking group, non-resident owning body, related-party debt

**RF 12I Concepts used in section RF 12H for definition of related-party debt** 5

*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 arrangements and funding through non-associated entities acting together non-resident owning bodies. 10

*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— 15
- (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.

*Indirect associated funding arrangements*

- (2) An indirect associated funding arrangement exists when— 20
- (a) a non-resident person (the **indirect lender**) provides funds or pays money, directly or indirectly, to another person (the **direct lender**) who provides funds to a third person (the **borrower**)— 25
    - (i) in order for the funds to be provided to the borrower, or to reimburse the direct lender or compensate them, for providing the funds to the borrower; and
    - (ii) with the purpose or effect that the borrower incurs financial arrangement expenditure and the indirect lender does not derive non-resident passive income from the borrower; and
  - (b) the indirect lender is associated with the borrower; and
  - (c) the funding does not meet the requirements of **section RF 12H(1)(a)(i) and (iii)** for related-party debt. 30

*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.	
	<i>Non-resident owning bodies</i>	5
(4)	<b>Subsection (5)</b> 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	
(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.	10
(4)	<u>A non-resident owning body is treated as associated with a borrower when the ownership interest, within the meaning set out in paragraph (a) of the definition of that term, in the borrower of all the members of the non-resident owning body is 50% or more.</u>	15
	<i>Association</i>	
(5)	Person A and the member are treated as if they were associated for the purposes of this section, and <b>sections RF 2B and RF 12D to RF 12H</b> and <b>section 32M</b> of the Tax Administration Act 1994.	
	<b>Examples</b>	20
	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.	25
	Two unrelated foreign investors agree to purchase 40% each of a New Zealand <u>business company</u> with the remaining 20% held by a New Zealand investor. The New Zealand <u>business company</u> 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 40
	Defined in this Act: arrangement, associated person, interest, non-resident, non-resident owning body, non-resident passive income, ownership interest, pay, related-party debt	

**RF 12J Treatment of certain payments made under indirect associated funding arrangements**

*Payments made under funding arrangements*

- (1) The payment made under an indirect associated funding arrangement described in **section RF 12I(2)**, to the extent to which **subsection (2)** applies, is treated as made under a financial arrangement between the borrower and the indirect lender, and not made under a financial arrangement between the borrower and the direct lender. 5

*Treatment of payments*

- (2) Under this subsection,— 10
- (a) an amount that the indirect lender pays to the direct lender is treated as paid by the indirect lender to the borrower to the extent to which the amount is not more than the amount paid by the direct lender to the borrower.
- (b) an amount that the borrower 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. 15

*When amounts of tax not withheld*

- (3) For the purposes of **subsection (2)(b)**, if the borrower does not withhold the full amount required to be withheld under sections RA 6 (Withholding and payment obligations for passive income) and RF 3, the direct lender must withhold NRWT on interest paid to them. 20

*No liability for direct lender*

- (4) Despite **subsection (3)**, the direct lender has no liability to withhold an amount of tax for the payment if the borrower has notified the direct lender that— 25
- (a) the payment is not made under an indirect associated funding arrangement;
- (b) non-resident financial arrangement income has been derived on the financial arrangement. 30

*Determining interest paid and effect of reduction*

- (5) For the purposes of **subsection (3)**,—
- (a) **paragraph (d)** of the definition of **pay** does not apply;
- (b) for the financial arrangement, a reduction for the direct lender through the application of **subsection (4) and paragraph (a)** has no effect on the amount of NRWT that must be withheld on behalf of the indirect lender. 35

Defined in this Act: amount, amount of tax, associated person, financial arrangement, income tax liability, interest, notify, NRWT, 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).~~ Repeal section RM 1(d).  
(2) In section RM 1, list of defined terms, delete “PCA person”. 5
- 256 Section RM 3 repealed (Refunds for overpaid FDP)**  
Repeal section RM 3.
- 257 Section RM 13 amended (Limits on refunds for ICA companies)**  
Replace section RM 13(3) with:
- Limits when company has extension of time for filing return* 10
- (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.~~ 15
- (3) 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 if, 20
- when the ICA company becomes entitled to the refund or transfer,—
- (a) the ICA return for the most recent tax year that has ended (the **last tax year**) is not yet due because the company has an extension of time to file that return; and
- (b) the ICA company has filed an ICA return for no period that is referred to in subsection (2)(a) to (c) and ends after the beginning of the last tax year. 25
- 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. 30
- 259 Heading and sections RM 28 to RM 31 repealed**
- (1) Repeal the heading before section RM 28.  
(2) Repeal sections RM 28 to RM 31.
- 260 Section RZ 6 amended (Limits on refunds: transitional dates)**
- (1) Repeal section RZ 6(3). 35

- (2) In section RZ 6, list of defined terms, delete “PCA person”.

**261 New heading and new section ~~RZ 12~~RZ 13 inserted**

After section ~~RZ 11~~RZ 12, insert:

*Non-resident financial arrangement income*

**~~RZ 12~~RZ 13 Treatment of prepayments**

5

*When this section applies*

- (1) This section applies for the purposes of the NRWT rules when—
- (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 10
- (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 15
- (c) the arrangement would be a related-party debt if **sections RF 12H and RF 12I to RF 12J** (which relate to related-party debt) had applied to the arrangement before the date of enactment; and
- (d) ~~person A~~the person is party to the arrangement on or after the date of enactment. 20

*When excess treated as paid*

- (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~~the arrangement, the total interest paid under the arrangement is more than the total expenditure of ~~person A~~accrued by the person on the arrangement, the excess interest is treated as paid on that date. 25

*Foreign exchange treatment*

- (3) For the purposes of **subsection (2)** and an arrangement that is denominated in a foreign currency, the calculation of total interest and total expenditure must be made in the currency of the arrangement and the excess converted to New Zealand dollars under subpart YF (Currency conversion). 30

**Example**

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. 35

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.

5

Defined in this Act: amount, approved issuer levy, financial arrangement, income year, interest, NRWT, NRWT rules, pay, related-party debt, resident in New Zealand

10

## 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: 15

(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~~: 20

(iii) the main rotor hub ~~for the engine system~~:

~~(iv) the rotor blades for the engine:~~

~~(v) the rotor controls for the engine:~~

(v) the swash plate assembly:

(vi) the anti-torque system ~~for the engine~~: 25

~~(vii) the anti-torque transmission system for the engine:~~

(viii) the hydraulic system ~~for the engine~~:

(ix) an assemblage consisting of 2 or more items referred to in **sub-paragraphs (i) to (viii)**

**aircraft engine overhaul**— 30

(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: 35



- (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~~ system: 5
  - ~~(iv) the rotor blades for the engine:~~
  - ~~(v) the rotor controls for the engine:~~
  - (v) the swash plate assembly:
  - (vi) the anti-torque system ~~for the engine~~:
  - ~~(vii) the anti-torque transmission system for the engine:~~ 10
  - (viii) the hydraulic system ~~for the engine~~:
  - (ix) an assemblage consisting of 2 or more items referred to in **sub-paragraphs (i) to (viii)**
- (3) In the definition of **ancillary tax**, repeal paragraphs (e), (f), and (g).
- (4) Repeal the definition of **annual FDPA return**. 15
- (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
- (7) Repeal the definition of **associated internal software developer**. 20
- (7B) In the definition of **balance date**, replace “for the purposes of section RC 10” with “for the purposes of sections **FG 3** (Notional interest) and RC 10”.
- (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”.~~ 25
- (9) Replace the definition of **close relative** with:
- close relative**,—
- (a) is defined in section FC 1(2) (Disposals to which this subpart applies) for the purposes of subpart FC (Distribution, transmission, and gifts of property): 30
  - (b) in section HA 6 (Corporate requirements), means, for a person—
    - (i) a spouse, civil union partner, or de facto partner of the person:
    - (ii) another person who is within the second degree of relationship to the person
- (10) Repeal the definition of **combined imputation and FDP ratio**. 35
- (10B) In the definition of **common market value interest**, paragraph (a), replace “section IC 4” with “sections CD 5 and IC 4”.

- (10C) In the definition of **common voting interest**, paragraph (a), replace “section IC 4” with “sections CD 5 and IC 4”.
- (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**. 5
- (13) In the definition of **continuity provisions**, repeal paragraph (h).
- (14) Repeal the definition of **convertible credit**.
- (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) 10
- (16) Insert, in appropriate alphabetical order:  
**creditor group** is defined in ~~section EW 46C~~ (Consideration when debt forgiven within economic group)
- (17) Insert, in appropriate alphabetical order:  
**creditor’s associate** is defined in ~~section EW 46C~~ (Consideration when debt forgiven within economic group) 15
- (18) Insert, in appropriate alphabetical order:  
**creditor’s interest** is defined in ~~section EW 46C~~ (Consideration when debt forgiven within economic group)
- (19) Insert, in appropriate alphabetical order: 20  
**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) 25
- (20) Repeal the **definition** of **distant workplace** inserted by **subsection (19)**.
- (21) In the **definition** of **distant workplace**, delete the words after “projects”.
- (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)),”. 30
- (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): 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 10
- (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) 15
- (28) Repeal the definition of **excess credit amount**. 15
- (29) In the definition of **excluded ancillary tax**, delete repeal paragraph (b).
- (30) Insert, in appropriate alphabetical order:
- exiting partner**, for a partnership, means a person who disposes of interests in the partnership held by the person as a partner
- (30B) In the definition of **expenditure**, after paragraph (b), insert: 20
- (c) is defined in **section RF 12D(1C)** (Determining amount of non-resident financial arrangement income) for the purposes of that section and **sections RF 2BA, RF 2B, RF 12E to RF 12J, and RZ 13** (which relate to the calculation of non-resident financial arrangement income)
- (31) Repeal the definition of **FDP**. 25
- (32) Repeal the definition of **FDP account**.
- (33) Repeal the definition of **FDP credit**.
- (34) Repeal the definition of **FDP debit**.
- (35) Repeal the definition of **FDP penalty tax**.
- (36) Repeal the definition of **FDP ratio**. 30
- (37) Repeal the definition of **FDP reference period**.
- (38) Repeal the definition of **FDP rules**.
- (39) Repeal the definition of **FDPA**.
- (40) Repeal the definition of **FDPA company**.
- (41) In the definition of **fixed-rate share**, paragraph (a), before subparagraph (i), delete “or FDP credits”. 35
- (42) Insert, in appropriate alphabetical order:

- 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:
- foreign LTC holder** means— 5
- (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~~
- (b) a trustee of a trust, if the trust has a non-resident settlor, but only to the extent of the proportion of the trust’s ownership interests that is equal to the proportion of settlements, by value, made by non-resident settlors, ignoring settlements arising from services provided for less than market value 10
- (44) Repeal the definition of **foreign tax**.
- (45) In the definition of **fully imputed**,— 15
- (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**. 20
- (47B) Insert, in appropriate alphabetical order:
- grandparented charity** means, for an entity, a charity that, before 3 May 2016,—
- (a) is an owner of the entity:
- (b) has entered into an arrangement to become an owner of the entity 25
- (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: 30
- (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
- grandparented Maori authority** means, for an entity, a Maori authority that, before 3 May 2016,— 35
- (a) is an owner of the entity:
- (b) has entered into an arrangement to become an owner of the entity:
- (c) is a beneficiary of a trust that is an owner of the entity

- (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**, paragraph (b), 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,— 5
    - (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~~paid by a person in relation to money lent to the person; and
    - (ii) excludes a repayment of the money lent: 10
- (52) In the **definition** of **interest**, after ~~paragraph (d)~~ paragraph (c), insert:
- (ecb) 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~~)banks):
- (53) Repeal the definition of **internal software development**. 15
- (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 20
  - ~~(ee) for which no owner is a tax charity; and~~
  - (ec) for which no owner is a tax charity, unless the tax charity is a grandparented charity for the entity; 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 25
  - ~~(ee) for which no owner is a Maori authority, unless the Maori Authority is a grandparented Maori authority; and~~ 30
  - (ee) for which no owner is a Maori authority, unless the Maori authority is a grandparented Maori authority for the entity; 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~~ 35
  - (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 for the entity; and
- (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—~~ 5
- (i) \$10,000; or
- (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~~
- (56B) In the definition of **look-through company**, after **paragraph (ef)**, insert: 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 a foreign-sourced amount 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
- (bb) is a natural person who,—
- (i) on or after the first day of the 2017–18 income year, receives a distribution (the **distribution**) from a trust, other than a distribution sourced from income derived by the trust before the 2017–18 income year; and 30
- (ii) the distribution is received in the current income year, or 1 of the last 3 income years if the relevant year is after the 2016–17 income year; and
- (iii) the trust has a direct or indirect beneficial interest in a look-through interest for the entity in the current income year, or 1 of the last 3 income years if the relevant year is after the 2016–17 income year; 35

- (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”.
- (58) In the **definition** of **look-through counted owner**, replace paragraph (c) with:
- (c) is a trustee of a trust that— 5
- (i) has a look-through interest for the entity or has a direct or indirect beneficial interest in a look-through interest for the entity, treating co-trustees as 1 person; and
- (ii) has no beneficiary that is a look-through counted owner:
- (59) In the **definition** of **look-through interest**, repeal paragraph (a)(ii) and (iv). 10
- (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.”. 15
- (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 20
- (64B) Insert, in appropriate alphabetical order:
- nominal share** is defined in **section EW 46C** (Consideration when debt forgiven within economic group) for the purposes of that section 25
- (65) Insert, in appropriate alphabetical order:
- 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 30
- (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) 35
- (67) In the **definition** of **non-refundable tax credit**, paragraph (f), delete “or policyholder credit account”.

(68) Insert, in appropriate alphabetical order:

**non-resident financial arrangement income** is defined in **section RF 2B(2)** (~~Non-resident Meaning of non-resident financial arrangement income~~) for the purposes of the NRWT rules

(68B) Replace the definition of **non-resident owning body** with:

**non-resident owning body**, for a company and an income year, means a group consisting of 2 or more members who are each a non-resident and who each hold ownership interests in the company or have a linked trustee holding ownership interests in the company such that—

(a) if the company, for each member of the group, owes money to the member (the **member debt**), or to the member's linked trustee (the **trustee debt**), or to a company (the **subsidiary**) in which the member or a linked trustee has ownership interests (the **subsidiary debt**),—

(i) the member debt for a member, expressed as a fraction of the total member debt for the company, corresponds to the ownership interests or direct ownership interests held by the member, expressed as a fraction of the ownership interests or direct ownership interests held by the members of the group:

(ii) the requirements of **subparagraph (i)** would be met if each or 1 or more members of the group were treated as holding the ownership interests in the company held by the member, and by linked trustees, and were treated as being owed the member debt, the trustee debt, and an amount for subsidiary debt equal to the product of the subsidiary debt and the ownership interest held in the subsidiary:

(b) the company is not a widely-held company and the company is funded for the income year under an arrangement between the members of the group concerning debt (the **member-linked funding**) under financial arrangements meeting the requirements of section FE 18(3B)(b)(i) to (iii) (Measurement of debts and assets of worldwide group) for the members:

(c) the company has member-linked funding provided in a way recommended to, or implemented for, the members as a group by a person

(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

(70) Insert, in appropriate alphabetical order:

**NRFAI due date** is defined in **section RF 2B(7B)** (Meaning of non-resident financial arrangement income) for the purposes of **sections RF 2B(5)(a)(ii) and RF 12F(3)(b)(ii)**



- (71) Insert, in appropriate alphabetical order:  
**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) 5
- (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)”. 10
- (74) Insert, in appropriate alphabetical order:  
~~**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 15
- (76) Repeal the definition of **PCA**.
- (77) Repeal the definition of **PCA company**.
- (78) Repeal the definition of **PCA person**. 20
- (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 25  
 (b) is given an extended meaning in section CW 16D(4) (Accommodation expenditure: conferences and overnight stays) for the purposes of that section 30
- (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)”. 30
- (82) In the definition of **profit participation policy**, replace paragraph (a) with: 35  
 (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 insur-

- er’s business, relating to the class, that are available to the life insurer for allotment to shareholders or policyholders; and
- (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)**: 5
- (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) 10
- (84) Repeal the **definition** of **project of limited duration** inserted by **subsection (83)**. 15
- (85) In the **definition** of **project of limited duration**, delete the words after “projects”).
- (85B) Insert, in appropriate alphabetical order:  
**proportional debt ratio** is defined in **section EW 46C** (Consideration when debt forgiven within economic group) for the purposes of that section 20
- (85C) Insert, in appropriate alphabetical order:  
**proportional ownership ratio** is defined in **section EW 46C** (Consideration when debt forgiven within economic group) for the purposes of that section
- (86) Insert, in appropriate alphabetical order:  
**QC continuity period** is defined in **section HA 6(4)** (Corporate requirements) for the purposes of that section 25
- (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: 30  
**related-party debt** is defined in **section RF 12H** (Meaning of related-party debt) for the purposes of the NRWT rules
- (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). 35
- (94) In the **definition** of **residual income tax**, repeal paragraph (e).
- (95) Insert, in appropriate alphabetical order:

**scheduled overhaul period**, for an aircraft engine and an aircraft and an operator of the aircraft, means the ~~period~~ maximum permitted interval between successive aircraft engine overhauls of the aircraft engine that ~~an operator of the aircraft~~ the operator is required to perform

- (96) Repeal the definition of **scientific or technological uncertainty**. 5
- (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~~
- self-remission** means, for a person,—
- (a) for the purposes of **section EW 31(11)** (Base price adjustment formula), 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: 10
- (b) for the purposes of **section EW 39(4)** (Consideration affected by unfavourable factors), the amount by which the consideration for the disposal of a financial arrangement is affected by a factor described in section EW 39(1)(d), to the extent to which: 15
- (i) the disposal occurs under section HB 4(3) or (6) or HG 4 (which relate to cessation of a LTC and dissolution of a partnership); and 20
- (ii) immediately before the disposal, the person is also liable as debtor in their capacity of owner or partner because of the operation of section HB 1 or HG 2
- (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~~, 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
- (104B) In the definition of **tax position**, replace “sections HZ 4B and HZ 4D (which relate to the transition of a qualifying company into a partnership or sole tradership)” with “sections HZ 4B, HZ 4D, and **HZ 4E** (which relate to transitions)”.

- (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.
- (114B) **Subsections (43) and (56B)** apply for income years beginning on or after 1 April 2017.
- (115) **Subsections (43), (47B), (48), (56), (57), (58), (59), (60), (63), (86), and (110)** apply for the 2017–18 and later income years.
- (115B) **Subsections (64B), (85B), and (85C)** apply for the 2008–09 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)~~** 5  
~~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)**  
 (1) Repeal section YC 12(4)(b). 10  
 (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).  
 (3) In section YC 17(12), list of defined terms, delete “FDP account”. 15
- 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)”.
- 269 Section YD 4 amended (Classes of income treated as having New Zealand source)** 20  
 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 the interest or redemption payment is not apportioned to a New Zealand source under **section YD 5(4)**: 25
- 270 Section YD 5 amended (Apportionment of income derived partly in New Zealand)**  
 (1) In section YD 5(1)(c), replace “person in New Zealand.” with “person in New Zealand; or”. 30  
 (2) After section YD 5(1)(c), insert:  
 (d) interest or a redemption payment is derived from money lent outside New Zealand to a New Zealand resident (~~person A~~) (the borrower) for the purposes of a business they carry on outside New Zealand through a 35

- fixed establishment outside New Zealand and through which ~~person~~  
Athe borrower lends money to another New Zealand resident.
- (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)**”.
- (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 or redemption payment*
- (4) Subject to **subsections (6) and (7)**, interest or a redemption payment derived as described in **subsection (1)(d)** is apportioned to a source in New Zealand using the formula—
- $$\text{loan ratio} \times \text{amount.}$$
- 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 or redemption payment described in **subsection (1)(d)** that is derived in an income year.
- 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 or redemption payment is treated as having a source in New Zealand.
- 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 or redemption payment is treated as having a source in New Zealand.
- Second formula: loan ratio*
- (8) The item **loan ratio** in **subsection (4)** is calculated using the formula—
- $$\text{financial arrangements producing New Zealand income} \div \text{total assets.}$$
- 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~~assets that are financial arrangements that produce income having a source in New Zealand as at—
- (i) ~~person A’s~~the borrower’s balance date that immediately precedes the income year; if ~~person A~~the borrower has a balance date ~~prior to~~before the start of the income year; or

- (ii) ~~the end of the day before the interest or redemption payment date on which the interest or redemption payment is paid, 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~~ the borrower's balance date that immediately precedes the income year, if ~~person A~~ the borrower has a balance date ~~prior to~~ before the start of the income year; or
  - (ii) ~~the end of the day before the interest or redemption payment date on which the interest or redemption payment is paid, if **subparagraph (i)** does not apply.~~

**Example**

At ~~their~~ its 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~~ its 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~~ its 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”.~~
- (6) In section YD 5, list of defined terms, insert “financial arrangement”, “fixed establishment”, “income year”, “interest”, “loan”, “money lent”, “New Zealand resident”, “pay”, “redemption payment”, 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”.~~
  - (1) In schedule 32,—
    - (a) insert, in appropriate alphabetical order, “New Zealand Red Cross Incorporated”:
    - (b) delete “The Red Cross Society Incorporated”.

- (2) In schedule 32, insert, in appropriate alphabetical order, “Youth Education and Training Initiatives (YETI) Nepal Trust”.
- (2) In schedule 32,—
- (a) delete “The Destitute Children’s Home, Pokhara, Charitable Trust”;
- (b) insert, in appropriate alphabetical order, “Youth Education and Training Initiatives (YETI) Nepal Trust”. 5
- (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”, and “Toraja Rural Development Charitable Trust”. 10 15
- (5) **Subsection (4)** applies for the 2016–17 and later income years.

### Part 3

#### Amendments to other enactments

##### *Amendments to Tax Administration Act 1994* 20

#### 273 Tax Administration Act 1994

**Sections 274**~~273~~**B to 302** amend the Tax Administration Act 1994.

#### **273B Section 3 amended (Interpretation)**

- (1) This section amends section 3.
- (2) In the definition of **authorised officer**, repeal paragraphs (b) and (c). 25
- (3) In the definition of **authorised officer**, repeal paragraph (d).
- (4) Replace the definition of **beneficiary** with:  
**beneficiary** is defined in section 82(9) for the purposes of that section
- (5) Replace the definition of **beneficiary information** with:  
**beneficiary information** is defined in section 82(9) for the purposes of that section 30
- (6) In the definition of **benefit** replace “sections 82, 82A, 84 and 85” with “section 85”.
- (7) Repeal the definition of **benefit**.
- (8) Repeal the definition of **cardholder**. 35



- (9) Repeal the definition of **cardholder information**.
- (10) Repeal the definition of **debtor**.
- (11) Repeal the definition of **debtor information**.
- (12) Repeal the definition of **entitlement card**.
- (13) Repeal the definition of **qualifying person**. 5
- (14) In the definition of **responsible department**, paragraph (a), delete “(o), 82, and”.
- (15) Repeal the definition of **responsible department**.
- 273C Section 14 amended (Modes of communication: general provisions)**
- In section 14(4), replace “subsection (1)” with “subsection (1) and the referen- 10  
ces to this Act, the Income Tax Act 2007, and the Goods and Services Tax Act 1985.”.
- 273D Section 14F amended (Giving information by personal delivery, post, fax, or electronic means)**
- In section 14F(1), replace “requires person A to deliver information to person 15  
B” with “requires person A to communicate with person B by delivering the information in the way set out in subsections (2) to (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: 20
- (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:
- 274B Section 24BA amended (Offshore persons’ bank accounts and tax file numbers)** 25
- Replace section 24BA(1B) with:
- (1B) Subsection (1) does not apply to a person who requires a tax file number only 30  
because—
- (a) they are a non-resident supplier of goods and services under the Goods and Services Tax Act 1985:
- (b) they are applying to be registered, or are registered, in accordance with section 54B of the Goods and Services Tax Act 1985.
- 274C Section 24F amended (Special tax codes)**
- In section 24F(1B)(a), replace “responsible department” with “department that 35  
is for the time being responsible for administration of **Parts 1 to 8 of the**

**Social Security Legislation Rewrite Act 2016** (the responsible department)".**274D Section 24IB amended (Special tax code notification)**

In section 24IB(2) replace “responsible department” with “department that is for the time being responsible for administration of **Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016** (the responsible department)”. 5

**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. 10

(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. 15

**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 or a conduit tax relief credit attached”. 20

(2) Repeal section 29(1)(i).

**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)** 25

(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”.

**278B New section 30E inserted (Statement to transferee by life insurer when transferring life insurance policies)** 30

After section 30D, insert:

**30E Statement to transferee by life insurer when transferring life insurance policies**

A life insurer (the transferor) that transfers a life insurance policy to another life insurer (the transferee) in an income year and, immediately before the 35

transfer, has an amount (the **transferred amount**) of policyholder base allowable deductions for the life insurance policy and the income year must, at the time of the transfer, give to the transferee a statement in a form approved by the Commissioner showing—

- (a) the names of the transferor and transferee; and 5
- (b) a description identifying the contracts being transferred; and
- (c) the date of the transfer; and
- (d) the total of transferred amounts for the contracts; and
- (e) details of the quantum, timing, and nature of the amounts making up the total transferred amount. 10

**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 15
- (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 20
  - (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.

(2) Replace section 32M(3)(b) with: 25

- (b) **subsection (2B)(b)** does not apply to the person, and the person asks for revocation of the status.

**280 Section 39 amended (Consequential adjustments on change in balance date)**

(1) In section 39(1),— 30

- (a) replace “in the year” with “in the calendar year”;
- (b) replace “succeeding year” with “succeeding calendar year”.

(2) In section 39(2),—

- (a) replace “in the year” with “in the calendar year”;
- (b) replace “same year” with “same calendar year”. 35

(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— 5
- (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 10
- (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.
- (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— 15
- $$\text{unadjusted business net} \times \text{year days} \div \text{income year days.}$$
- (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: 20
- (b) **year days** is— 25
- (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:
- (c) **income year days** is the total days in the income year or income years corresponding to the tax year. 30
- 281 New section 42C inserted (Income tax returns by undischarged bankrupt)**  
After section 42B, insert:
- 42C Income tax returns by undischarged bankrupt**
- 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. 35

<b>282</b>	<b>Section 43A amended (Non-active companies may be excused from filing returns)</b>	
	(1) In section 43A(2)(d)(iii), delete “or FDP account”.	
	(2) In section 43A(6)(b)(i), delete “or FDP account”.	
<b>283</b>	<b>Section 68 repealed (Statement when FDP credit attached to dividend)</b>	5
	Repeal section 68.	
<b>284</b>	<b>Section 69 amended (Annual ICA return)</b>	
	Repeal section 69(1)(g).	
<b>285</b>	<b>Section 71 repealed (Annual FDPA return)</b>	
	Repeal section 71.	10
<b>286</b>	<b>Cross-heading <del>above</del> <u>before</u> section 71B repealed (Foreign dividends)</b>	
	Repeal the cross-heading <del>above</del> <u>before</u> section 71B.	
<b>287</b>	<b>Section 71B repealed (Return requirements for refunds: foreign dividends)</b>	
	Repeal section 71B.	
<b>288</b>	<b>Section 72 repealed (Annual FDPA return to be furnished where Commissioner so requires, or where company ceases to be resident in New Zealand)</b>	15
	Repeal section 72.	
<b>289</b>	<b>Section 73 repealed (Annual FDPA returns of consolidated groups)</b>	
	Repeal section 73.	20
<b>290</b>	<b>Section 78D amended (Evidential requirements for tax credits)</b>	
	(1) In section 78D, before paragraph (a), delete “, LF,”.	
	(2) Repeal section 78D(b).	
<b>291</b>	<b><del>Section 80D amended (Commissioner must issue income statement)</del></b>	
	<del>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”.</del>	25
<b>291B</b>	<b><u>Section 80KH amended (Cancellation of notice of entitlement)</u></b>	
	<u>In section 80KH(1)(c), replace “sections 84 or 85G” with “an information sharing agreement referred to in section 81A”.</u>	30

**291C Section 80KK amended (Payment by instalment of family tax credit  
(without abatement))**

In section 80KK(1), replace “section 85G” with “an information sharing agreement referred to in section 81A”.

**291D Section 81 amended (Officers to maintain secrecy)**

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(1) In section 81(4)(ec), replace “section 28B of the Health and Safety in Employment Act 1992” with “section 191 of the Health and Safety at Work Act 2015”.

(2) In section 81(4)(f)(i), replace “Social Welfare” with “the department for the time being responsible for administration of Part 25 of the Education Act 1989”.

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(3) In section 81(4)(f)(ii), delete “section 83 or section 84 or”.

(4) Replace section 81(4)(f) with:

(f) communicating to any person, being an officer, employee, or agent of the Accident Compensation Corporation or of the Ministry of Justice, any information, being information—

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(i) which the person is authorised by the Managing Director or chief executive of the Accident Compensation Corporation or the chief executive of the Ministry of Justice to receive; and

(ii) which is communicated to that person for the purposes of section 82 or section 85A or section 85K:

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(5) In section 81(4)(g), delete “or (2)”.

(6) Repeal section 81(4)(o).

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

In section 81A, replace “personal information about an identifiable individual” with “information”.

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**292B Section 82 amended (Disclosure of information for matching purposes)**

(1) In section 82(1), delete “responsible department and the”.

(2) In section 82(1)(a), delete “benefit or to or for”.

(3) In section 82(1)(b), delete “benefit or of”.

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(4) Repeal section 82(2).

(5) In section 82(4), delete “subsection (2) or”.

(6) Replace section 82(5) with:

(5) Where the result of any comparison carried out under subsection (4) indicates that any person who is receiving, or has received, earnings related compensation is or was, while receiving that compensation, receiving income from em-

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- ployment (including self-employment) the Commissioner may take action under **subsection (6)**.
- (7) Replace section 82(6) with:
- (6) Where, in relation to any person, the circumstances referred to in **subsection (5)** apply, the Commissioner may, for the purpose of this section, supply to any authorised officer of the Corporation, all or any of the following information that is held by the department and that relates to the person: 5
- (a) where the person is, or was, in employment while receiving any earnings related compensation,—
- (i) the date or dates on which that employment commenced: 10
- (ii) where applicable, the date or dates on which that employment ceased:
- (iii) the name and business address of each employer so employing that person:
- (b) where the person is, or was, receiving any other income during any period in which they are receiving, or have received, any earnings related compensation, in circumstances where that other income may be taken into account in determining the person’s entitlement to or eligibility for that compensation, or in determining the amount of that compensation, the amount of that other income so received during that period. 15 20
- (8) Replace section 82(7) with:
- (7) Where the result of any comparison carried out under subsection (4) indicates that any person who is an applicant for earnings related compensation is receiving any income from any source, and that income may be taken into account in determining the person’s entitlement to or eligibility for that compensation, or in determining the amount of that compensation, the Commissioner may, for the purpose of this section, supply details of that income to any authorised officer of the Corporation. 25
- (9) Repeal section 82(7B).
- (10) In section 82(9), replace the definition of **authorised officer** with: 30
- authorised officer** means any officer, employee, or agent of the Corporation who is authorised by the Managing Director or chief executive of the Corporation to receive information supplied by the Commissioner under this section
- (11) In section 82(9), replace the definition of **beneficiary** with: 35
- beneficiary** means—
- (a) a person who is receiving, or has received, earnings related compensation:
- (b) an applicant for earnings related compensation
- (12) In section 82(9), replace the definition of **beneficiary information** with:

- beneficiary information**, in relation to a beneficiary, means information that—
- (a) identifies the beneficiary, which may include the beneficiary’s tax file number; and
- (b) identifies any earnings related compensation that the beneficiary is receiving, or has received, or for which the beneficiary has applied, including, in the case of any earnings related compensation that the beneficiary is receiving or has received, the dates on which payment of the compensation commenced, and, where applicable, the date on which that payment ceased
- (13) In section 82(9), repeal the definition of **benefit**.
- 292C Section 82A repealed (Disclosure of information to prevent cessation of benefit payments)**  
Repeal section 82A.
- 292D Section 83 repealed (Disclosure of information for purposes of entitlement card)**  
Repeal section 83.
- 292E Section 84 repealed (Disclosure of information for WFF tax credit double payment identification)**  
Repeal section 84.
- 292F Section 85 repealed (Disclosure of address information in relation to debtors)**  
Repeal section 85.
- 292G Section 85G repealed (Disclosure of information in relation to Working for Families tax credits)**  
Repeal section 85G.
- 292H Section 87 amended (Further secrecy requirements)**
- (1) Replace section 87(1)(b) with:
- (b) subsequently be bound to maintain and aid in maintaining the secrecy of all restricted information that comes to his or her knowledge, and shall not at any time communicate such information to any person, except—
- (i) for any purpose for which, and to the extent to which, the Commissioner authorises such disclosure; or
- (ii) in circumstances described in an information sharing agreement referred to in section 81A.
- (2) Repeal section 87(4)(b).
- (3) After section 87(4)(dc), insert:



(dd) where it is given by any person or agency referred to in an information sharing agreement, be kept by that person or agency as a permanent record:

(4) After section 87(5)(a)(ii), insert:

(iii) under an information sharing agreement referred to in section 81A; or 5

**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:

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***Determinations relating to approved issuer levy***

**~~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:~~ 15
- (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:~~ 20

- (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:~~
- (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:~~ 25
- (c) ~~whether a category of transaction is highly unlikely to involve associated persons.~~

(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.~~ 30

(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~~
- (b) ~~publish the determination in a publication of the department as soon as possible.~~ 35

**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,—~~
- (a) ~~the tax return as an income tax return; and~~ 5
  - (b) ~~the furnishing of the return as the making of an assessment of the amount of the tax by the taxpayer.~~
- (1C) The Commissioner may not amend an assessment so as to increase an amount assessed when—
- (a) a taxpayer furnishes— 10
    - (i) a return for an amount of ancillary tax for a period which, for the purposes of this section, is treated as the making of an assessment of the amount of the tax by the taxpayer;
    - (ii) a statement in relation to approved issuer levy payable under section 86K of the Stamp and Cheque Duties Act 1971 for a period which, for the purposes of this section, is treated as the making of an assessment of the levy by the taxpayer; and 15
  - (b) 4 years have passed from the end of the period for which the taxpayer furnished the return or statement, as applicable.
- (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,—~~ 20
- (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.~~ 25
- (1E) For the purposes of subsection (1), a taxpayer who furnishes a statement referred to in **subsection (1D)(1C)(a)(ii)** 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)** 30

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)** 35

In section 140B(1), delete “or OC 30”.

- 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,—~~ 5
- Replace section 166(1), words before paragraph (a), with “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 taxable 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 substance, that would be fine metal if it were of the required fineness; 35
- 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) **Subsection (3)** applies for a registered person and a taxable period ending in or after the period that— 5
- (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
- (b) ends with the assent date. 10
- (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)**,—
- (a) is liable to pay, for the taxable period, tax calculated consistently with the definition of **secondhand goods** as amended by **subsection (3)**: 15
- (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.
- 305 Section 3 amended (Meaning of term financial services)** 20
- (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”.
- 306 Section 5 amended (Meaning of term supply)** 25
- (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 re-

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.

(11CB) For the purposes of this Act, if a registered person in the course of a taxable activity receives a prize from a racing club or racing code for the performance in a race of a horse or greyhound owned by the registered person, the prize is treated as being consideration for a service provided by the registered person to the racing club or racing code in the course of the taxable activity. 5

(11CC) For the purposes of **subsection (11CB), race, racing club, and racing code** have the meaning set out in section 5(1) of the Racing Act 2003. 10

(4) **Subsection (3)** does not apply for a person and a supply and a taxable period ending before the date on which this Act receives the Royal assent if the person does not include the supply in a return for the taxable period consistently with **section 5(11CB)** of the Goods and Services Tax Act 1985, as inserted by **subsection (3)**. 15

**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)”.

**307B Section 8B amended (Remote services: determining residence and status of recipients)** 20

(1) In section 8B(1), replace “, and 60C” with “, 60C, and 60D”.

(2) In section 8B(5),—

(a) replace “when section 8(4) applies” with “when section 8(4D) applies”:

(b) replace “and 60C” with “, 60C, and 60D”.

**308 Section 9 amended (Time of supply)** 25

(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. 30

(6) Subject to subsections (2)(a) and (3), where the whole of the consideration (the **price**) for a supply under an agreement is not determined at the time of the agreement, and a supply is made under the agreement before the price is determined, the supply is deemed to take place, to the extent of a part of the price, at the earlier of when— 35

(a) a payment of the part of the price becomes due or is received:

(b) the supplier or recipient issues an invoice for the part of the price.

- (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)**.
- 309 Section 10 amended (Value of supply of goods and services) 5**
- (1) ~~In section 10(13), replace “section 12” with “subsection (12)”.~~
- (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”.
- 310 Section 11 amended (Zero-rating of goods) 10**
- (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)”.
- (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. 15
- (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. 20
- (4) Replace section 11(8D)(b) with:
- (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~~supplies of the interest in land, is not a supply under that subsection for the purposes of a payment for the supply 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 (the **term consideration**) for all supplies of the interest in land during the period referred to in **subparagraph (iv)**; and 30
- (ii) the payment, if not a regular payment, is 25% or less of the ~~consideration specified in the agreement~~term consideration; and 35
- (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~~term consideration; and

- (iv) ~~the consideration specified in the agreement~~ term consideration is treated as being the amount of consideration calculated ~~for the agreement and under the agreement for supplies anticipated to be made during a period that is the longer of 1 year and the shortest possible fixed term of the agreement.~~ agreement: 5
- (5) Replace **section 11(8D)(e)** with:
- (e) 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~~ 10
- (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~~
- (iii) ~~the supplies of the interest in land under the lease agreements meet the requirements set out in subsection (1)(mb).~~ 15
- (8D) For the purposes of the zero-rating of land rules,—
- (a) a supply that is an assignment or surrender of an interest in land is a supply under subsection (1)(mb) if it meets the requirements set out in that subsection and **paragraph (b)** does not apply: 20
- (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:
- (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 supplies of the interest in land, is not a supply under that subsection for the purposes of a payment for the supply paid or payable under the agreement if— 25
- (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 (the **term consideration**) for all supplies of the interest in land during the period referred to in **subparagraph (iv)**; and 30
- (ii) the payment, if not a regular payment, is 25% or less of the term consideration; and 35
- (iii) each amount that is paid or payable before the payment, and is not a regular payment, is 25% or less of the term consideration; and
- (iv) the term consideration is treated as being the amount of consideration calculated under the agreement for supplies anticipated to be 40

- made during a period that is the longer of 1 year and the shortest possible fixed term of the agreement:
- (c) a supply by a person who is the lessee under a lease agreement is a supply under subsection (1)(mb), despite **paragraph (b)**, 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 5
- (ii) the supply is made under an arrangement that involves the lessee’s surrender of the interest in land to the lessor and the supply by the lessor of the interest in land under another lease agreement to a person other than the lessee; and 10
- (iii) the supplies of the interest in land under the lease agreements meet the requirements set out in subsection (1)(mb).
- (5B) In **section 11(8D)(c)(iii)**, replace “subsection (1)(mb).” with “subsection (1)(mb):”.
- (6) After section 11(8D)(c), insert: 15
- (d) a registered person who is a non-profit body that is resident in New Zealand and acquires ~~land~~goods is treated, to the extent to which the person acquires the ~~land~~goods with an intention of using ~~it~~them other than for making exempt supplies, as acquiring the ~~land~~goods with the intention of using ~~it~~them for making taxable supplies. 20
- (7) **Subsection (5)** applies for a person for a supply made after 30 June 2014, except for a supply for which the person takes a tax position in a return, before the date on which the Taxation (Annual Rates for 2016–17, Closely Held Companies and Remedial Matters) Act **2016** receives the Royal assent, that is inconsistent with the amendment made by **subsection (5)**. 25
- 311 Section 11A amended (Zero-rating of services)**
- (1) Replace section 11A(1)(e) with:
- (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 30
- (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 35
- (2B) Replace section 11A(1)(j) with:
- (j) the services—
- (i) are physically performed outside New Zealand; and



- (ii) are not remote services supplied to a New Zealand resident who is not a registered person; or
- (jb) the services are the arranging of underlying services that—
- (i) are physically performed outside New Zealand; and
- (ii) are not remote services supplied to a New Zealand resident who is not a registered person; or 5
- (jc) the services are a supply of services to which section 60(1C)(a) applies, being a supply from an underlying supplier to an operator of a market-place; or
- (3) Replace section 11A(1)(k)(i) and (ii) with: 10
- (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~~ 15
- (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~~ 20
- (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
- (4) After section 11A(1)(r), insert: 25
- (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—~~
- (i) ~~do not give rise to a deduction under section 20C; and~~ 30
- (ii) ~~are not referred to in paragraphs (q) and (r); and~~
- (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
- (5) After section 11A(1B), insert:

(1C) For the purposes of **subsection (1)(jb)**, the services that are the arranging of the underlying services may include more than 1 supply if the supplies are made to facilitate the supply of the underlying services.

### 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—

(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~~ 80% or more of the person's taxable supplies for a ~~12-month period~~ an income year during a period of 6 months or less that ends with ~~or near~~, or less than 1 month before, the end of the ~~12-month period~~ income year and has not had a 6-month period as a taxable period under this paragraph in the 24-month period before the application.

### 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)**.

(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.

(2B) A person is relieved from changing the person's taxable period under **subsection (2)** after failing who fails to meet the requirement of **section 15(2)(a)** in relation to a 12-month period is relieved from the requirement under **subsection (2)** to change the person's taxable 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

(b) is not relieved by this subsection from ~~changing the person's taxable period for a requirement under **subsection (2)** arising from 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)

(1) In section 20(3)(e), replace “and 21F” with “21F, and 21FB(2)”.

(1B) After section 20(3)(hb), insert:

- (hc) the amount given by **section 20H** in relation to the supply during the taxable period of certain financial services:
- (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—”. 5
- (3) In section 20(3E), ~~paragraph (a)~~, replace “subsections (3C) to (3J)” with “subsections (3C), (3D), and (3G) to (3M)”. 10
- (4) After section 20(3E), insert: 10
- (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—
- (a) has regard to the tenor of subsections (3C), (3D), and (3G) to (3M); and
- (b) is agreed with the Commissioner by— 15
- (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. 20
- (5) In section 20(3F), replace “subsections (3C) to (3J)” with “subsections (3C) to **(3EB)**, and (3G) to (3M)”. 25
- (6) Replace section 20(3J)(a)(iii) with: 25
- (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)”. 30
- (8) In section 20(4)(c), after “(3)(b)”, insert “or 21FB(4)”. 30

**314B New section 20H inserted (Goods and services tax incurred in making financial services for raising funds)**

After section 20G, insert: 35

**20H Goods and services tax incurred in making financial services for raising funds**

- (1) A registered person who principally makes taxable supplies and who makes supplies of financial services in the course of an activity of raising funds that

- are intended for use by the registered person for expenditure in a taxable activity has a deduction under **section 20(3)(hc)** of input tax for the supplies of financial services, if the financial services—
- (a) are not referred to in section 11A(1)(q) and (r); and
  - (b) do not give rise to a deduction under section 20(3) for the registered person in the absence of this section; and 5
  - (c) 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 for 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; and 10
  - (d) fail to raise the funds or do raise funds that are used by the registered person for expenditure in the taxable activity.
- (2) A non-resident person who is registered under section 54B does not have a deduction of input tax under **subsection (1)**. 15

### 315 Section 21 amended (Adjustments for apportioned supplies)

- (1) After section 21(2)(a), insert:
- (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 20
    - (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:
- (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— 25
- (a) has regard to the tenor of sections 21A to 21H; 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: 30
    - (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)**

- (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,”. 5
- (2) In section 21HC(1)(c), omit “before 3 November 2015,”.

**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”. 10

**318B Section 24 amended (Tax invoices)**

- (1) In section 24(5B)(a)(i), replace “section 8(4)” with “section 8(4D)”.
- (2) In section 24(5D), replace “section 8(4)” with “section 8(4D)”.

**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); 20
  - and
  - (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)** 30 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.

**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)**

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— 5

(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.~~ 10

**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”.~~ 15

- (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,— 20
- (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) and (b) are not met and **subparagraph (ii)** does not apply; or~~
- (ii) ~~the person whose goods are sold, if **subparagraph (i)** does not apply~~ the person provides to the person selling the goods a statement that does not meet the requirements of section 5(2)(a): 25

**324 Section 54B amended (Non-residents: registration requirements for registration for certain non-resident suppliers)**

- (1) Replace section 54B(1)(b) with: 30

(b) ~~the person’s input tax for the first taxable period after the date of registration in New Zealand, the amount of the person’s input tax is likely to be more than \$500 or the person is likely to consist of~~ be liable for 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 35

- (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”.

- (3) Replace section 54B(1)(d) with:
- (d) the person is not making, or intending to make,—
    - (i) a taxable supply in New Zealand; or
    - (ii) a supply in New Zealand that would be a taxable supply if the person were registered under section 51, to a person in New Zealand who is not a registered person; and
  - (e) the person is not, and does not intend to become, a member of a group of companies that makes taxable supplies in New Zealand.
- (4) After section 54B(3), insert:
- (4) **Subsections (5) and (6)** apply when a person—
- (a) is registered under section 51; and
  - (b) has a branch or division; and
  - (c) makes a taxable supply in New Zealand.
- (5) The person may be treated in relation to their branch or division as a separate person who may, if they meet the requirements of subsection (1), apply to the Commissioner for registration under this section.
- (6) In relation to the registration of the person, section 56(6) does not apply to require the person and the branch or division to have, between themselves, consistent practices for taxable periods and accounting bases.
- 324B Section 54C amended (Cancellation of registration of certain non-resident suppliers)**
- In section 54C, replace the section heading with “Cancellation of registration of certain non-residents”.
- 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
- (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)**
- After section 60(2), insert:

(2B) Despite subsection (2), when a principal and their agent agree ~~in writing, and record their agreement in a document~~, 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—

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- (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)**

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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**

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**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—
  - (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—
  - (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.

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**330 Section 86G replaced (Application to register securities)**

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Replace section 86G with:



**86G Application to register securities**

- (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)**; 5
  - (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; 10
  - (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; 15
  - (f) meets the requirements set out in a determination made by the Commissioner under **section 91AAU** of the Tax Administration Act 1994.
- (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— 20
    - (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; 25
    - (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— 30
    - (i) is in the business of lending money to the public; and
    - (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. 35
- (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
- (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
- (5) Despite **section 86I(1G)**, 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— 10
- (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.
- (6) An application under this section must be in a form approved by the Commissioner. 15
- (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” 20 have the meanings given in section YA 1 of the Income Tax Act 2007.

**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. 25

**330B Section 86GB inserted (Treatment of approved issuer levy when prepayments or transfer pricing adjustment made)**

After section 86G, insert:

**86GB Treatment of approved issuer levy when prepayments or transfer pricing adjustment made** 30

- (1) A person may apply to the Commissioner for a refund of an amount of approved issuer levy if and to the extent to which—
- (a) the levy is, or has been, paid by a person in relation to an amount that is treated as paid under **section RZ 13(2)** of the Income Tax Act 2007; 35
- (b) a reduction in the interest payable, or an amount treated as interest under **section FG 3** of that Act, arises through the application of a transfer pricing adjustment under section GC 7 of that Act.

(2) ~~The person may ask the Commissioner to apply some or all of the amount of a refund under this section to satisfy, or partly satisfy, a liability under the Inland Revenue Acts.~~

**331 Section 86GB amended (Transitional provisions for certain registered securities)**

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~~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—~~

(a) ~~**subsection (2)**:~~

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(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.~~

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**332 Section 86I amended (Application of approved issuer levy and zero-rating)**

~~In section 86I, insert as subsection (2):~~

(2) ~~For the purposes of ~~sections~~ section 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,—~~

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(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**.~~

(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.~~

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(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—~~

(a) ~~the date of registration;~~

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(b) ~~1 April 2018.~~

(1D) ~~In **subsection (1B)**, **director** has the meaning given in section YA 1 of the Income Tax Act 2007.~~

**332B Section 86IB amended (Zero rate of approved issuer levy—requirements for securities)**

In section 86IB(1)(b)(i), replace “clause 19” with “clause 19 or 21(b)”.

**333 New section 86IC inserted (When payment of approved issuer levy compulsory)**

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After section 86IB, insert:

**86IC 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
- (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.

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*Amendments to Student Loan Scheme Act 2011***334A Student Loan Scheme Act 2011**

**Sections 334AB to 335** amend the Student Loan Scheme Act 2011.

**334AB Section 207 amended (Disclosure of information between authorised persons)**

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(1) Replace section 207(1) with:

(1) No obligation as to secrecy or other restriction imposed by an enactment or otherwise on the disclosure of information prevents an authorised person from disclosing to another authorised person any information for the purpose of verifying any declaration made by an applicant for a student loan as to any unpaid amounts owed by the applicant where the declaration is a condition of obtaining the loan.

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(2) Repeal section 207(2) and (3).

(3) In section 207(4), replace “Despite subsection (3), no” with “No”.

**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)**

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(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—

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- (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.
- (2) In schedule 3 of the Student Loan Scheme Act 2011, after clause 14, insert: 5
- 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.
- (3) **Subsection (2)** applies for discharges from bankruptcy after 1 April 2014. 10
- 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 Child Support Act 1991***

- 335B Child Support Act 1991** 15
- Section 335C** amends the Child Support Act 1991.
- 335C Section 240 amended (Secrecy)**
- (1) Repeal section 240(2)(c).
- (2) Replace section 240(2)(d) with:
- (d) the communication, to the General Manager of Veterans’ Affairs New Zealand or any member of the Defence Force authorised in that behalf, of information relating to the amount of financial support paid by the Commissioner pursuant to Part 9 of this Act to any person whose income is required to be determined for the purposes of the Social Welfare (Reciprocity Agreements, and New Zealand Artificial Limb Service) Act 1990 or Part 6 of the Veterans’ Support Act 2014; 20
- (3) In **section 240(2)(d)**, replace “the Social Welfare (Reciprocity Agreements, and New Zealand Artificial Limb Service) Act 1990” with “Parts 1 to 8 of the Social Security Legislation Rewrite Act 2016”. 25
- (4) Replace section 240(6)(a) with: 30
- (a) where it is given by any persons referred to in subsection **(2)(d)**, be kept by Veterans’ Affairs New Zealand as a permanent record; or
- (5) Repeal section 240(10).
- (6) Repeal section 240(11).

*Amendments to Income Tax Act 2004***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:~~ 5
- (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~~ 10
- (b) ~~the person is a company that is a member of the same wholly-owned group as the company.~~
- (1) Replace section CD 4(2), other than the heading, with:
- (2) A company (the **creditor**) provides money's worth to a person (the **debtor**) if the debtor is released from an obligation to pay money to the creditor, either by agreement or by operation of law, except to the extent to which— 15
- (a) the obligation the debtor is released from is an amount of debt to which **section EW 46B(3)** (Consideration when debt forgiven within economic group) applies; and 20
- (b) at the time the debtor is released, the debtor is a company that is a member of the same wholly-owned group as the creditor, and the debtor is described in **section EW 46B(1)(a) or (b)**.
- (2) ~~In section CD 4, in the list of defined terms, insert “wholly-owned group”.~~
- (2) In section CD 4, list of defined terms, insert “wholly-owned group of companies”. 25
- (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)**. 30

**338 Section CD 32 amended (Available subscribed capital amount)**

- (1) After section CD 32(6)(b), insert:
- (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 35
- (1B) After section CD 32(10), insert:

*When subsection (10D) applies*

(10B) **Subsection (10D)** applies if—

- (a) **section EW 46B(1)(a) or (b)** (Consideration when debt forgiven within economic group) applies to a creditor of any company in the same wholly-owned group of companies as the company (the **calculation company**) for which the calculation in subsection (1) is being performed; and
- (b) the creditor has, before the application of section OD 3 or OD 4 (which relate to voting interests and market value interests), or the calculation company has, before the application of section OD 3 or OD 4—
  - (i) voting interests in the creditor’s debtor, to whom **section EW 46B(1)(a) or (b)** applies; or
  - (ii) market value interests in the creditor’s debtor, to whom **section EW 46B(1)(a) or (b)** applies, if a market value circumstance exists for the debtor.

*When subsection (10D) applies*

(10C) **Subsection (10D)** also applies if **section EW 46B(1)(c)** applies to a creditor or single creditor group under that section, and the company for which the calculation in subsection (1) is being performed (the **calculation company**)—

- (a) is the creditor’s debtor, to whom **section EW 46B(1)(c)** applies;
- (b) has, before the application of section OD 3 or OD 4, either voting interests in the creditor’s debtor, to whom **section EW 46B(1)(c)** applies or market value interests in the creditor’s debtor, to whom **section EW 46B(1)(c)** applies, if a market value circumstance exists for the debtor.

*Subscriptions amount: debt forgiven within economic group*

(10D) The subscriptions amount is treated as including the amount of debt to which **section EW 46B(3)** applies for the creditor and relevant debtor, for the class of shares that the creditor has the most voting interests for, or, if the creditor is the single creditor group under **section EW 46B(1)(c)**, for the class of shares that a member of the group has the most voting interests for. The maximum subscriptions amount included for an amount of debt for a calculation company is,—

- (a) if the calculation company is the debtor, the amount of debt;
- (b) if the calculation company is not the debtor, the amount of debt multiplied by 1 of the following interests, determined before the application of section OD 3 or OD 4:
  - (i) the calculation company’s voting interests in the creditor’s debtor;
  - or

- (ii) the calculation company’s market value interest in the creditor’s debtor, if there is a market value circumstance.
- (1C) In section CD 32, list of defined terms, insert “market value circumstance”, “market value interest”, and “voting interest”.
- (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)**. 5
- 339 Section CD 33 amended (Available capital distribution amount)**
- (1A) After section CD 33(8), insert: 10
- Capital gain amount: consideration when debt forgiven within economic group*
- (8B) The amount of a debt that **section EW 46B** (Consideration when debt forgiven within economic group) applies to does not give rise to a capital gain amount if **section CD 32(10D)** does not apply to it.
- (1) Replace section CD 33(9), other than the heading, with: 15
- (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.
- (9) For the purposes of this section, a company incurs a capital loss if it disposes of capital property for an amount of consideration that is less than— 20
- (a) the adjusted tax value of the property at the date of disposal, if the property is an item of depreciable property; or
- (b) the cost of the property to the company at the date of disposal, if the property is not an item of depreciable property. 25
- Capital loss amount*
- (9B) The capital loss amount for a disposal referred to in **subsection (9)** is equal to the deficit referred to in that subsection for the disposal.
- (2) In section CD 33, list of defined terms, insert “deduction” and “depreciation loss”. 30
- (2B) **Subsection (1A)** applies for a person for the 2005–06 and later income years, except for an income year before the 2008–09 income year for which the person takes a tax position in a return of income that is inconsistent with the amendment made by **subsection (1A)**.
- (3) **Subsection (1)** applies for the 2005–06 and later income years. 35
- 340 New section CX 17B inserted (Transport in vehicle other than motor vehicle)**
- (1) After section CX 17, insert:



**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—

- (a) is not a motor vehicle; and
- (b) is not designed principally for the carriage of passengers.

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Defined in this Act: employer, employee, fringe benefit, motor vehicle

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

**340B New section DV 10C inserted (Cost base for shares when debt forgiven within economic group)**

- (1) After section DV 10B, insert:

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**DV 10C Cost base for shares when debt forgiven within economic group**

For a shareholder of a company that is a calculation company under **section CD 32(10B) or (10C)** (Available subscribed capital amount), an amount of the subscriptions amount under **section CD 32(10D)** for the calculation company is treated as expenditure incurred for the purchase of the shareholder’s shares in the calculation company. The maximum expenditure for the shareholder’s shares is the subscriptions amount under **section CD 32(10D)** for the calculation company multiplied by one of the following interests, determined before the application of section OD 3 or OD 4 (which relate to voting interests and market value interests):

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- (a) the shareholder’s voting interests in the calculation company; or
- (b) the shareholder’s market value interest in the calculation company, if there is a market value circumstance.

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Defined in this Act: amount, company, expenditure, market value circumstance, market value interest, share, voting interest

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- (2) **Subsection (1)** applies for a person for the 2005–06 and later income years, except for an income year before the 2008–09 income year for which the person takes a tax position in a return of income that is inconsistent with the amendment made by this section.

**341 Section EE 42 amended (Amount of depreciation recovery income when item partly used for business)**

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- (1) In section EE 42(8), replace “section EE 41(1)” with “section EE 41(1)(a)”.
- (2) **Subsection (1)** applies for the 2005–06 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 2005–06 or a later income year 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

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- (b) that is inconsistent with the amendment made by **subsection (1)**.

**342 New section EW 46B inserted (Consideration when debt forgiven within economic group)**

- (1) After section EW 46, insert:

**EW 46B Consideration when debt forgiven within economic group**

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*When this section applies*

- (1) This section applies when—

- (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.

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*Consideration*

- (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.

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*Two points about subsections (1) and (2)*

- (3) For the purposes of **subsections (1) and (2)**,—

- (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.

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*Some definitions*

- (4) For the purposes of this section,—

- (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;

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- (b) **creditor's associate** means, for a creditor, a person associated with the creditor if—

- (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;

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- (c) **creditor's interest** means, for a person, their direct ownership interest and ownership interest, in the case of a company.

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- (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~~

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(ii) ~~does not include a member debt, if the creditor group member is a non-resident who was not originally issued the debt.~~

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~~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~~

(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)**.~~

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**342** New section EW 46B inserted (Consideration when debt forgiven within economic group)

(1) After section EW 46, insert:

**EW 46B** Consideration when debt forgiven within economic group

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*When this section applies*

(1) This section applies to the extent to which an amount of debt is forgiven and—

(a) the creditor is a member of the same wholly-owned group of companies as the debtor and the debtor is a New Zealand resident company;

(b) the creditor is a member of the same wholly-owned group of companies as the debtor and, for the debtor, a group of persons who are New Zealand resident companies hold, before section OD 3 or OD 4 (which relate to measurement of voting interests and market value interests) is applied to the group in relation to their interests,—

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(i) common voting interests that add up to 100%; and

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(ii) if a market value circumstance exists for a company that is part of a group of companies to which the debtor belongs, common market value interests that add up to 100%;

(c) if the debtor is a company, the creditor is not a member of the same wholly-owned group of companies as the debtor and the creditor has ownership interests or, as applicable, market value interests in the debtor;

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(d) if the debtor is a partnership, the creditor has a partner's interest in the income of the debtor;

(e) if the debtor is a look-through company, the creditor has an effective look-through interest in the debtor.

*Some points about this section*

(2) For the purposes of this section,—

(a) the means by which an amount of debt is forgiven is immaterial: 5

(b) a group of natural persons (the **single creditor group**) who are creditors or who have interests in the debtor are treated as one creditor holding the total debts and interests of the group, if each person has natural love and affection for the others. However, a trust may join the single creditor group if— 10

(i) the trust was established mainly to benefit a natural person for whom each person of the single creditor group has natural love and affection; and

(ii) the amount given by dividing the amount that the trust forgives the debtor by the trust's proportional ownership ratio is less than the amount given by dividing the amount that the single creditor group forgives the debtor by the group's proportional ownership ratio (for example: \$100 forgiven by the trust ÷ 40% ownership is greater than \$100 forgiven by group ÷ 50% ownership, so the trust may not join the group, even if the required natural love and affection exists). 15  
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*When this section does not apply*

(3) This section does not apply if—

(a) the creditor and debtor are members of the same wholly-owned group of companies; and 25

(b) the creditor is a non-resident; and

(c) the debt has been held by a person that is not a member of the wholly-owned group of companies.

*Consideration: debtor*

(4) The debtor is treated as having paid the amount of debt on the date on which the creditor forgives it, if— 30

(a) the relevant debt, creditor, and debtor are described in **subsection (1)(a) or (b)**:

(b) the proportional debt ratio for the amount equals the proportional ownership ratio. 35

*Consideration: creditor*

(5) The creditor is treated as having been paid the amount of debt on the date on which the creditor forgives it, if—

(a)	<u>the relevant debt, creditor, and debtor are described in <b>subsection (1)(a) or (b)</b>:</u>	
(b)	<u>the proportional debt ratio for the amount equals the proportional ownership ratio.</u>	
	<i>Some definitions</i>	5
(6)	<u>For the purposes of this section,—</u> <b>nominal shares</b> are shares held by the trustee of a share purchase scheme, or employees or former employees of the debtor, if the total of those shares represent voting interests in the debtor that add up to no more than 3%, or, as applicable, market value interests in the company that add up to no more than 3% <b>proportional debt ratio</b> means, for a creditor and an amount of debt, the percentage that the creditor’s amount bears to the total amounts of debt to which this section applies forgiven at the time the creditor’s debt is forgiven <b>proportional ownership ratio</b> means the creditor’s percentage of the ownership interests or, as applicable, market value interests, total partner’s interests, or total effective look-through interests for the debtor, ignoring nominal shares. <small>Defined in this Act: amount, consideration, employee, group of persons, income, look-through company, look-through interest, market value interest, New Zealand resident, nominal share, non-resident, partner’s interests, partnership, pay, proportional debt ratio, proportional ownership ratio, share, trustee, voting interest, wholly-owned group of companies</small>	10 15 20
(2)	<b>Subsection (1)</b> applies for a person for the 2006–07 and later income years, except for an income year before the 2008–09 income year for which the person takes a tax position in a return of income that is inconsistent with the amendment made by <b>subsection (1)</b> .	
<b>342B</b>	<b>Section HG 10 amended (Taxation of qualifying company)</b>	25
(1)	<u>In section HG 10(a), delete “company which has been at any time before the date of derivation a”.</u>	
(2)	<b>Subsection (1)</b> applies for the 2005–06 and later income years.	
<b>342C</b>	<b>New section HG 10B inserted (Dividends derived by qualifying companies)</b>	30
(1)	<u>After section HG 10, insert:</u> <b>HG 10B Dividends derived by qualifying companies</b> <i>When this section applies</i>	
(1)	<u>This section applies when a company derives a dividend (the <b>derived dividend</b>) after it becomes a qualifying company, if—</u>	35
(a)	<u>the derived dividend is derived less than 7 years after the company ceases to be a qualifying company; and</u>	
(b)	<u>section CW 10 or CW 11 (which relate to exempt dividends) applies to the derived dividend; and</u>	

- (c) the company paid a dividend that section HG 13(1)(a) or (1A) applied to, when the company was a qualifying company.
- Dividend not exempt income*
- (2) The derived dividend is not exempt income under section CW 10 or CW 11, except to the extent to which section CW 9 (Dividend derived by company from overseas) applies to it. 5
- Defined in this Act: company, dividend, exempt income, qualifying company
- (2) **Subsection (1)** applies for the 2005–06 and later income years.
- 343 Section OB 1 amended (Definitions)**
- (1) This section amends section OB 1. 10
- (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) 15
- (4) Insert, in appropriate alphabetical order:
- creditor's interest** is defined in **section EW 46B** (Consideration when debt forgiven within economic group)
- (4B) Insert, in appropriate alphabetical order: 20
- nominal share** is defined in **section EW 46B** (Consideration when debt forgiven within economic group) for the purposes of that section
- (4C) Insert, in appropriate alphabetical order:
- proportional debt ratio** is defined in **section EW 46B** (Consideration when debt forgiven within economic group) for the purposes of that section 25
- (5) Insert, in appropriate alphabetical order:
- pari passu debtproportional ownership ratio** 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). 30
- (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 live-stock) means property that is—
- (i) trading stock under section EB 2:
- (ii) livestock: 35
- (8) **Subsections (2), (3), (4), and (5)** apply for the 2006–07 and later income years.

- (8) **Subsections (4B), (4C), 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)**.

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***Amendments to Privacy Act 1993***

**343B Privacy Act 1993**

**Sections 343C and 343D** amend the Privacy Act 1993.

**343C Section 103 amended (Notice of adverse action proposed)**

- (1) Repeal section 103(1B).
- (2) In section 103(2), delete “or subsection (1B)”.
- (3) In section 103(3), delete “or subsection (1B)”.

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**343D Schedule 3 amended (Information matching rules)**

- (1) In schedule 3, item relating to the Tax Administration Act 1994, delete “83, 84,” and “85G.”
- (2) In schedule 3, item relating to the Tax Administration Act 1994, delete “85.”

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***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.

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**Legislative history**

3 May 2016  
15 June 2016

Introduction (Bill 130–1)  
First reading and referral to Finance and Expenditure Committee