Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Bill

Government Bill

Explanatory note

General policy statement

This taxation omnibus Bill introduces amendments to the following legislation:

- Goods and Services Tax Act 1985;
- Income Tax Act 2007;
- Tax Administration Act 1994;
- Student Loan Scheme Act 2011; and
- Child Support Act 1991.

Broadly, the policy proposals in this Bill fall into 4 categories. The first category sets the annual rates of income tax for the 2019–20 tax year.

The second of these categories comprises proposals aimed at improving current tax settings within a broad-base, low-rate framework. This framework, helps ensure that taxes are fair and efficient, and that they impede economic growth as little as possible. It also helps keep compliance costs low and minimises opportunities for avoidance and evasion. The framework underpins the Government's revenue strategy and helps maintain confidence that the tax system is broadly fair, which is crucial to encouraging voluntary compliance.

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

The third category relates to proposals aimed at modernising and improving the settings for the administration of social policy by Inland Revenue. This includes simplification measures relating to student loans and Working for Families.

The fourth category consists of proposal aimed at providing consistency with the broad objectives of government for international co-operation. This covers amendments to ensure that the New Zealand is able to meet its international obligations concerning automatic exchange of information.

The main policy measures within this Bill have been developed in accordance with the Generic Tax Policy Process (GTPP). It is a very open and interactive engagement process between the public and private sectors, which helps ensure that tax and social policy changes are well thought through. This process is designed to ensure better, more effective policy development through early consideration of all aspects, and likely impacts, of proposals, and increased opportunities for public consultation.

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

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

The following is a brief summary of the specific policy measures contained in this Bill. A comprehensive explanation of all the policy items is provided in a commentary on the Bill that is available at http://taxpolicy.ird.govt.nz/publications/2018-commentary-argosrrm-bill/overview.

Confirmation of annual rates of income tax for the 2019–20 tax year

The Income Tax Act 2007 requires the rates of income tax to be set each tax year by an annual taxing Act. The Bill proposes to set the annual rates of income tax for the 2019–20 tax year at the same rates currently specified in schedule 1, part A of the Income Tax Act 2007 (that is, confirm that the rates remain unchanged).

GST on low-value imported goods

Goods and services tax (GST) as a broad-based consumption tax is intended to apply to all consumption that occurs in New Zealand, ensuring the system is fair, efficient, and simple. However, GST is not usually collected on imported goods valued below $400 for administrative cost reasons.

When GST was introduced in 1986, few New Zealand consumers imported low-value goods directly from offshore suppliers. Therefore, the compliance and administrative costs involved in collecting GST on imported goods below the Customs de minimis were considered to outweigh the benefits of collection at that time.

The growth of e-commerce has meant that the volume of goods on which no GST is collected has become increasingly significant. This raises concerns about the impact that this uneven GST treatment may have on the competitiveness of domestic retailers and on future tax revenues.

The amendments proposed in this Bill address the non-collection of GST on low-value imported goods in order to maintain the broad base of New Zealand's GST system and provide a level playing field for domestic and offshore suppliers.

The non-taxation of low-value imported goods is an international issue faced by countries that have a GST or Value Added Tax (VAT) system. Since 1 July 2018, offshore suppliers selling goods valued at or below A$1,000 to consumers in Australia are required to collect and return Australian GST on these sales if their total taxable supplies to Australia exceed the A$75,000 GST registration threshold. The European Union (EU) has also introduced legislation that will require non-EU suppliers to collect VAT on low-value goods imported from outside the EU from 1 January 2021. The proposed amendments, which would apply to supplies made on and after 1 October 2019, are consistent with these international developments.

Supplies to consumers

The Bill proposes amendments to the Goods and Services Tax Act 1985 which would apply GST to supplies of "low-value goods" by non-resident suppliers to consumers in New Zealand. Low-value goods are those that are valued at or below $1,000.

Supplies to GST-registered businesses

GST would not apply to supplies of low-value goods made to New Zealand GST-registered businesses. As GST-registered businesses are not able to claim deductions for GST charged on these supplies, non-resident suppliers will not be required to provide tax invoices for their supplies of low-value goods.

However, if an offshore supplier inadvertently charges GST to a GST-registered business and the consideration for the supply does not exceed $1,000, the supplier would have the option of providing a tax invoice to allow the registered business to deduct the GST charged.

Registration threshold

Offshore suppliers will be required to register and return GST if their taxable supplies to New Zealand exceed $60,000 in a 12-month period, which is the existing domestic registration threshold.

Electronic marketplaces

An operator of an electronic marketplace would be required to register and return GST on supplies of low-value goods made through the marketplace. This is intended to maximise compliance with the rules while also minimising total administration and compliance costs by reducing the number of collection entities that would be required to register. The proposed rules for electronic marketplaces are broadly consistent with those recently introduced in Australia.

Re-deliverers

"Re-deliverers" are used by consumers when the supplier or electronic marketplace does not offer delivery to New Zealand. The goods are instead shipped to an address overseas and are brought to New Zealand by the re-deliverer. Since the supplier or marketplace in this situation would not know that the final destination of the goods is in New Zealand, it would be unreasonable to require them to charge GST.

The re-deliverer will however know that the goods are to be delivered to New Zealand. Therefore, as an integrity measure, a re-deliverer would be required to register and return GST on low-value goods that it re-delivers to New Zealand if its total supplies for GST purposes (including the low-value goods it re-delivers to New Zealand consumers) exceed $60,000 in a 12-month period.

Determining the tax treatment of a supply

A non-resident supplier of low-value goods must treat a customer as not being registered for GST unless the customer notifies the supplier that they are registered, or provides their GST registration number or New Zealand business number. A provision would allow the Commissioner of Inland Revenue and a supplier to agree on an alternative method of determining whether a customer is a GST-registered business.

If a consumer knowingly provides false or misleading information to avoid the payment of GST, the existing knowledge offences would apply. Additionally, where the amount of GST involved is substantial or where the behaviour is repeated, the Commissioner of Inland Revenue would have discretion to register the consumer and require them to pay the GST that should have been charged.

Other GST matters

The Bill proposes a number of technical and remedial amendments to the Goods and Services Tax Act 1985.

Capital raising costs

The first set of GST remedial amendments in the Bill clarify the scope of the rules allowing GST-registered persons to deduct GST incurred on costs of raising capital.

The existing law is unclear on whether a registered person can claim input tax deductions for capital raising costs in situations where the funds raised are used in refinancing the taxable activity. An amendment is proposed to clarify that input tax is deductible in such situations.

Where a capital raising transaction is carried out by a treasury company or holding company, it may be another group company that ultimately uses the funds raised in a taxable activity. The amendments clarify that input tax deductions for capital raising costs are available to the company that ultimately uses the funds in these situations.

GST treatment of vouchers

The Goods and Services Tax Act 1985 contains special rules for vouchers, tokens, and stamps. The default rule is that GST applies on the issue of a voucher (the issue

basis). However, a significant exception allows the option for GST to apply on the redemption of a voucher (the redemption basis) if the issuer of the voucher and the supplier of the goods and services that it is redeemed for are separate persons and agree to use the redemption basis.

There are issues with the current criteria for when the redemption basis for vouchers can be used, in particular—

- The issue basis is the only option if the issuer and redeemer of the voucher are the same person. This is problematic in relation to cross-border transactions, as applying GST on the issue basis can give rise to either double taxation or double non-taxation of cross-border goods and services. The Bill proposes an amendment to clarify that GST applies on the redemption of a voucher and not at the time it is issued in situations where the voucher is or could be redeemed for cross-border goods and services, regardless of whether there is more than one party involved in the issue and redemption of the voucher or not.
- Where there are more than 2 parties involved (that is, where the issuer, seller, and redeemer of the voucher are different persons) the GST legislation gives rise to a technical issue about which party is liable to pay the GST. The Bill proposes an amendment to clarify that it is the entity redeeming the voucher that has the GST liability.

Treatment of arranging services relating to goods located offshore

The Bill proposes an amendment to correct an unintended change to the GST treatment of certain arranging services, resulting from an amendment that was made in 2016 to allow the rules applying GST to inbound cross-border supplies of services and intangibles to work properly.

The proposed amendment concerns services that consist of the arranging of services supplied directly in connection with goods situated outside New Zealand. The issue is that the arranging services may not be zero-rated, even though the underlying services that they arrange (such as overseas storage, handling, and logistics) will be clearly zero-rated. This is an anomalous result as the GST treatment of arranging services generally follows that of the underlying services being arranged.

The proposed amendment ensures that services that consist of the arranging of underlying services supplied directly in connection with moveable personal property located outside New Zealand at the time the underlying services are performed are zero-rated, in line with the policy intent and the previous treatment that applied prior to 1 October 2016.

Ring-fencing rental losses

Under current New Zealand tax settings, tax is applied on a person's net income. Deductions that relate to particular activities or investments are not generally ring-fenced. This means there is generally no restriction on deductions in respect of a loss-making activity or investment reducing tax on income from other sources (although there are some exceptions to this general treatment).

While rental housing is not formally tax favoured, there is an argument that it may be under-taxed given that tax-free capital gains are often realised when rental properties are sold. The fact that rental property investments are often make persistently loss-making indicates that expected capital gains are an important motivation for many investors purchasing rental property.

While interest and other expenses are fully deductible, not all of the economic income generated from rental housing is subject to tax. There is therefore an argument that, to the extent deductible expenses in the long-term exceed income from rents, those expenses in fact relate to the untaxed gain on sale, so should not be deductible unless the gain is also taxed.

Currently, investors (particularly highly-geared investors) have part of the cost of servicing their mortgages subsidised by the reduced tax on their other income sources, helping them to outbid owner-occupiers for properties.

The Bill proposes to ring-fence deductions in respect of residential rental properties to the extent the deductions exceed income from the properties. This means the excess deductions cannot be used to reduce tax on other income. The proposed rules would apply from the start of the 2019–20 income year.

Portfolio or property-by-property basis

The amendments would apply on a portfolio basis by default – meaning that investors would calculate their overall profit or loss across their residential portfolio. However, taxpayers would be able to elect to apply the rules on a property-by-property basis.

Property subject to the rules

The amendments would apply to "residential land", using the definition of "residential land" that already exists for the bright-line test. The definition includes bare land, but does not include farmland or land used predominantly as business premises.

The amendments would also not apply to a person's main home or a property that is subject to the mixed-use asset rules. Land that is identified to Inland Revenue as being on revenue account is also excluded from the proposed amendments, provided either the taxpayer is notifying the Commissioner of their rental income on a property-by-property basis, or they are notifying the Commissioner of their rental income on a portfolio basis and all properties within the portfolio are on revenue account.

The Bill proposes further exclusions for residential land owned by widely-held companies and accommodation provided to employees or other workers where it is necessary to provide that accommodation owing to the nature or remoteness of the business.

Using ring-fenced deductions

Taxpayers would be able to offset ring-fenced residential property deductions from 1 year against residential rental income in future years (from any property) or against income on the sale of any residential land. Ring-fenced deductions would be released if a taxpayer has applied the rules on a property-by-property basis and the property

ends up being taxed on sale, or if a taxpayer has applied the rules on a portfolio basis and all of the properties within the portfolio are sold and were subject to tax on sale.

The Bill proposes to allow the transfer of ring-fenced deductions between companies in the same wholly-owned group, but these deductions would remain ring-fenced.

Structuring around the rules

The Bill proposes specific rules to ensure that interposed entities cannot be used to structure around the ring-fencing rules. The interposed entity rules are proposed to apply where property is held by an entity that is residential land-rich – being where over 50% of the entity's assets are residential properties.

Where this threshold is met, it is proposed that interest on borrowings relating to the entity would be treated as rental property expenditure. The interest would be ring-fenced to the extent it exceeds the appropriate proportion of the entity's profit from residential properties for the year, taking account of the total interests the person has in the entity.

If capital of a residential land-rich entity is applied to multiple purposes, the interest incurred on borrowings to fund the capital would be apportioned between the uses to which the capital is applied on a pro-rata basis. This would ensure the appropriate treatment of the interest that relates to the other (non-rental) activity.

Social policy changes

The Bill proposes 4 amendments to improve the administration of student loans, Working for Families and child support, along with a technical amendment to the day count tests for student loans to align the law with the policy intent.

Deductions from withholding income

Domestic student loan borrowers that earn income other than salary and wages have their student loan assessment calculated at the end of the year based on the amount of income earned in that year.

Some of these borrowers receive schedular, election-day, and casual agricultural income which has a similar treatment to other employment income. Employers are required to withhold tax at source from that income in the same way as PAYE is deducted from salary and wages.

The Bill proposes that student loan borrowers who receive schedular, election-day, and casual agricultural income should have student loan repayments deducted from their income by their employer in the same way a salary and wage earner does.

Interest-free student loans

Moving to Inland Revenue's new computer system, START, allows policy options that were previously discounted owing to systems constraints to be progressed – such as changes to improve the administration of interest-free loans for New Zealand-based borrowers.

Currently, student loan borrowers are charged loan interest. This interest is then written off for borrowers who are New Zealand-based.

The Bill proposes that loan interest should only be charged to overseas-based borrowers, removing the requirement to complete a subsequent write-off for those who are New Zealand-based. This would remove confusion for borrowers whose statements set out the interest charges and subsequent write-offs.

Alignment of the definitions of "income"

Both the Working for Families tax credit and student loan definitions of "income" refer to "net income" as the base income with adjustments made to include or exclude specific types of income. However, there are a number of differences between the Working for Families and student loan definitions of "income", which can lead to confusion.

The Bill proposes to align the respective definitions as appropriate by—

- Providing a separate legislative provision to specifically state that non-beneficiary income from a trust when a person is not the settlor should be included as income for Working for Families purposes (rather than captured as an "other payment"). This would align with the current student loan income definition.
- Aligning the voting interest percentage for student loans with the percentage used for Working for Families to calculate the close company net income not distributed adjustment.
- Aligning the adjustment for specific retirement savings contributions for student loans with other social policy products.
- Aligning the adjustment for depreciation loss allowed on the sale of buildings for student loans with that for Working for Families.

Student loan day count tests

The Bill proposes amendments to the day count tests used to determine whether a student loan borrower is New Zealand-based or overseas-based. The proposed amendments would ensure the rules are consistent with their policy intent and Inland Revenue's administrative practice.

Different repayment rules apply to student loan borrowers depending on whether they are New Zealand-based or overseas-based. A borrower is intended to become overseas-based if they spend at least 184 consecutive days overseas, beginning on the first day they were overseas, excluding periods in New Zealand totalling less than 31 days. Conversely, a borrower is intended to be a New Zealand-based borrower if they spend at least 183 consecutive days in New Zealand, excluding periods overseas of less than 31 days.

An unintended legislative change occurred in the rewrite of the Student Loan Scheme Act 1992 into the Student Loan Scheme Act 2011. This unintended change means that borrowers could become overseas-based after less than 6 months, although Inland Revenue's administrative practice has been to continue to apply the previous law

which allowed borrowers to travel overseas for short periods of up to 6 months before becoming overseas-based.

Discretion to grant permanent child support exemption

A person can have a child as a result of being the victim of a sex offence and may be made liable to pay child support for that child. A permanent exemption from paying child support exists for the parent of a child born as a result of a sex offence. To qualify for the exemption, the offender must have been convicted.

However, there are situations when there has not been a conviction for an offence but the reality that a sex offence occurred is in little doubt.

The Bill proposes to give the Commissioner of Inland Revenue discretion to consider other information in order to grant the exemption even though there is no convicted offender. Additionally, the Commissioner would have the discretion to back date the exemption in situations where she is satisfied this would not negatively impact on a parent or carer. An exemption could not be back dated to periods before 26 September 2006 when the permanent exemption was first introduced.

The discretion would be supported by guidelines that would assist with deciding whether or not the exemption should be granted. The type of evidence that could support an offence had occurred could include a police report, medical report, or report from another agency that has already assessed the person was the victim of the offence.

The Commissioner would be obliged to revoke the exemption in situations when she subsequently becomes aware that the exemption should not have been granted – for example, when a person is found to have made a false accusation.

Sale and compulsory buy back of pre-1990 forest land emissions units

The Bill proposes an amendment to address an issue with the tax treatment of pre-1990 forest land emissions units. The issue arises when the units are securitised through a sale and compulsory buy back transaction.

The proceeds from the sale of pre-1990 forest land emissions units are generally non-taxable. However, any subsequent sales of the emissions units are taxable.

It is not appropriate to treat a transaction involving the sale and compulsory buy back of pre-1990 forest land units as a standalone sale, as that transaction amounts to a securitisation of an asset in exchange for a loan.

The proposed amendment will treat the transaction as a loan, including elements that are an excluded financial arrangement, thereby better reflecting the economic substance of the transaction.

Tax records in te reo Māori

The Bill proposes amendments to the Tax Administration Act 1994 and the Goods and Services Tax Act 1985 to allow tax records to be held in te reo Māori. The

amendments codify existing Inland Revenue administrative practices regarding taxpayers holding tax records in te reo Māori.

The proposed amendments do not override the disclosure requirements in the GST Act concerning tax invoices or other similar documents provided by GST registered persons.

PAYE and employee share schemes

The Bill proposes to remove a non-tax obstacle relating to financial reporting requirements for employers electing to account for PAYE on benefits provided to employees under an employee share scheme. This potential obstacle relates to the costs an employer would need to incur to comply with financial reporting requirements relating to the provision of benefits under an employee share scheme.

Under an International Financial Reporting Standard (IFRS 2 Share Based Payment), an employer electing to withhold PAYE from income earned by an employee under the terms of an employee share scheme must, for financial reporting purposes, treat the costs of the scheme as either—

- a fixed cost which is amortised on a straight line basis (the fixed cost method); or
- an annually revalued amount, with the relevant amount then being an expense for financial reporting purposes.

The annual expense of obtaining an annual revaluation of costs of the scheme could mean that employers may elect not to withhold PAYE from benefits provided to employees under employee share schemes. The cost of establishing an employee share scheme in a way that permits the employer to treat the costs of the scheme as a fixed cost for financial reporting purposes could also impose significant non-tax compliance costs.

IFRS 2 does however permit an employer to apply the fixed cost method for financial reporting purposes if there is a statutory obligation to withhold PAYE in relation to benefits arising under an employee share scheme. The proposed amendment would allow an employer to make an irrevocable election to withhold PAYE from income earned by employees under an employee share scheme, thus satisfying the statutory obligation threshold.

Trust beneficiaries as settlors

Current legislation makes beneficiaries of a trust settlors if they transfer value to the trust. The policy intent is that the settlor definition is wide, to ensure most transfers of value to a trust are captured. However, it was not intended that beneficiaries with modest current account balances (where the trust has allocated money to them but it has not been paid out) become settlors as a result.

The Bill proposes an amendment to the definition of "settlor" in the Income Tax Act 2007 to ensure that beneficiaries of a trust do not become settlors when either—

- the trust pays a market interest rate, measured by the prescribed fringe benefit tax rate of interest, to the beneficiary to compensate them for the fact they have been allocated money which they have not received yet; or
- the amount retained in the current account with the trust at the end of the income year is no greater than $25,000.

Cash distributions from co-operative companies

In general, co-operative company law permits a co-operative company to make distributions of profits from mutual transactions between the company and its shareholders to a specific group of shareholders, provided the company's constitution permits such a distribution. However, a rule in the Income Tax Act 2007 allowing co-operative companies to attach imputation credits to a non-deductible cash distribution of profits from mutual transactions during a year requires the relevant distribution to be made to all persons who were shareholders at any time during that year.

The Bill proposes a remedial amendment to the non-deductible cash distribution rule to clarify that a cash distribution of mutual profits in a co-operative company need not be made to all shareholders in order for imputation credits to be attached to the distribution, provided such a distribution is permitted by the company's constitution.

An "anti-imputation streaming" rule in the Income Tax Act 2007 requires imputation credits to be attached to a dividend at the same ratio as those attached to the first dividend in a year. This rule prevents imputation credits from being attached at different ratios for multiple dividends over a year, as this could result in imputation credits being "streamed" to shareholders that are best able to use them.

Imputation credit streaming is a concern because it is counter to the objectives of ensuring that income derived through companies is taxed at the tax rates of the shareholders in the company.

To avoid such concerns, the Bill proposes that the non-deductible cash distribution rule be subject to the anti-imputation streaming rule.

Common Reporting Standard – Investment entities and corporate trustees

The Bill proposes an amendment to the implementation legislation for the Common Reporting Standard (CRS) to ensure the law works as intended.

The CRS imposes due diligence and reporting obligations on financial institutions. Information provided to Inland Revenue under the CRS implementation legislation is an integral part of the G20/OECD Automatic Exchange of Information initiative which seeks to provide a global framework for the collection, reporting, and exchange of certain financial account information relating to persons who invest outside their country of tax residence. The focus of this is to enable international cooperation in the detection and deterrence of offshore tax evasion.

The CRS definition of "financial institution" includes an investment entity that meets certain criteria. It is ambiguous as to whether or not an investment entity managed by a corporate trustee would be required to comply with the CRS. However, the policy

intent, and international consensus, is that such investment entities are obliged to comply with the CRS. If not addressed, this ambiguity could therefore result in Inland Revenue not being able to meet its automatic exchange of information obligations in some instances.

Loss of earnings insurance

The Bill proposes an amendment to ensure that claims paid out under a loss of earnings insurance policy are taxable to the recipient in all circumstances, consistent with the policy intent.

The income component of claims received under a loss of earnings insurance policy has always been taxable under the common law. That principle was codified in an amendment in 2011, which addressed a question over the timing of when the income should be returned. However, the wording of the amendment has inadvertently resulted in the insurance proceeds not being taxable if the policy holder assigns the right to receive the proceeds to another person whose business was not interrupted by the event.

The proposed amendment ensures that if a policy holder assigns a loss of earnings insurance policy to another person, the income component of a claim received by the assignee will be taxable. A savings provision is also proposed to protect the historic tax positions of taxpayers that have relied on the existing law.

"*Level premium*" *life insurance policies*

The Bill proposes a technical amendment to the transitional rules that accompanied the substantive reform of the life insurance business taxation rules, to ensure the law better reflects the policy intent of those rules.

The reform of the life insurance business taxation rules provided comprehensive transitional relief for life insurance policies sold on or before 1 July 2010. The proposed amendment would preserve pricing expectations and assumptions made prior to 1 July 2010 for "level premium" life insurance policies which were sold before the taxation rules for life insurance businesses changed.

Remedial amendments

A number of minor remedial matters are also addressed in the Bill, consisting mainly of correcting minor faults of expression, reader's aids, and incorrect cross-references.

Departmental disclosure statement

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

A copy of the statement can be found at http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2018&no=114

Regulatory impact assessment

The Inland Revenue Department produced regulatory impact assessments on 20 July 2017, 7 May 2018, 1 August 2018, and 5 September 2018 to help inform the main policy decisions taken by the Government relating to the contents of this Bill.

Copies of these regulatory impact assessments can be found at—

- http://taxpolicy.ird.govt.nz/publications/type/ris
- https://treasury.govt.nz/publications/legislation/regulatory-impact-assessments

Clause by clause analysis

Clause 1 gives the title of the Act.

Clause 2 gives the dates on which the provisions of the Act come into force.

Part 1
Annual rates of income tax

Clause 3 sets the basic rates of income tax for the 2019–20 tax year.

Part 2
Amendments to Goods and Services Tax Act 1985

Clause 4 provides that Part 2 amends the Goods and Services Tax Act 1985.

Clause 5 amends section 2(1), which contains the definitions of terms defined for the Act. *Subclause (1)* amends the definition of *electronic marketplace*, as a consequence of the new regime for supplies of distantly taxable goods. *Subclause (2)* inserts new definitions of *entry value* and *entry value threshold*, which are required by the new rules relating to supplies of distantly taxable goods. *Subclause (3)* amends the definition of *marketplace*, paragraph (b), as a consequence of the new regime for supplies of distantly taxable goods. *Subclause (4)* inserts a new definition of *quarter* by reference to the Income Tax Act 2007. *Subclause (5)* inserts a new definition of *redeliverer*, which is required by the new rules relating to distantly taxable services. *Subclause (6)* inserts a new definition of *underlying supplier*, which is required by the new rules relating to distantly taxable services.

Clause 6 inserts *new section 4B*, which defines *distantly taxable goods* and provides for a supply that includes items not meeting the requirements of the definition as well as items that do meet the requirements.

Clause 7 amends section 5, which gives the situations in which a supply occurs. *Subclauses (1) and (2)* amend subsection (11G), which provides for the treatment of the redemption of tokens, stamps, and vouchers, as a consequence of the new regime for supplies of distantly taxable goods. *Subclauses (3) to (8)* amend subsection (27), which imposes reverse charges on the consumers of some supplies in some circumstances, as a consequence of the new regime for supplies of distantly taxable goods. *Subclause (9)* inserts *new subsection (28)*, which gives the Commissioner the power

to treat distantly taxable goods, that would otherwise be treated as supplied to a recipient by the operator of a marketplace, as being supplied to the recipient by the person who provides the distantly taxable goods if the person has provided false or misleading information to the operator of the marketplace.

Clause 8 amends section 5B, which applies when the recipient of a supply by a non-resident is treated as being the supplier, by extending the scope of the section to include supplies of distantly taxable goods.

Clause 9 amends section 8, which imposes tax on supplies, by extending the scope of the section to include supplies of distantly taxable goods.

Clause 10 amends section 8B, which relates to supplies of remote services. The subsections giving the requirements that a supplier must meet before treating a recipient of a supply as being a registered person are removed, since the requirements are reflected in *new section 8BB*.

Clause 11 inserts *new section 8BB*, which gives the requirements that a supplier must meet before treating a recipient of a supply of distant services or of distantly taxable goods as being a registered person.

Clause 12 amends section 10, which gives the rules for the value of a supply in different situations, to provide for some supplies of distantly taxable goods by an operator of a marketplace or a redeliverer.

Clause 13 inserts *new sections 10B and 10C*. *Section 10B* provides a method for determining the value of a supply of goods for the purposes of determining whether the supply is of distantly taxable goods. *Section 10C* provides that a supplier who is a non-resident or the operator of a marketplace or a redeliverer may elect that supplies of goods having a value greater than the entry value threshold may be supplies of distantly taxable goods if the supplier meets the requirements in the section.

Clause 14 amends section 11, which provides for certain supplies of goods to be taxed at a rate of 0%, by extending the scope of the section to include supplies of distantly taxable goods.

Clause 15 amends section 11A, which provides for certain supplies of services to be taxed at a rate of 0%, by extending the scope of the section to include supplies of services relating to distantly taxable goods.

Clause 16 amends section 12, which provides for the imposition of tax on goods at the time of importation, by extending the scope of the section to allow for the importation of distantly taxable goods.

Clause 17 inserts *new section 12B*, which provides that the supplier of goods that are imported must reimburse the recipient for tax charged under section 8 on the supply of the goods if the recipient is required to pay tax levied under section 12 on the goods when they are imported.

Clause 18 amends section 15, which provides for the taxable periods for which registered persons must make returns. *Subclause (2)* inserts *new subsection (7)*, which pro-

vides for the length of the first taxable period of a non-resident supplier whose supplies are of distantly taxable goods.

Clause 19 amends section 20, which provides for the calculation of the tax payable by a registered person for a taxable period. *Subclause (2)* inserts a *new subsection (3)(dd)*, which provides a supplier with a credit for consumption tax paid in another country or territory when the goods are supplied to a person who is not a registered person.

Clause 20 amends section 20G, which provides for the apportionment of input tax when an asset is used partly for a taxable use and partly for a non-taxable use. Under the amendment, the apportionment depends on concepts used in the Goods and Services Tax Act 1985, instead of depending on concepts used in the Income Tax Act 2007.

Clause 21 amends section 20H, which provides for a deduction of input tax by a registered person who makes supplies of financial services in the course of trying, but failing, to raise funds for taxable uses. The amended provision contains an added requirement for a deduction of input tax, which is that the supplies used in making the supplies of financial services would give rise to a deduction if used in the taxable activity for which the funds are raised. *New subsection (1B)* provides for apportionment when funds are raised for more than 1 activity.

Clause 22 amends section 21HB, which gives transitional rules for a previous law change that extended the availability of deductions of input tax for supplies relating to dwellings. *New subsection (4)(aa)* requires that the person acquire premises before 1 April 2011 as a prerequisite for an election by the person under subsection (4) that a supply of accommodation in the premises not be a taxable supply.

Clause 23 amends section 24, which gives the requirements for suppliers to issue tax invoices, by extending the scope of the section to include non-resident suppliers of distantly taxable goods.

Clause 24 inserts *new sections 24BAB and 24BAC*. *Section 24BAB* requires a supplier of distantly taxable goods charged with an amount of tax to provide a recipient on request with a receipt giving the specified details. *Section 24BAC* requires a supplier of distantly taxable goods that are imported into New Zealand to ensure that the New Zealand Customs Service has, by the time of the importation, the specified information relating to the supply.

Clause 25 amends section 24B, which gives the records that must be kept by a recipient of imported services, by extending the scope of the section to include recipients of supplies of distantly taxable goods.

Clause 26 amends section 25, which gives the situations when suppliers are required to issue credit and debit notes, by extending the scope of the section to include suppliers of distantly taxable goods, including distantly taxable goods that are taxed under section 12 at the time of importation.

Clause 27 amends section 25AA, which gives the consequences of a change in a contract for imported services, by extending the scope of the section to include changes in a contract for a supply of distantly taxable goods.

Clause 28 amends section 25A, which gives the Commissioner a power to approve notations used in electronic documents, by extending the scope of the section to include notations used in electronic receipts issued under *new section 24BAB*.

Clause 29 amends section 26, which gives the treatment of bad debts, by excluding from the section a bad debt, of a marketplace operator, to which *new section 26B* applies.

Clause 30 inserts *new section 26B*, which gives the treatment of certain bad debts of a marketplace operator arising from a taxable supply by the operator of goods and services provided by an underlying supplier.

Clause 31 amends section 51, which provides for the liability to registration of persons making supplies, by extending the scope of the section to include persons making supplies of distantly taxable goods.

Clause 32 amends section 51B, which provides for the automatic treatment of certain persons making supplies as being registered, by extending the scope of the section to include persons making supplies of distantly taxable goods.

Clause 33 amends section 56B, which provides for the treatment of a supplier of services that carries on activities both inside and outside New Zealand through branches or divisions, by extending the scope of the section to include persons making supplies of distantly taxable goods.

Clause 34 amends section 60, which gives the supplier for a supply involving an agent or auctioneer, by extending the scope of subsections referring to supplies of remote services to include supplies of distantly taxable goods.

Clause 35 amends section 60C, which gives the supplier for supplies of remote services through an electronic marketplace, by extending the scope of the section to include supplies of distantly taxable goods.

Clause 36 amends section 60D, which gives the supplier for supplies of remote services through an approved marketplace, by extending the scope of the section to include supplies of distantly taxable goods.

Clause 37 inserts *new sections 60E, 60F, and 60G*. *Section 60E* gives the situations in which a redeliverer of goods is the supplier of the goods. *Section 60F* provides for a deficiency in the amount of output tax returned by an operator of an electronic marketplace, or by a redeliverer, if the deficiency arises from information provided by another person involved in the supply. *Section 60G* gives the requirements relating to the treatment of information that must be met before an operator of a marketplace or a redeliverer may rely on *section 60F*.

Clause 38 amends section 75, which gives the requirements for the keeping of records that must be met by a registered person. *Subclauses (1) and (3) to (5)* extend the scope of the section so that the Commissioner's consent is not required for the keep-

ing of records in te reo Māori. *Subclause (2)* extends the scope of a subsection relating to supplies of remote services so that the subsection applies for supplies of distantly taxable goods.

Clause 39 amends section 77, which provides for the currency in which amounts of money must be expressed, by extending the scope of a subsection applying to a non-resident supplier of remote services to include a non-resident supplier of distantly taxable goods.

Part 3
Amendments to other enactments

Amendments to Income Tax Act 2007

Clause 40 provides that sections 41 to 66 amend the Income Tax Act 2007.

Clause 41 amends section CB 16A to add a cross-reference, as a consequence of the introduction of ring-fencing of deductions for owners of residential rental property.

Clause 42 amends section CG 5B to ensure that loss of earnings insurance receipts under a business interruption policy are income of the recipient when the insured person has assigned the right to receive the proceeds to another person.

Clause 43 repeals section CV 9, as a minor drafting remedial matter to remove redundant provisions.

Clause 44 expands a heading to include the subject matter of *new section CX 54B*.

Clause 45 inserts *new section CX 54B*, which provides for the treatment of a transfer of an emissions unit made under a type of excepted financial arrangement that is subject to *new section EW 52B*.

Clause 46 amends section CX 60, as a drafting remedial matter to clarify a cross-reference and an exception.

Clause 47 expands a heading to include the subject matter of *new section DB 17B*.

Clause 48 inserts *new section DB 17B*, which provides for the treatment of a transfer of an emissions unit made under a type of excepted financial arrangement that is subject to *new section EW 52B*.

Clause 49 inserts *new sections DB 18AC to DB 18AK* to provide for ring-fencing of deductions for owners of residential rental property. *New section DB 18AC* provides for the amount of a person's deductions that relate to their residential rental property portfolio that is allocated to an income year. *New section DB 18AD* allows a person who has ring-fenced deductions after divesting themselves of their entire residential rental property portfolio to choose to allocate those deductions to another residential rental property they own in a future income year. *New section DB 18AE* provides an exclusion from the definition of *residential rental property* for a person's main home. *New section DB 18AF* excludes certain land held on revenue account from the definition of *residential rental property*. *New section DB 18AG* allows a person to choose to apply ring-fencing of residential rental property-related deductions on a property-

by-property basis, and provides for the amount of a person's deductions that relate to an individual residential rental property that is allocated to an income year if they have made such an election for the property. *New section DB 18AH* allows a person who has ring-fenced deductions after disposing of a residential rental property for which they have made an election under *new section DB 18AG* to choose to allocate those deductions to another residential rental property they own in a future income year. *New section DB 18AI* provides that a company may transfer ring-fenced residential rental property deductions to another company that is part of the same wholly-owned group. *New section DB 18AJ* determines the portion of interest expenditure on borrowings used to acquire an interest in a residential land-rich company or trust that is treated as if it were residential rental property expenditure for the purposes of the ring-fencing rules. *New section DB 18AK* determines the portion of interest expenditure on borrowings used to acquire an interest in a residential land-rich partnership or look-through company that is treated as if it were residential rental property expenditure for the purposes of the ring-fencing rules.

Clause 50 amends section DE 4, as a minor drafting remedial matter to correct a fault of expression.

Clause 51 amends section DV 18, to insert a cross-reference to *new section OB 78B*.

Clause 52 amends section EW 5 to provide that an arrangement to assign a type of emissions unit, as part of a financial arrangement that is a loan, is an excepted financial arrangement that is subject to *new section EW 52B*.

Clause 53 inserts *new section EW 52B*, which provides for the treatment of an excepted financial arrangement under which a pre-1990 forest land emissions unit is assigned to a lender, who is not associated with the holder of the emissions unit, and the same or a replacement emissions unit is returned at the end of the excepted financial arrangement. If the return is made under the agreement, the holder is treated as having continued to hold the original emissions unit during the period of the agreement.

Clause 54 amends section EY 30, which provides as a transition measure that a new life insurance policy replacing a life insurance policy, that is still subject to rules that otherwise no longer apply, is treated as being subject to the former rules if the policies meet certain requirements. The clause changes the requirements relating to increases in premiums payable under the policies so that some increases are permitted.

Clause 55 amends section FE 4, as a minor drafting remedial matter to correct a cross-reference.

Clause 56 amends section HC 27 to provide for a situation in which a beneficiary of a trust who makes a loan to the trust does not become a settlor of the trust.

Clause 57 inserts *new section MB 12B* to better align the definition of *income* for Working for Families purposes with the definition of *income* for student loan scheme purposes. The change is the insertion of a specific provision, for Working for Families purposes, for payments from trusts that are not beneficiary income of the recipient,

and where the recipient is not the settlor (to align with schedule 3, clause 15 of the Student Loan Scheme Act 2011).

Clause 58 inserts *new section OB 78B*, which provides for an election by a co-operative company to attach an imputation to a cash distribution paid to a group of the company's shareholders.

Clause 59 amends section OB 82 by inserting a cross-reference to *new section OB 78B*.

Clause 60 amends section OZ 15 by inserting a cross-reference to *new section OB 78B*.

Clause 61 replaces section RD 7B, to provide an irrevocable election in relation to withholding and employee share scheme benefits.

Clause 62 amends section RE 21, as a minor drafting remedial matter to correct a fault of expression.

Clause 63 amends section RF 2B, as a minor drafting remedial matter.

Clause 64 amends section RF 2C, as a minor drafting remedial matter.

Clause 65 amends section YA 1. *Subclause (2)* amends the definition of *dispose* to add some cross-references, as a consequence of the introduction of ring-fencing of deductions for owners of residential rental property. *Subclause (3)* amends the definition of *dwelling* to add a cross-reference, as a consequence of the introduction of ring-fencing of deductions for owners of residential rental property. *Subclause (4)* amends the definition of *principal settlor* to add a cross-reference, as a consequence of the introduction of ring-fencing of deductions for owners of residential rental property. *Subclause (5)* inserts a new definition of *residential land-rich entity*, which is used in the interposed entity rules that are part of the new rules providing for ring-fencing of deductions for owners of residential rental property. *Subclause (6)* inserts a new definition of *residential rental property*, which is used in the new rules providing for ring-fencing of deductions for owners of residential rental property.

Clause 66 amends the Income Tax Act 2007 in accordance with schedule 1 to update nomenclature.

Amendments to Tax Administration Act 1994

Clause 67 provides that *clauses 68 to 74* amend the Tax Administration Act 1994.

Clause 68 amends section 22, to remove the need for the Commissioner to consent to the keeping of records in te reo Māori.

Clause 69 amends section 22A, consistently with the removal of the need for the Commissioner to consent to the keeping of records in te reo Māori.

Clause 70 amends section 22B, consistently with the removal of the need for the Commissioner to consent to the keeping of records in te reo Māori.

Clause 71 amends section 26, consistently with the removal of the need for the Commissioner to consent to the keeping of records in te reo Māori.

Clause 72 amends section 143A to provide for a knowledge offence involving the knowing failure to issue a receipt that is required to be issued by *new section 24BAB* of the Goods and Services Tax Act 1985.

Clause 73 amends section 185O by inserting cross-references required by the changes to schedule 2.

Clause 74 amends schedule 2 by splitting the schedule into 2 parts and inserting an item relating to the interpretation of the Commentary on the CRS Standard into the second part.

Amendments to Child Support Act 1991

Clauses 76 to 81 make amendments relating to Part 5A, subpart 4 of the Child Support Act 1991. This subpart provides for exemptions from the payment of financial support for victims of sex offences.

Clause 76 extends the situations in which a liable parent may apply for an exemption under section 89Y. Section 89Y currently requires another person to have been convicted of a sex offence or to have been proved before the Youth Court to have committed a sex offence. The amendments now allow a liable parent to apply if they believe that another person has committed a sex offence (without a conviction or finding of guilt by a court).

Clause 77 allows the Commissioner to grant the exemption under section 89Z if the Commissioner considers that it is likely that another person has committed a sex offence and that the liable parent is a victim of that sex offence.

Section 89Z has also been amended to give the Commissioner a broad discretion to backdate the exemption if the Commissioner considers that it is just and equitable to the child, the liable parent, the carer who receives the financial support, and all other persons concerned. The exemption may be backdated until a date on or after 26 September 2006 (which is the date on which this exemption first came into force under the Child Support Amendment Act 2006).

Clause 78 provides for the exemption to be void under section 89ZA if the Commissioner is no longer satisfied that the other person has committed a sex offence. The amendments also allow a new application to be made, which may be backdated under section 89Z.

Clause 79 consequentially amends section 89ZB to provide for the Commissioner to act as soon as practicable after deciding that an exemption does not apply for the whole or a part of a period for which it was granted.

Clause 80 amends section 152A, which allows the Commissioner to grant relief to a person who has received financial support and who may otherwise be required to repay the financial support because an exemption has been backdated. The amendment extends the power to cover exemptions under Part 5A, subpart 4.

Clause 81 inserts transitional provisions relating to the changes to these exemption provisions. The transitional provisions allow an application to be made in respect of sex offences committed before or after the new provisions come into force and in

relation to periods before or after that time. However, an exemption may be backdated only to a date on or after 26 September 2006.

Amendments to Student Loan Scheme Act 2011

Clauses 83 to 93 amend the Student Loan Scheme Act 2011.

Clause 83 amends section 4, with 2 main effects as follows:

- salary or wages from employment as a casual agricultural employee or as an election day worker (as both are defined in section YA 1 of the Income Tax Act 2007) will become subject to student loan scheme salary deductions as if they were secondary employment earnings:
- schedular payments will become subject to student loan scheme salary deductions as if they were primary employment earnings and, to the extent that deductions are not made, will be subject to an end-of-year repayment obligation but will not be included for the purpose of calculating interim payments. *See* also *clauses 86* (which amends section 73) and *91* (which inserts *new section 202A*).

Clauses 84 and 85 amend sections 22 and 23, which are the tests for when a borrower is New Zealand-based and when a borrower is overseas-based. The changes clarify the application of the day-count test to ensure that, if there are periods that could serve as qualifying periods for both tests, borrowers are treated as New Zealand-based. The changes are intended to be in favour of borrowers. See *new section 23(1A)*, which was a tie-breaker provision that was previously in section 38AC(3) in the Student Loan Scheme Act 1992 but that was omitted from the Student Loan Scheme Act 2011. The changes are backdated to 1 April 2012, the date on which the Student Loan Scheme Act 2011 came into force.

Example

Bob is New Zealand-based, then goes overseas for 155 days, then returns to New Zealand permanently (for more than 183 days).

A tie-breaker is needed because, in a 184-day period that starts when Bob went overseas and ends 24 days after Bob's return, Bob has been in New Zealand for less than 31 days, so Bob could be treated as overseas-based throughout that 184-day period.

The amendments, with the tie-breaker, clarify that Bob is not to be treated as absent for the 24 days at the end of the 184-day period while he is in New Zealand. Therefore, Bob is New Zealand-based for the entire period.

Clauses 87 to 90 amend sections 134, 135, and 137 to provide that loan interest will be charged only to overseas-based borrowers. This is already the practical effect under the Student Loan Scheme Act 2011. The clauses remove the current requirement for the Commissioner to complete a subsequent write-off for those borrowers who are New Zealand-based.

Clause 92 amends Schedule 2 to apply certain PAYE rules that relate to schedular payments to student loan scheme deductions from schedular payments.

Clause 93 amends Schedule 3 to make 3 minor changes to align the borrower's income for student loan scheme purposes with the adjustments that are made to income for Working for Families purposes. The changes are as follows:

- an adjustment so that certain contributions to retirement savings schemes are excluded income (to align with section MB 1(5B) of the Income Tax Act 2007):
- an adjustment so that an amount of depreciation loss on disposal of buildings that was allowed in 2002–03 or earlier years is excluded income (to align with section MB 1(5C) of the Income Tax Act 2007):
- an adjustment so that the interests of dependent children are attributed to a person who is a major shareholder in a close company (to align with section MB 4 of the Income Tax Act 2007).

Hon Stuart Nash

Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Bill

Government Bill

Contents

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act **2018**.

2 Commencement

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

(2) **Section 62** is treated as coming into force on 1 April 2008.

(3) **Section 54** is treated as coming into force on 1 July 2010.

(4) **Sections 22 and 42** are treated as coming into force on 1 April 2011.

(5) **Sections 84 and 85** are treated as coming into force on 1 April 2012.

(6) **Section 20** is treated as coming into force on 1 April 2013.

(7) **Section 55** is treated as coming into force on 1 April 2015.

(8) **Sections 15(1) and 26(1)** are treated as coming into force on 1 October 2016.

(9) **Section 21** is treated as coming into force on 1 April 2017.

(10) **Sections 73 and 74** are treated as coming into force on 1 July 2017.

(11) **Sections 44, 45, 47, 48, 52, and 53** are treated as coming into force on 1 April 2018.

(12) **Sections 41, 46, 49, 61, and 65(2), (3), (4), (5), and (6)** come into force on 1 April 2019.

(13) **Sections 76, 77, 78, 79, 80, and 81** come into force on the day after the date on which the Act receives the Royal assent.

(14) **Sections 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15(2), 16, 17, 18, 19, 23, 24, 25, 26(2), (3), (4), and (5), 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38(2), 39, and 72** come into force on 1 October 2019.

(15) **Sections 83, 86, 87, 88, 89, 90, 91, 92, and 93** come into force on 1 April 2020.

Part 1
Annual rates of income tax

3 Annual rates of income tax for 2019–20 tax year

Income tax imposed by section BB 1 (Imposition of income tax) of the Income Tax Act 2007 must, for the 2019–20 tax year, be paid at the basic rates specified in schedule 1 of that Act.

Part 2
Amendments to Goods and Services Tax Act 1985

4 Goods and Services Tax Act 1985

This Part amends the Goods and Services Tax Act 1985.

5 Section 2 amended (Interpretation)

(1) In section 2(1), definition of **electronic marketplace**, paragraph (a), replace "supply of remote services by electronic means" with "supply of goods, or of remote services by electronic means,".

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

entry value, for an item of goods, means the value of the item determined by the supplier under **section 10B** for comparison with the entry value threshold

entry value threshold means $1,000

(3) In section 2(1), definition of **marketplace**, paragraph (b), replace "remote services" with "distantly taxable goods or remote services".

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

quarter means a quarter as defined in section YA 1 of the Income Tax Act 2007

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

redeliverer, for a supply of goods and a recipient of the supply, means a person who, under an arrangement with the recipient, delivers the goods from outside New Zealand at a place in New Zealand or arranges or assists the delivery of the goods from outside New Zealand at a place in New Zealand and—

(a) provides the use of an address outside New Zealand to which the goods are delivered:

(b) arranges or assists the use of an address outside New Zealand to which the goods are delivered:

(c) purchases the goods outside New Zealand as an agent of the recipient:

(d) arranges or assists the purchase of the goods outside New Zealand

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

underlying supplier, for a supply of goods or services that is supplied by the operator of a marketplace under section 60C or 60D, means the person who would be the supplier of the goods and services in the absence of sections 60C and 60D

6 New section 4B inserted (Meaning of distantly taxable goods)

After section 4, insert:

4B Meaning of distantly taxable goods

(1) **Distantly taxable goods** means items of goods that—

(a) are moveable personal property, other than choses in action; and

(b) are not alcoholic beverages, or tobacco or tobacco products, that are exempt from regulations made under section 406(1) of the Customs and Excise Act 2018; and

(c) are supplied by—

(i) a non-resident, and the goods are outside New Zealand at the time of the supply:

(ii) a person who is the supplier under section 60C or 60D, as an operator of a marketplace, and the underlying supplier of the goods is a non-resident:

(iii) a person who is the supplier of the goods under **section 60E**, as a redeliverer; and

(d) are delivered at a place in New Zealand and the supplier or an underlying supplier makes, or arranges, or assists, the delivery; and

(e) each have—

(i) an entry value under **section 10B** equal to or less than the entry value threshold:

(ii) a supplier that has made an election under **section 10C** that is effective at the time of the supply.

(2) If distantly taxable goods are part of a supply that also includes items of goods that do not meet the requirements of **subsection (1)(a) to (e)**, the distantly taxable goods are treated as being a supply and the other items are treated as being a separate supply.

7 Section 5 amended (Meaning of term supply)

(1) In section 5(11G), words before paragraph (a), after "a supply of goods and services", insert "by the redeemer of the token, stamp, or voucher".

(2) Replace section 5(11G)(a) and (b) with:

(a) if the supply is a supply of remote services or of distantly taxable goods; or

(b) when a supply does not meet the requirements of **paragraph (a)**, if—

(i) it is not practical to treat the issue or sale as a supply of goods and services; and

(ii) the supplier of the goods and services and the issuer or seller of the token, stamp, or voucher are, or could be, different persons, the issuer and the supplier, or the seller and the supplier, agree, or are parties to an agreement.

(3) In section 5(27), words before paragraph (a),—

(a) after "who receives", insert "a supply of distantly taxable goods to which **section 8(3)(ab)** applies, or that is supplied by a resident, or":

(b) replace "supply of services" with "supply of goods or services".

(4) In section 5(27)(a),—

(a) after "payment of tax", insert "or of an amount on account of tax":

(b) replace "section 8B(6)" with "**section 8BB(2)**".

(5) In section 5(27)(b), before "the services", insert "the supply of the goods is made or".

(6) In section 5(27)(b)(i), replace "section 11A(1)(x)" with "**section 11(1)(fb)** or 11A(1)(x)".

(7) In section 5(27)(b)(ii), replace "a service supplied in New Zealand; and" with "goods, or a service, supplied in New Zealand; or".

(8) After section 5(27)(b)(ii), insert:

(iii) a supply of distantly taxable goods having a value that is less than the cost of the goods, if the supplier meets the requirements of **section 60G(1)** relating to the treatment of the fact or information; and

(9) After section 5(27), insert:

(28) The Commissioner may treat a person who is a non-resident, and is the underlying supplier for a supply of distantly taxable goods made by the operator of a marketplace, as the supplier of the goods if—

(a) the person has knowingly notified a fact or provided information that is altered, false, or misleading; and

(b) after the date on which the supply of the goods is made, it is found that the notification or provision of information has caused the operator of the marketplace to return a deficient amount of output tax on the supply; and

(c) the person's behaviour described in **paragraph (a)** is a repeated occurrence or the amount of tax on the supply that was not collected by the marketplace operator is substantial.

8 Section 5B amended (Supply of certain imported services)

(1) In the heading to section 5B, after "**imported**", insert "**goods and**".

(2) In section 5B, replace "services" with "goods or services".

9 Section 8 amended (Imposition of goods and services tax on supply)

(1) In section 8(3), replace paragraph (a) with:

(a) the goods are in New Zealand at the time of the supply and are not distantly taxable goods; or

(ab) the goods are distantly taxable goods; or

(2) In section 8(4B), words before paragraph (a),—

(a) replace "services" with "goods or services":

(b) replace "or (4D)" with ", (4D), or **(4E)**".

(3) In section 8(4B)(a), replace "the services" with "the goods or services".

(4) In section 8(4B)(b)(i), replace "the services" with "the goods or services".

(5) In section 8(4B)(b)(ii), replace "the services" with "the goods or services".

(6) Before section 8(5), insert:

(4E) Despite subsection (3), if a non-resident is the supplier of distantly taxable goods, to which **subsection (3)(ab)** would apply but for this subsection, to a registered person for the purposes of carrying on the registered person's taxable activity, the goods are treated as being supplied outside New Zealand unless the supplier chooses to treat the supply as being made in New Zealand.

10 Section 8B amended (Remote services: determining residence and status of recipients)

(1) In section 8B, heading, delete "**and status**".

(2) In section 8B(5), replace "Subsection (6)" with "**Section 8BB(1)**".

(3) Repeal section 8B(6) to (8).

11 New section 8BB inserted (Certain supplies by non-residents: determining whether recipient is registered person)

After section 8B, insert:

8BB Certain supplies by non-residents: determining whether recipient is registered person)

(1) A non-resident registered person (the **supplier**) that makes a supply to a person (the **recipient**) of distantly taxable goods to which **section 8(3)(ab)** applies and involving delivery at a place in New Zealand, or of remote services to which section 8(3)(c) applies, must not treat the supply as being made to a registered person for use in the course or furtherance of the registered person's taxable activity if the recipient does not meet the requirements of this section.

(2) A recipient meets the requirements of this section if the recipient notifies the supplier that the recipient is a registered person or provides the supplier with the recipient's registration number or New Zealand Business Number.

(3) The Commissioner may prescribe, as an alternative to the method in **subsection (2)**, a method that a supplier may use to determine whether the supply is made to a registered person for use in the course or furtherance of the registered person's taxable activity, or may agree with the supplier on the use of another method to determine whether the supply is made to a registered person for use in the course or furtherance of the registered person's taxable activity.

(4) In prescribing or agreeing to the use of an alternative method under **subsection (3)**, the Commissioner may take into account—

(a) the nature of the supply, including, for example, whether the supply is of goods and services that are purchased only by a registered person in the course or furtherance of the registered person's taxable activity:

(b) the value of the supply, including, for example, whether the supply is of a value that would be expected to be received only by a registered person in the course or furtherance of the registered person's taxable activity:

(c) the terms and conditions related to the provision of the goods and services, including, for example, whether the supply is of goods and services that may be leased, licensed, or otherwise made available, for use by a registered person in the course or furtherance of the registered person's taxable activity.

12 Section 10 amended (Value of supply of goods and services)

(1) In section 10(3E), replace "services" with "goods or services".

(2) After section 10(7B), insert:

(7C) Where a redeliverer makes a supply of distantly taxable goods to a recipient under **section 60E**, the value of the supply is an amount equal to the consideration paid for the goods by the recipient.

(7D) Where an operator of a marketplace makes a supply of remote services or distantly taxable goods to a recipient under **section 60C or 60D**, the consideration for the supply does not include the amount of a reduction, made by the operator, in the price of the supply for the recipient if the amount of the reduction would otherwise form part of the consideration for the supply.

(7E) Where a person makes a supply of services to the recipient of a supply of distantly taxable goods, the consideration for the supply of services is part of the value of the supply of distantly taxable goods if—

(a) the consideration for the supply of services relates solely to the supply of services and the supply of distantly taxable goods; and

(b) the supply of services is made or arranged or facilitated by the supplier or underlying supplier of the distantly taxable goods; and

(c) the supply of services is directly in connection with the distantly taxable goods or is of insurance of the goods; and

(d) the supply of services would be chargeable with tax at the rate of 0% in the absence of this subsection; and

(e) the supply of services and the supply of distantly taxable goods do not form a single supply.

13 New sections 10B and 10C inserted

After section 10, insert:

10B Estimating value of goods in supply for treatment as distantly taxable goods

(1) The value of an item of goods is determined under this section for the purposes of determining, when a supply of the goods is made, whether the goods are distantly taxable goods supplied—

(a) by the operator of a marketplace or a redeliverer:

(b) from a country or territory outside New Zealand.

(2) The value of an item of goods under this section is the consideration for the supply of the item reduced by the total amount included in that consideration for—

(a) the cost of transport and insurance charges for the period beginning when the item leaves the country or territory and ending when the item is delivered in New Zealand:

(b) tax charged on the item under section 8:

(c) duty payable on the item under the Customs and Excise Act 2018.

(3) The supplier of an item of goods may use a reasonable estimate of the amount referred to in **subsection (2)**, based on the information available to the supplier at the time of the supply.

10C Election by supplier that supplies of higher-value goods be of distantly taxable goods

(1) A registered person (the **electing supplier**) who is a non-resident, or is a supplier of goods under section 60C, 60D, or **60E**, may make an election under this section for a taxable period (the **initial period**) beginning after the election if,—

(a) the Commissioner has not, before the election, cancelled under **subsection (5)(b)** an election under this section by the registered person; and

(b) at the time of the election, there are reasonable grounds for believing that 95% or more of the total value of distantly taxable goods supplied

by the electing supplier to places in New Zealand in the 12-month period (the **initial year**) beginning with the first day of the initial period will consist of items having an entry value equal to or less than the entry value threshold; and

(c) the electing supplier notifies the Commissioner of the election before the initial period.

(2) An election under this section is effective for—

(a) the initial year:

(b) a 12-month period (the **test year**) beginning on an anniversary of the beginning of the initial year, if, in the initial year and each earlier test year, 95% of the total value of distantly taxable goods supplied by the electing supplier to places in New Zealand consists of items having an entry value equal to or less than the entry value threshold:

(c) a test year (the **failing year**) that does not meet the requirements of **paragraph (b)** if the failing year follows a test year that meets the requirements of **paragraph (b)**:

(d) a period of 6 months (the **extension period**) beginning after the end of the failing year referred to in **paragraph (c)**, if the electing supplier notifies the Commissioner of the date on which the extension period ends before that date.

(3) For a taxable period for which the election is effective under **subsection (2)**, a supply by the electing supplier, after the election, of an item of goods having an entry value greater than the entry value threshold is a supply of distantly taxable goods if the goods are delivered at a place in New Zealand.

(4) The Commissioner may agree with an election by a registered person who is a non-resident, or an operator of a marketplace or a redeliverer, to be subject to requirements other than those given by **subsection (1)** for an election by the registered person under this section if the Commissioner is satisfied that the agreed requirements appropriately balance fiscal risk against the compliance costs of the requirements for the person, taking into account—

(a) whether the registered person and associated persons have a good history of previous compliance with the requirements of the tax Acts and the tax laws of countries and territories outside New Zealand; and

(b) the total value of items of goods, each having an entry value greater than the entry value threshold, that the registered person sells in a period and are delivered at places in New Zealand; and

(c) other considerations that the Commissioner considers to be relevant.

(5) The Commissioner may cancel an election from a date after which the election would otherwise be effective—

(a) by notifying the electing supplier of the date on which the election ends, if the electing supplier requests the cancellation:

(b) if **paragraph (a)** does not apply, by—

(i) notifying the electing supplier of the date of the proposed cancellation and the reasons for the proposed cancellation; and

(ii) considering any arguments against the proposed cancellation that are provided by the electing supplier within 30 days from the date of notification, or within a shorter or longer period if the Commissioner considers that the period is appropriate in the circumstances; and

(iii) notifying the electing supplier of the date on which the election is cancelled.

14 Section 11 amended (Zero-rating of goods)

(1) After section 11(1)(f), insert:

(fb) supplies of distantly taxable goods to a registered person, for use in the course or furtherance of the registered person's taxable activity, that the supplier chooses under **section 8(4E)** to be made in New Zealand; or

(2) In section 11(1)(j)(ii), before "the recipient", insert "the goods are not distantly taxable goods and".

(3) After section 11(1)(j), insert:

(jb) the supply is of distantly taxable goods to which section 60(1C)(a) applies, being a supply from an underlying supplier to an operator of a marketplace; or

(4) After section 11(8D), insert:

(8E) **Subsection (1)(fb)** does not apply to a supply of goods for which the supplier subsequently makes an election under section 24(5B) to provide a tax invoice.

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

(1) After section 11A(1)(jb), insert:

(jbb) the services are the arranging of underlying services that are supplied directly in connection with moveable personal property, other than choses in action, situated outside New Zealand when the services are performed; or

(2) After section 11A(1C), insert:

(1D) Subsection (1)(a), (c), (cb), (d), and (f) do not apply to a supply, by a registered person who is a redeliverer and supplier under **section 60E**, of services in relation to a supply of distantly taxable goods that is charged with tax under section 8 at a rate of more than zero.

16 Section 12 amended (Imposition of goods and services tax on imports)

(1) In section 12(1), words before paragraph (a), after "fine metal", insert "or goods for which a registered person accounts for tax charged under section 8 before the importation on a supply of the goods at a rate of more than zero".

(2) After section 12(1A), insert:

(1B) For the purposes of determining whether an item of goods in a consignment is goods to which subsection (1) applies, the supply of the item is treated as not having been charged with tax under section 8 before the importation at a rate of more than zero unless the information available to the New Zealand Customs Service at the time of the importation of the item sufficiently identifies—

(a) the registered person who is accounting for the tax on the supply of the item; and

(b) the item; and

(c) the rate of tax accounted for by the registered person on the supply of the item.

17 New section 12B inserted (Reimbursement of tax by supplier if recipient charged tax on both supply and importation)

After section 12, insert:

12B Reimbursement of tax by supplier if recipient charged tax on both supply and importation

(1) This section applies if a registered person makes a supply of goods, that involves the importation of the goods into New Zealand and is treated as being a supply of distantly taxable goods charged with tax at a rate of more than zero, and receives consideration for the supply that includes an amount as tax charged under section 8 on the supply.

(2) The registered person must reimburse the recipient of the supply for the amount received as tax charged under section 8 if the supplier receives a request from the recipient and a declaration from the recipient, or other confirmation, that the amount of tax charged under section 12 on the importation was paid when the goods were imported.

18 Section 15 amended (Taxable periods)

(1) In section 15(6), replace "remote services" with "distantly taxable goods or remote services".

(2) After section 15(6), insert:

(7) Despite subsection (6), a non-resident supplier whose only supplies are of distantly taxable goods has a first taxable period of 1 October 2019 to 31 March 2020 except if the non-resident supplier notifies the Commissioner of an election that the first taxable period be 1 October 2019 to 31 December 2019 or files a return for that taxable period by the due date for such a return.

19 Section 20 amended (Calculation of tax payable)

(1) In section 20(2)(d), replace "services" with "goods or services".

(2) After section 20(3)(dc), insert:

(dd) an amount of output tax charged on a supply of distantly taxable goods to the extent that the supplier has, in relation to the supply, incurred liability for, returned, and paid, a consumption tax in another country or territory when the goods are supplied to a person in New Zealand who is not a registered person; and

(3) In section 20(3JC), words before paragraph (a), after "supply of", insert "goods to which **section 11(1)(fb)** applies or of".

(4) In section 20(3JC)(a), words before subparagraph (i), replace "services" with "goods or services".

(5) In section 20(3JC)(a)(ii), replace "services" with "goods or services" in each place where it occurs.

(6) In section 20(3JC)(b), words before subparagraph (i), replace "services" with "goods or services".

(7) In section 20(3JC)(b)(ii), replace "services" with "goods or services" in each place where it occurs.

(8) In section 20(4C), replace "supply of remote services" with "supply of distantly taxable goods by a non-resident to which **section 8(3)(ab)** applies or a supply of remote services".

(9) In section 20(4D), replace "supply of remote services" with "supply of distantly taxable goods to which **section 8(3)(ab)** applies or of remote services,".

20 Section 20G amended (Treatment of supplies of certain assets)

In section 20G(2)(a), replace paragraphs (i) and (ii) with:

(i) related solely to the taxable use of the asset; or

(ii) related solely to the non-taxable use of the asset:

21 Section 20H amended (Goods and services tax incurred in making financial services for raising funds)

(1) Replace section 20H(1) with:

(1) A registered person who principally makes taxable supplies has a deduction under section 20(3)(hd) of input tax for the supplies that are used in making supplies of financial services, if—

(a) the supplies of financial services are made in the course of raising funds that are intended to be used in a taxable activity, or to be a replacement for funds used in a taxable activity, of the registered person or of a per-

son (the **group company**) in the same group of companies under the Income Tax Act 2007; and

(b) the financial services are not referred to in section 11A(1)(q) and (r); and

(c) the supplies used in making the supplies of financial services do not give rise to a deduction under section 20(3) for the registered person or the group company in the absence of this section; and

(d) the financial services 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

(e) the financial services fail to raise the funds or do raise funds that are used, or that replace funds that are used, by the registered person or the group company for expenditure in the taxable activity; and

(f) the supplies used in making the supplies of financial services would give rise to a deduction under section 20(3) if used in the taxable activity in which the funds are intended to be used.

(1B) If a registered person makes supplies of financial services in the course of raising funds that are or would have been used by the registered person or a group company in both a taxable activity and an activity that is not a taxable activity, the deduction for input tax under **subsection (1)** is limited to the input tax from a fraction of the total expenditure incurred in supplying the financial services, where the fraction equals the fraction of the total value of supplies made in the course or furtherance of the activities that consists of taxable supplies.

(2) **Subsection (1)** applies for a person and a supply made on or after 1 April 2017, except for a supply for which the person has, before the date of Royal assent to this Act, adopted a tax position that is inconsistent with the amendment made by **subsection (1)**.

22 Section 21HB amended (Transitional rules related to treatment of dwellings)

In section 21HB(4), before paragraph (a), insert:

(aa) were acquired by the person before 1 April 2011; and

23 Section 24 amended (Tax invoices)

(1) After section 24(5)(b), insert:

(c) the supplier is a non-resident supplier making a supply of distantly taxable goods to which **section 8(3)(ab)** applies.

(2) In section 24(5B)(a), words before subparagraph (i), replace "a non-resident supplier of remote services" with "a non-resident making a supply of distantly taxable goods to which **section 8(3)(ab)** applies or of remote services".

(3) In section 24(5B)(a)(i), after "section 8(4D)", insert "or **(4E)**".

(4) In section 24(5B)(a)(i), replace "so that the services" with "so that the goods or services".

(5) In section 24(5B)(a)(ii), after "section", insert "**11(1)(fb)** or".

(6) In section 24(5B)(b), replace "the consideration in money for the supply" with "the value of the supply".

24 Sections 24BAB and 24BAC inserted

After section 24BA, insert:

24BAB Receipts for supplies

(1) A registered person who makes a supply of distantly taxable goods charged with tax under section 8(1) at a rate of more than zero must provide to the recipient of the supply, at the time of the supply, a receipt containing the particulars given by **subsection (2)** for the goods in the supply and for other goods imported with the supply.

(2) A receipt must contain—

(a) the name and registration number of the supplier:

(b) the date of the supply:

(c) the date upon which the receipt is issued:

(d) a description of the goods supplied and the other goods imported:

(e) the consideration for the goods, and the amount of tax included, which may be expressed in the currency of the consideration received by the supplier:

(f) information indicating the items for which the amount of tax charged is more than zero and the rate charged for each of those items:

(g) information indicating the items for which the amount of tax charged is zero.

(3) A registered person who omits to issue a receipt for a supply as required by **subsection (1)** and is requested by the recipient of the supply to provide a receipt for the supply must provide the receipt within 10 working days after the request.

24BAC Information for importation of goods including distantly taxable goods

A registered person who makes a supply of distantly taxable goods must take reasonable steps to ensure that the New Zealand Customs Service has available, by the time of the importation of the goods,—

(a) the registration number of the registered person:

(b) information indicating the items included in the supply, or imported with the supply, for which the amount of tax charged is more than zero and the rate charged for each of those items:

(c) information indicating the items included in the supply, or imported with the supply, for which the amount of tax charged is zero.

25 Section 24B amended (Records to be kept by recipient of imported services)

(1) In the heading to section 24B, replace "**services**" with "**goods and services**".

(2) In section 24B, words before paragraph (a), replace "services" with "goods or services".

(3) In section 24B(c), replace "services" with "goods or services".

26 Section 25 amended (Credit and debit notes)

(1) In section 25(1)(aab), words before subparagraph (i), replace "section 8(4)" with "section 8(4D)".

(2) In section 25(1)(aab), words before subparagraph (i),—

(a) after "section 8(4D)", insert "or **(4E)**":

(b) replace "services" with "goods or services".

(3) In section 25(1)(aab)(i), after "supplier of", insert "goods to which **section 8(3)(ab)** applies or of ".

(4) In section 25(1)(abb), replace "section 11A(1)(x)" with "**section 11(1)(fb)** or 11A(1)(x)".

(5) After section 25(1)(b), insert:

(bb) the supply of goods is treated as being a supply of distantly taxable goods that is made in New Zealand and charged with tax at a rate of more than zero, and—

(i) the supplier receives a declaration from the recipient, or other confirmation, that the amount of tax charged under section 12 on the importation into New Zealand of the goods was paid when the goods were imported; and

(ii) the supplier reimburses the recipient for the amount of tax included in the consideration for the supply; or

27 Section 25AA amended (Consequences of change in contract for imported services)

(1) In the heading to section 25AA, replace "**services**" with "**goods and services**".

(2) In section 25AA(1), words before paragraph (a), replace "services" with "goods or services".

(3) In section 25AA(1)(a), replace "services" with "goods or services", in each place where it appears.

28 Section 25A amended (Commissioner may approve use of symbols, etc, on electronically transmitted invoices and credit and debit notes)

(1) In the heading to section 25A, replace "**invoices and**" with "**invoices, receipts, and**".

(2) In section 25A(1),—

(a) replace "tax invoices and" with "tax invoices, receipts, and":

(b) replace "section 24 or 25" with "section 24, **24BAB**, or 25":

(c) replace "tax invoice or" with "tax invoice, a receipt, or".

29 Section 26 amended (Bad debts)

After section 26(4), insert:

(5) This section does not apply when the taxable supply is made by a marketplace operator and **section 26AA** applies to the bad debt.

30 Section 26AA inserted (Marketplace operators: bad debts for amounts of tax)

After section 26, insert:

26AA Marketplace operators: bad debts for amounts of tax

(1) This section applies to a marketplace operator who is the supplier under section 60C or 60D of distantly taxable goods or remote services provided by a person who is not an associated person and—

(a) charges the underlying supplier a fee for making the taxable supply; and

(b) furnishes a return in relation to the taxable period during which the output tax on the supply is attributable; and

(c) accounts for the output tax on the supply; and

(d) has an agreement with the underlying supplier under which the underlying supplier is required to pay to the marketplace operator, from consideration received by the underlying supplier from the supply, an amount (the **debt**) that includes the amount of output tax on the supply for which the marketplace operator accounts; and

(e) the marketplace operator writes off as a bad debt the total amount consisting of the fee and debt referred to in **paragraphs (a) and (d)** (the **write-off**).

(2) The marketplace operator shall make a deduction under section 20(3), or account for a reduction in output tax, equal to the tax charged on the taxable supply.

(3) If the marketplace operator recovers in a later taxable period an amount of a bad debt that gave rise to a deduction or reduction under **subsection (2)**, the marketplace operator shall account for an amount of output tax that is a fraction of the amount of the deduction or reduction, where the fraction is calculated by dividing the amount of the recovery by the amount of the write-off.

31 Section 51 amended (Persons making supplies in course of taxable activity to be registered)

In section 51(1C), replace "of remote services", with "making a supply of distantly taxable goods to which **section 8(3)(ab)** applies or of remote services".

32 Section 51B amended (Persons treated as registered)

(1) In section 51B(1), words before paragraph (a), after "registered persons", insert "making supplies in the course or furtherance of a taxable activity".

(2) In section 51B(7),—

(a) replace "supply of remote services" with "supply of distantly taxable goods or of remote services":

(b) replace "the services" with "the supply of the goods is made or the services".

(3) After section 51B(7), insert:

(8) For the purposes of this Act, in relation to a supply of goods by a non-resident through a marketplace, a person who is treated as a supplier under **section 5(28)** is treated as registered from the date on which the supply is made.

33 Section 56B amended (Branches and divisions in relation to certain imported services)

(1) In the heading to section 56B, replace "**services**" with "**goods and services**".

(2) In section 56B(1), replace "services" with "goods or services".

34 Section 60 amended (Agents and auctioneers)

(1) In section 60(1A)(b), replace "remote services" with "distantly taxable goods or remote services".

(2) In section 60(1C), words before paragraph (a), replace "and a resident supplier who makes supplies of services" with "or a supplier who makes supplies of goods or services".

(3) In section 60(1C)(a), replace "services" with "goods and services".

(4) In section 60(1C)(b), replace "services" with "goods and services" in each place where it appears.

35 Section 60C amended (Electronic marketplaces)

(1) In section 60C(1)(a), replace "supply of remote services" with "supply of goods or a supply of remote services".

(2) Delete section 60C(1)(b).

(3) Replace section 60C(1)(c) with:

(c) the supply is of services made to a person resident in New Zealand or of goods made to a person involving delivery at a place in New Zealand.

(4) Replace section 60C(2) with:

(2) The operator of the marketplace is treated as making, in the course of furtherance of a taxable activity, a supply to a person (the **recipient**) of—

(a) remote services if the recipient is resident in New Zealand:

(b) items of goods, for which—

(i) the underlying supplier of the goods is a non-resident; and

(ii) the operator or the underlying supplier makes or arranges or assists the delivery of the supply to the recipient at a place in New Zealand; and

(iii) each item has an entry value under **section 10B** equal to or less than the entry value threshold, if the operator has not made an election under **section 10C** that is effective at the time of the supply.

(2B) **Subsection (2)** does not apply to a supply if—

(a) the documentation provided to the recipient identifies the supply as made by the underlying supplier and not the marketplace; and

(b) the underlying supplier and the operator of the marketplace have agreed that the supplier is liable for the payment of tax; and

(c) the marketplace does not—

(i) authorise the charge for the supply to the recipient:

(ii) make or authorise the delivery of the supply to the recipient:

(iii) directly or indirectly set a term or condition under which the supply is made.

(2C) **Subsection (2)** does not apply to a supply of goods if—

(a) the underlying supplier of the goods is a non-resident that has a branch in New Zealand; and

(b) the operator of the marketplace treats the underlying supplier as a New Zealand resident in relation to the supply; and

(c) in treating the underlying supplier as a New Zealand resident, the operator of the marketplace meets the requirements of **section 60G(1)** for information held by the operator relating to the residence of the underlying supplier.

(5) In section 60C(3), replace “supply of remote services” with “supply of goods or supply of remote services”.

36 Section 60D amended (Approved marketplaces)

(1) In section 60D(1)(a), replace "supply of remote services" with "supply of goods by a non-resident person or a supply of remote services,".

(2) Delete section 60D(1)(b).

(3) Replace section 60D(1)(c) with:

(c) the supply is of services made to a person resident in New Zealand or of goods made to a person involving delivery at a place in New Zealand.

(4) Replace section 60D(2) with:

(2) The operator of the marketplace is treated as making, in the course of furtherance of a taxable activity, a supply to a person (the **recipient**) of remote services or distantly taxable goods if—

(a) the Commissioner, in the exercise of a discretion, approves an application under this subsection by the operator of the marketplace; and

(b) for a supply of remote services, the recipient is resident in New Zealand; and

(c) for a supply of goods,—

(i) the underlying supplier of the goods is a non-resident; and

(ii) the operator or the underlying supplier makes or arranges or assists the delivery of the goods to the recipient at a place in New Zealand; and

(iii) the supply is of items of goods for which each item has an entry value under **section 10B** equal to or less than the entry value threshold, if the operator has not made an election under **section 10C** that is effective at the time of the supply.

(5) In section 60D(3)(a), words before subparagraph (i), after "recipient of", insert "the supply of goods or".

37 New sections 60E, 60F, and 60G inserted

After **section 60D**, insert:

60E When redeliverer is supplier of distantly taxable goods

(1) For a supply of goods to a recipient, a redeliverer of the goods is the supplier of the goods if—

(a) no operator of an electronic marketplace is the supplier under **section 60C(2) and (3)**; and

(b) no operator of a marketplace is the supplier under **section 60D(2) and (3)**; and

(c) no seller or underlying supplier of the goods makes or arranges or assists the delivery of the supply to the recipient at a place in New Zealand; and

(d) the supply meets the requirements for being a supply of distantly taxable goods when treated as being made by the redeliverer.

(2) If, in relation to a single supply of distantly taxable goods to a recipient, more than 1 redeliverer is liable to account for tax on the supply, the person treated as making the supply is the redeliverer that first enters into an arrangement relating to the supply with the recipient, or, in the absence of such an arrangement, first enters into an arrangement relating to the supply with a person acting on behalf of the recipient.

60F Operator of marketplace or redeliverer making return based on faulty information

(1) This section applies to a registered person who is an operator of an electronic marketplace, or a redeliverer, and makes a return of a deficient amount for the total output tax allocated to a taxable period (the **return period**) as a consequence of relying on inaccurate, incomplete, insufficient, or misleading information—

(a) relating to a supply of goods made through the marketplace or by the registered person as operator of the marketplace, or by the registered person as a redeliverer; and

(b) provided by a seller or underlying supplier of the goods or by a recipient of the supply of goods.

(2) An amount equal to the deficiency in the total amount of output tax returned that arises from the inaccurate, incomplete, insufficient, or misleading information is treated as being a reduction in the total output tax allocated to the return period, if the registered person meets the requirements of **section 60G**.

60G Requirements for treatment of information by operator of marketplace or redeliverer

(1) A registered person that is an operator of an electronic marketplace or a redeliverer and makes a return of a deficient amount of output tax as described in **section 60F** meets the requirements of this section if the amount of the deficiency arises from inaccurate, incomplete, insufficient, or misleading information relating to—

(a) the residency of the underlying supplier of the goods, and the registered person meets the requirements under **subsection (2) or (6)** relating to such information:

(b) the place to which the goods are delivered, and the registered person meets the requirements under **subsection (3) or (6)** relating to such information:

(c) the amount of consideration paid for the supply by the recipient of the supply, and the registered person meets the requirements under **subsection (4) or (6)** relating to such information:

(d) whether the registered person is the supplier of the goods, and the registered person meets the requirements under **subsection (6)** relating to such information:

(e) the amount of tax charged under section 8 on the supply for which the registered person is required to account, and the registered person meets the requirements under **subsection (6)** relating to such information.

(2) This subsection requires a registered person that is an operator of an electronic marketplace and does not know the residency of an underlying supplier of goods in a supply, to—

(a) treat the underlying supplier of the goods as a resident if the registered person has 1 or more of—

(i) information that the underlying supplier is a company that is incorporated in New Zealand or has its centre of management in New Zealand:

(ii) a New Zealand business number for the underlying supplier:

(iii) a declaration of the underlying supplier that the underlying supplier is a resident and 2 items of information listed in **subsection (5)** that are non-contradictory and support the conclusion that the underlying supplier is resident in New Zealand; or

(b) treat the underlying supplier of the goods as a non-resident if a conclusion that the underlying supplier is resident in New Zealand is not supported by information that is held by the registered person and meets the requirements of a subparagraph of **paragraph (a)**.

(3) This subsection requires a registered person that is an operator of an electronic marketplace and does not know the address to which the goods in a supply are to be delivered, to—

(a) treat the supply of goods as being made to the recipient at a place in New Zealand if the registered person—

(i) has 2 items of information listed in **subsection (5)** that are non-contradictory and support the conclusion that the recipient is usually located in New Zealand; and

(ii) does not have 2 items of information listed in **subsection (5)** that are non-contradictory, and support the conclusion that the recipient is usually located in a country or territory other than New Zealand, and are more reliable for determining the usual location of the recipient than are the items referred to in **subparagraph (i)**; or

(b) treat the supply of goods as being made to the recipient at a place outside New Zealand if a conclusion under **paragraph (a)** that the person is usually located at a place in New Zealand is not supported by items of

information that are held by the registered person and meet the requirements of more than 1 paragraph of **subsection (5)**.

(4) This subsection requires a registered person that is a redeliverer for a supply of distantly taxable goods to a recipient, and is not responsible for the purchase of the goods in the supply, to—

(a) require the recipient of the supply to disclose the value of the consideration before the delivery of the supply; and

(b) obtain from the seller of the goods confirmation of the value of the consideration for the supply.

(5) The items of information referred to in **subsections (2)(a)(iii) and (3)(a) and (b)** for a person and a supply of goods are—

(a) an address of a physical location for the person such as a mailing or billing address:

(b) if the person is the underlying supplier for the supply, a New Zealand GST registration number for the person:

(c) bank details (including the account the person uses for making payments, or the billing address held by the bank, or the account to which the registered person makes payments of amounts owed to the person):

(d) the internet protocol address of the device used by the person or another geolocation method:

(e) the mobile country code of the international mobile subscriber identity stored on the subscriber identity module card used by the person:

(f) the location of the person's fixed land line:

(g) other commercially relevant information.

(6) The Commissioner may—

(a) prescribe requirements that are alternative to those listed in 1 or more of **subsections (2) to (5)**:

(b) agree with a person who is a marketplace operator or redeliverer on requirements that are alternative to those listed in 1 or more of **subsections (2) to (5)**, including requirements for the amount of information to be obtained by the person that is relevant to a subsection and for the use and content of methods for checking the accuracy of the information and the conclusions drawn from the information.

(7) In prescribing or agreeing to alternative requirements for a person under **subsection (6)**, the Commissioner may take into account—

(a) commercially relevant information that is available to the person and the reliability of this information:

(b) the cost for the person of complying with the requirements:

(c) the existing methods available to the person for preventing and remedying situations where incorrect information is provided.

38 Section 75 amended (Keeping of records)

(1) In section 75(3BA)(a), after "English", insert "or te reo Maori".

(2) In section 75(3F), words before paragraph (a), after "supplies of", insert "distantly taxable goods to which **section 8(3)(ab)** applies or of".

(3) In section 75(3F)(a), after "English", insert "or te reo Maori".

(4) In section 75(6)(a)(i), after "English", insert "or te reo Maori".

(5) After section 75(7), insert:

(8) A registered person who is required under this section to keep and maintain records that are in a language other than English must comply with the requirements of sections 24, 24BA, and 25 relating to English words that must appear on a tax invoice, or a debit note or credit note, provided by the registered person.

39 Section 77 amended (New Zealand or foreign currency)

In section 77(2), after "supplier of", insert "distantly taxable goods to which **section 8(3)(ab)** applies or of".

Part 3
Amendments to other enactments

Amendments to Income Tax Act 2007

40 Income Tax Act 2007 amended

Sections 40 to 73 amend the Income Tax Act 2007.

41 Section CB 16A amended (Main home exclusion for disposal within 5 years)

In section CB 16A(3), replace "section" with "section and **section DB 18AE** (Main home exclusion for residential rental property)".

42 Section CG 5B amended (Receipts from insurance, indemnity, or compensation for interruption or impairment of business activities)

(1) Replace section CG 5B(2), other than the heading, with:

(2) The amount is income of the person to the extent to which it is attributable to income (the **replaced income**) that—

(a) the person would have derived if not for the event:

(b) another person, who assigned the right to receive the amount to the person, would have derived if not for the event.

(2) **Subsection (1)** applies for the 2011–12 and later income years. However, **subsection (1)** does not apply to a person in relation to a tax position taken by the person—

(a) in the period that starts on the first day of the 2011–12 income year and ends on the date of Royal assent of this Act; and

(b) in relation to an amount of insurance, indemnity, or compensation for an interruption or impairment of business activities resulting from an event received by the person; and

(c) relying on section CG 5B as it was before the amendment made by **subsection (1)**.

43 Section CV 9 repealed (Supplementary dividend holding companies)

Repeal section CV 9.

44 Heading after section CX 53 amended (Share-lending arrangements)

In the heading after section CX 53, after "**arrangements**", insert "**and excepted financial arrangements**".

45 New section CX 54B inserted (Transfers of emissions units under certain excepted financial arrangements)

After section CX 54, insert:

CX 54B Transfers of emissions units under certain excepted financial arrangements

An amount that relates to the market value of an emissions unit and is derived by a person in a transfer of the emissions unit under an arrangement that is an excepted financial arrangement under **section EW 5(11C)** (What is an excepted financial arrangement?) is excluded income of the person.

Defined in this Act: amount, arrangement, emissions unit, excepted financial arrangement, excluded income

46 Section CX 60 amended (Intra-group transactions)

(1) Replace section CX 60(2), other than the heading, with:

(2) The amount, except to the extent to which it is described in section FM 8(3) (Transactions between group companies: income), is excluded income of the company.

(2) **Subsection (1)** applies for the 2019–20 and later income years.

47 Heading after section DB 15 amended (Share-lending arrangements)

In the heading after section DB 15, after "**arrangements**", insert "**and excepted financial arrangements**".

48 New section DB 17B inserted (Transfers of emissions units under certain excepted financial arrangements)

After section DB 17, insert:

DB 17B Transfers of emissions units under certain excepted financial arrangements

A person is denied a deduction for an amount of expenditure that relates to the market value of an emissions unit and is incurred by a person in a transfer of the emissions unit under an arrangement that is an excepted financial arrangement under **section EW 5(11C)** (What is an excepted financial arrangement?).

Defined in this Act: amount, arrangement, emissions unit, excepted financial arrangement, excluded income

49 New sections DB 18AC to DB 18AK inserted

(1) After section DB 18AB, insert:

DB 18AC Ring-fenced allocations for residential rental property portfolios

When this section applies

(1) This section applies, for a person that is not a widely-held company, to an amount of the person's deductions (**residential rental deductions**), for an income year, that relate to residential rental property owned by the person during—

(a) the income year:

(b) previous income years.

Basis for allocation of deductions

(2) The amount of residential rental deductions allocated to an income year, including any amounts that have been carried forward and allocated under **subsection (4)** and **sections DB 18AD(4) and DB 18AH(4)**, is no more than the amount calculated using the formula—

residential rental property income + net disposal income.

Definition of items in formula

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

(a) **residential rental property income** is the amount of income under sections CC 1 to CC 2 (which relate to income from land use) that the person derives, for the income year, that relates to residential rental property owned by the person:

(b) **net disposal income** is—

(i) zero, if any excess deductions have been treated under **section DB 18AD(4)** or **DB 18AH(4)** as deductions that relate to residential rental property owned by the person; or

(ii) the amount of net income for the year that the person would have if the only income they derived was from the disposal of residential rental property, if **subparagraph (i)** does not apply.

Excess allocations: carried forward and reinstated next year

(4) If, at the end of the income year, the person owns residential rental property or land that was residential rental property at some time when they owned the land, any excess deductions not allocated to the income year because of **subsection (2)** are carried forward and treated as—

(a) deductions that relate to residential rental property owned by the person during a previous income year; and

(b) allocated to the next income year.

Exception: taxable divestment of untainted residential rental property portfolio

(5) Despite **subsection (2)**, the amount of residential rental deductions allocated to an income year, including an amount that has been carried forward and allocated under **subsection (4)**, is the amount given by the formula in **subsection (6)**, when,—

(a) at the start of the income year, the person owns—

(i) residential rental property:

(ii) land that was residential rental property at some time when they owned the land; and

(b) at the end of the income year, the person owns neither residential rental property nor land that was residential rental property at some time when they owned the land; and

(c) the person derived assessable income from each disposal they made of land that was residential rental property at some time when they owned the land since the later of—

(i) the last day, before the start of the income year, on which the person did not own land that was residential rental property at some time when they owned the land; and

(ii) the start of the 2019–20 income year; and

(d) the person has not treated any excess deductions as deductions that relate to that residential rental property or land—

(i) under **section DB 18AD**:

(ii) under **section DB 18AH**.

Deductions amount: taxable divestment of untainted residential rental property portfolio

(6) The formula, for the purposes of **subsection (5)**, is—

current year deductions + ring-fenced deductions.

Definition of items in formula

(7) In the formula in **subsection (6)**,—

(a) **current year deductions** is the amount of deductions for expenditure or loss incurred by the person, for the income year, that relate to residential rental property owned by the person during the income year that the person would be allowed in the absence of this section:

(b) **ring-fenced deductions** is the amount that has been carried forward and allocated to the income year under **subsection (4)**.

Exception: taxable divestment of tainted residential rental property portfolio

(8) Despite **subsection (2)**, the amount of residential rental deductions allocated to an income year (the **current year**), including any amounts that have been carried forward and allocated under **subsection (4)** and **sections DB 18AD(4) and DB 18AH(4)**, is no more than the amount given by the formula in **subsection (9)**, when,—

(a) at the start of the income year, the persons owns—

(i) residential rental property:

(ii) land that was residential rental property at some time when they owned the land; and

(b) at the end of the income year, the person owns neither residential rental property nor land that was residential rental property at some time when they owned the land; and

(c) the person derived assessable income from each disposal they made of land that was residential rental property at some time when they owned the land since the later of—

(i) the last day, before the start of the income year, on which the person did not own land that was residential rental property at some time when they owned the land; and

(ii) the start of the 2019–20 income year; and

(d) the person has treated excess deductions as deductions that relate to that residential rental property or land—

(i) under **section DB 18AD**:

(ii) under **section DB 18AH**.

Deductions amount: taxable divestment of tainted residential rental property portfolio

(9) The formula, for the purposes **subsection (8)**, is—

residential rental property income + net disposal income.

Definition of items in formula

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

(a) **residential rental property income** is the amount of income under sections CC 1 to CC 2 (which relate to income from land use) that the person derives, for the current year, that relates to residential rental property owned by the person:

(b) **net disposal income** is the amount of net income for the year that the person would have if the only income they derived was from the disposal of residential rental property, treating each disposal of residential rental property the person has made since the later of the dates referred to in **subsection (8)(c)** as if it were a disposal of residential rental property made in the current year.

Restriction on reinstating excess allocations: continuity for companies

(11) Despite **subsection (4)**, the excess is not allocated to the next income year, and no deduction is allowed or allocated to any income year for the excess, if sections IA 5 and IP 3 (which relate to the carrying forward of tax losses for companies) would not have allowed the excess to be carried forward to that next income year in a loss balance, treating the excess as a tax loss component arising on the last day of the income year.

Meaning of residential rental property

(12) In this section, **residential rental property**, for a person, does not include land owned by the person for which the person has made an election under **section DB 18AG**.

Defined in this Act: assessable income, deduction, dispose, income, income year, land, loss, loss balance, net income, residential rental property, tax loss component, widely-held company

DB 18AD Ring-fenced allocations for non-taxable divestments of residential rental property portfolios

When this section applies

(1) This section applies when,—

(a) at the start of an income year (the **divestment year**), a person owns—

(i) residential rental property:

(ii) land that was residential rental property at some time when they owned the land; and

(b) at the end of the divestment year, the person owns neither residential rental property nor land that was residential rental property at some time when they owned the land; and

(c) the person has not derived assessable income from each disposal they made of land that was residential rental property at some time when they owned the land since the later of—

(i) the last day, before the start of the divestment year, on which the person did not own land that was residential rental property at some time when they owned the land; and

(ii) the start of the 2019–20 income year; and

(d) the person has an amount of deductions (**residential rental deductions**), for the divestment year, that relate to residential rental property owned by the person during—

(i) the divestment year:

(ii) income years before the divestment year; and

(e) some or all of the person's residential rental deductions are not allocated to the divestment year because of **section DB 18AC(2)**; and

(f) the person, in a later income year, owns—

(i) residential rental property (the **new portfolio property**) for which the person has not made an election under **section DB 18AG**:

(ii) a piece of residential rental property (the **new piece of property**) for which the person has made an election under **section DB 18AG**.

Elections to treat ring-fenced disposal deductions as relating to other property

(2) The person may choose to treat some or all of the amount of the person's residential rental deductions that are not allocated to the divestment year because of **section DB 18AC(2)** as the person's deductions that relate to—

(a) the new portfolio property:

(b) the new piece of property.

How elections made

(3) The person makes the election by notifying the Commissioner of it when they file their return of income for the later income year.

Treatment of ring-fenced disposal deductions when election made

(4) If the person chooses to treat an amount of the person's residential rental deductions that are not allocated to the divestment year because of **section DB 18AC(2)** as the person's deductions that relate to the new portfolio property or the new piece of property, those excess deductions are carried forward and treated as—

(a) deductions that relate to the new portfolio property or the new piece of property, as applicable; and

(b) allocated to the later income year.

Restriction on reinstating excess allocations: continuity for companies

(5) Despite **subsection (4)**, the excess is not allocated to the later income year, and no deduction is allowed or allocated to any income year for the excess, if sections IA 5 and IP 3 (which relate to the carrying forward of tax losses for companies) would not have allowed the excess to be carried forward to that later income year in a loss balance, treating the excess as a tax loss component arising on the last day of the divestment year.

Meaning of residential rental property

(6) In this section, unless the context requires otherwise, **residential rental property**, for a person, does not include land owned by the person for which the person has made an election under **section DB 18AG**.

Defined in this Act: assessable income, Commissioner, deduction, dispose, income year, land, loss balance, residential rental property, return of income, tax loss component

DB 18AE Main home exclusion for residential rental property

In **sections DB 18AC, DB 18AD, and DB 18AG to DB 18AK**, **residential rental property**, for a person and an income year, does not include land owned by the person during the income year, if the land has been used predominantly, for most of the income year, for a dwelling that was the main home for—

(a) the person; or

(b) a beneficiary of a trust, if the person is a trustee of the trust and—

(i) a principal settlor of the trust does not have a main home; or

(ii) if a principal settlor of the trust does have a main home, it is that dwelling that is their main home.

Defined in this Act: dwelling, income year, land, main home, principal settlor, residential rental property, trustee

DB 18AF Revenue account land exclusion for residential rental property

In **sections DB 18AC, DB 18AD, and DB 18AG to DB 18AK**, **residential rental property**, for a person and an income year, does not include land owned by the person during the income year if—

(a) the person has notified the Commissioner that the land, if disposed of, will, under the laws of New Zealand for income tax in force at the time the person notifies the Commissioner, produce income for the person, regardless of when the disposal occurs; and

(b) the person notifies the Commissioner of the person's income and deductions, for the income year, that relate to the land—

(i) in a manner that identifies the person's income and deductions that relate to that specific land; or

(ii) in a manner that does not identify the person's income and deductions that relate to that specific land, and the only land for which the person notifies the Commissioner of the person's income and deductions, for the income year, in such a manner is land described in **paragraph (a)**.

Defined in this Act: Commissioner, deduction, dispose, income, income tax, income year, land, New Zealand, notify, residential rental property

DB 18AG Ring-fenced allocations for pieces of residential rental property

Elections to apply ring-fencing to pieces of residential rental property

(1) A person who owns a piece of residential rental property (the **piece of property**) may choose to have their deductions (**residential rental deductions**), for an income year, that relate to the piece of property allocated under this section.

How elections made

(2) The person makes the election by notifying the Commissioner of it when the person files their return of income for—

(a) the income year in which the person acquires the piece of property; or

(b) the 2019–20 income year, if the person acquired the piece of property before the 2019–20 income year.

Effect of election

(3) The person must notify the Commissioner of the person's income and deductions that relate to the piece of property in a manner that identifies the person's income and deductions that relate to that specific piece of residential rental property for—

(a) the income year for which the person makes the election; and

(b) all later income years until the person disposes of the piece of property.

Basis for allocation of deductions

(4) The amount of residential rental deductions allocated to an income year, including any amounts that have been carried forward and allocated under **subsection (5)** and **sections DB 18AD(4) and DB 18AH(4)**, is no more than the amount of income under sections CC 1 to CC 2 (which relate to income from land use) that the person derives, for the income year, that relates to the piece of property.

Excess allocations: carried forward and reinstated next year

(5) If the person does not dispose of the piece of property during the income year, any excess deductions not allocated to the income year because of **subsection (4)** are carried forward and treated as—

(a) deductions that relate to the piece of property; and

(b) allocated to the next income year.

Exception: taxable disposal of untainted residential rental property

(6) Despite **subsection (4)**, the amount of residential rental deductions allocated to an income year, including an amount that has been carried forward and allocated under **subsection (5)**, is the amount given by the formula in **subsection (7)**, when—

(a) the person disposes of the piece of property during the income year; and

(b) the person derives assessable income from the disposal; and

(c) the person has not treated any excess deductions as deductions that relate to the piece of property—

(i) under **section DB 18AD**:

(ii) under **section DB 18AH**.

Deductions amount: taxable disposal of untainted residential rental property

(7) The formula, for the purposes of **subsection (6)**, is—

current year deductions + ring-fenced deductions.

Definition of items in formula

(8) In the formula in **subsection (7)**,—

(a) **current year deductions** is the amount of deductions for expenditure or loss incurred by the person, for the income year, that relate to the piece of property that the person would be allowed in the absence of this section and **section DB 18AC**:

(b) **ring-fenced deductions** is the amount that has been carried forward and allocated to the income year under **subsection (5)**.

Exception: taxable disposal of tainted residential rental property

(9) Despite **subsection (4)**, the amount of residential rental deductions allocated to an income year, including any amounts that have been carried forward and allocated under **subsection (5)** and **sections DB 18AD(4) and DB 18AH(4)**, is no more than the amount given by the formula in **subsection (10)**, when—

(a) the person disposes of the piece of property during the income year; and

(b) the person derives assessable income from the disposal; and

(c) the person has treated excess deductions as deductions that relate to the piece of property—

(i) under **section DB 18AD**:

(ii) under **section DB 18AH**.

Deductions amount: taxable disposal of tainted residential rental property

(10) The formula, for the purposes of **subsection (9)**, is—

residential rental property income + net disposal income.

Definition of items in formula

(11) In the formula in **subsection (10)**,—

(a) **residential rental property income** is the amount of income under sections CC 1 to CC 2 (which relate to income from land use) that the person derives, for the income year, that relates to the piece of property they disposed of:

(b) **net disposal income** is the amount of net income for the year that the person would have if the only income they derived was from the disposal of the piece of property.

Restriction on reinstating excess allocations: continuity for companies

(12) Despite **subsection (5)**, the excess is not allocated to the next income year, and no deduction is allowed or allocated to any income year for the excess, if sections IA 5 and IP 3 (which relate to the carrying forward of tax losses for companies) would not have allowed the excess to be carried forward to that next income year in a loss balance, treating the excess as a tax loss component arising on the last day of the income year.

Defined in this Act: assessable income, Commissioner, deduction, dispose, income, income year, loss, loss balance, net income, notify, residential rental property, return of income, tax loss component

DB 18AH Ring-fenced allocations for non-taxable disposals of pieces of residential rental property

When this section applies

(1) This section applies when—

(a) a person, during an income year, disposes of a piece of residential rental property for which the person has made an election under **section DB 18AG**; and

(b) the person does not derive assessable income from the disposal of the piece of residential rental property; and

(c) the person has an amount of deductions (**ring-fenced disposal deductions**) that relate to the piece of residential rental property that were not allocated to the income year because of **section DB 18AG(4)**; and

(d) the person, in a later income year, owns—

(i) residential rental property (the **new portfolio property**) for which the person has not made an election under **section DB 18AG**:

(ii) a piece of residential rental property (the **new piece of property**) for which the person has made an election under **section DB 18AG**.

Elections to treat ring-fenced disposal deductions as relating to other property

(2) The person may choose to treat some or all of the amount of ring-fenced disposal deductions as the person's deductions that relate to—

(a) the new portfolio property:

(b) the new piece of property.

How elections made

(3) The person makes the election by notifying the Commissioner of it when they file their return of income for the later income year.

Treatment of ring-fenced disposal deductions when election made

(4) If the person chooses to treat an amount of ring-fenced disposal deductions as the person's deductions that relate to the new portfolio property or the new piece of property, those excess deductions are carried forward and treated as—

(a) deductions that relate to the new portfolio property or the new piece of property, as applicable; and

(b) allocated to the later income year.

Restriction on reinstating excess allocations: continuity for companies

(5) Despite **subsection (4)**, the excess is not allocated to the later income year, and no deduction is allowed or allocated to any income year for the excess, if sections IA 5 and IP 3 (which relate to the carrying forward of tax losses for companies) would not have allowed the excess to be carried forward to that later income year in a loss balance, treating the excess as a tax loss component arising on the last day of the income year.

Defined in this Act: assessable income, Commissioner, deduction, dispose, income year, loss balance, notify, residential rental property, return of income, tax loss component

DB 18AI Transfers of ring-fenced allocations for residential rental property within wholly-owned groups

When this section applies

(1) This section applies when a company (**company A**) that is part of a wholly-owned group of companies has an amount of deductions (**ring-fenced deductions**), for an income year, that relate to residential rental property owned by company A that were not allocated to the income year because of **section DB 18AC** or **DB 18AG**.

Transfer of ring-fenced deductions

(2) Company A may transfer some of all of the amount of ring-fenced deductions to another company (**company B**) that is part of the wholly-owned group of companies.

Notice

(3) Company A must notify the Commissioner of an amount transferred under **subsection (2)** by the 31 March that, for company A and the income year, is the latest date to which the time for providing the return of income may be extended under section 37(5) of the Tax Administration Act 1994.

Treatment of transferred ring-fenced deductions

(4) An amount of ring-fenced deductions that company A chooses to transfer to company B are treated as an amount of company B's deductions, for the income year, that relate to residential rental property owned by company B during the income year.

Defined in this Act: Commissioner, company, deduction, income year, notify, residential rental property, return of income, wholly-owned group of companies

DB 18AJ Interest expenditure: interests in residential land-rich companies and trusts

When this section applies

(1) This section applies when a person that is not a widely-held company has borrowed money (the **borrowings**) and used it to acquire an interest in a company or trust that is, for an income year, a residential land-rich entity.

Treatment of applied interest expenditure

(2) For the purposes of **section DB 18AC**, for the person and the income year, the amount calculated using the formula in **subsection (3)** is, to the extent to which it exceeds the amount calculated using the formula in **subsection (5)**, treated as an amount of the person's deductions that relate to residential rental property owned by the person during the income year.

Applied interest expenditure

(3) The first formula, for the purposes of **subsection (2)**, is—

applied capital percentage × interest on borrowings.

Definition of items in formula

(4) In the formula in **subsection (3)**,—

(a) **applied capital percentage** is the percentage of the residential land-rich entity's capital that the residential land-rich entity has used to acquire residential rental property:

(b) **interest on borrowings** is the amount of expenditure on interest incurred by the person, for the income year, that relates to the borrowings.

Share of profit formula

(5) The second formula, for the purposes of **subsection (2)**, is—

person's interest × entity's residential rental property profit.

Definition of items in formula

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

(a) **person's interest** is, as applicable,—

(i) the person's voting interest, at the end of the income year, in the company that is the residential land-rich entity:

(ii) the value of the person's interest in residential rental property that is trust property of the trust that is the residential land-rich entity as a percentage of the trust's assets, at the end of the income year:

(b) **entity's residential rental property profit** is the amount of net income for the year that the residential land-rich entity would have in the absence of **sections DB 18AC and DB 18AG** if the only income it derived was—

(i) income under sections CC 1 to CC 2 (which relate to income from land use) that relates to residential rental property owned by the residential land-rich entity:

(ii) from the disposal of residential rental property.

Meaning of residential land-rich entity

(7) In this section and **section DB 18AK**,—

residential land-rich entity means—

(a) a company, partnership, or look-through company that owns residential rental property, if over 50% of the company, partnership, or look-through company's assets by value are residential land:

(b) a trust with residential rental property as trust property, if over 50% of the trust's assets by value are residential land.

Valuation of assets

(8) For the purposes of **subsections (6)(a)(ii) and (7)**, assets are valued at the end of an income year using,—

(a) for land, including an improvement to land, the amount given under **subsection (9)**:

(b) for property with an adjusted tax value, its adjusted tax value:

(c) for other property, its market value.

Valuation of land, including improvements to land

(9) For the purposes of **subsection (8)(a)**, the value of land, including an improvement to land, is the following amount, as applicable:

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

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

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

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

Defined in this Act: adjusted tax value, associated person, company, deduction, dispose, income, income year, land, leasehold estate, local authority, look-through company, market value, net income, partnership, residential land, residential land-rich entity, residential rental property, voting interest, widely-held company

DB 18AK Interest expenditure: interests in residential land-rich partnerships and look-through companies

When this section applies

(1) This section applies when a person that is not a widely-held company has borrowed money (the **borrowings**) and used it to acquire an interest in a partnership or look-through company that is, for an income year, a residential land-rich entity.

Treatment of applied interest expenditure: residential rental property portfolios

(2) For the purposes of **section DB 18AC**, for the person and the income year, the amount calculated using the formula in **subsection (3)** is treated as an amount of the person's deductions that relate to residential rental property owned by the person during the income year, to the extent to which it exceeds the amount of net income for the year the person would have in the absence of **section DB 18AC** if the only income they derived was—

(a) income under sections CC 1 to CC 2 (which relate to income from land use) that relates to residential rental property owned by the person:

(b) income from the disposal of residential rental property.

Applied interest expenditure: residential rental property portfolios

(3) The formula, for the purposes of **subsection (2)**, is—

applied capital percentage × interest on borrowings.

Definition of items in formula

(4) In the formula in **subsection (3)**,—

(a) **applied capital percentage** is the percentage of the residential land-rich entity's capital that the residential land-rich entity has used to acquire residential rental property:

(b) **interest on borrowings** is the amount of expenditure on interest incurred by the person, for the income year, that relates to the borrowings.

Treatment of applied interest expenditure: pieces of residential rental property

(5) For the purposes of **section DB 18AG**, for the person and the income year, and for a piece of residential rental property held by the residential land-rich entity but that the person is treated as holding by section HB 1 or HG 2 (which relate to LTCs and partnerships), the amount calculated using the formula in **subsection (6)** is treated as an amount of the person's deductions that relate to the piece of residential rental property, to the extent to which it exceeds the amount of net income for the year the person would have in the absence of **sections DB 18AC and DB 18AG** if the only income they derived was—

(a) income under sections CC 1 to CC 2 that relates to the piece of residential rental property:

(b) income from the disposal of the piece of residential rental property.

Applied interest expenditure: pieces of residential rental property

(6) The formula, for the purposes of **subsection (5)**, is—

applied capital percentage × interest on borrowings.

Definition of items in formula

(7) In the formula in **subsection (6)**,—

(a) **applied capital percentage** is the percentage of the residential land-rich entity's capital that the residential land-rich entity has used to acquire the piece of residential rental property:

(b) **interest on borrowings** is the amount of expenditure on interest incurred by the person, for the income year, that relates to the borrowings.

Defined in this Act: deduction, dispose, income, income year, look-through company, net income, partnership, residential land-rich entity, residential rental property, widely-held company

(2) **Subsection (1)** applies for the 2019–20 and later income years, but does not apply to a deduction a person is allowed, for an income year before the 2019–20 income year, for an amount of expenditure or loss.

50 Section DE 4 amended (Default method for calculating proportion of business use)

(1) In section DE 4(1)(a), replace "; or" with "; and".

(2) In section DE 4(1)(b), replace "; or" with "; and".

51 Section DV 18 amended (Statutory producer boards and co-operative companies)

In section DV 18(1), replace "sections OB 73 and OB 78" with "sections OB 73, OB 78, and **OB 78B**".

52 Section EW 5 amended (What is an excepted financial arrangement?)

(1) After section EW 5(11B), insert:

Assignment and return of emissions units as part of loan

(11C) An arrangement for the assignment of a pre-1990 forest land emissions unit by the holder to a person who is not an associated person (the **lender**) and for the later assignment of the same or another New Zealand emissions unit by the lender to the holder, as part of a financial arrangement that is a loan to the holder by the lender, is an excepted financial arrangement that is subject to **section EW 52B**.

(2) **Subsection (1)** applies for arrangements entered on or after the beginning of the 2018–19 income year.

53 New section EW 52B inserted (Excepted financial arrangements involving pre-1990 forest land emissions units)

(1) After section EW 52, insert:

EW 52B Excepted financial arrangements involving pre-1990 forest land emissions units

When this section applies

(1) This section applies to an arrangement that is an excepted financial arrangement under **section EW 5(11C)** and under which—

(a) the holder (the **unit holder**) of a pre-1990 forest land emissions unit (the **original unit**) is required to make an assignment of the original unit (the **security assignment**) to a person who is not an associated person (the **lender**); and

(b) the lender is required to make a later assignment (the **security return**) of a New Zealand emissions unit (the **returned unit**) to the unit holder.

Unit holder treated as continuing to hold pre-1990 forest land emissions unit

(2) The unit holder is treated as continuing to hold a pre-1990 forest land emissions unit for the period beginning with the day on which the arrangement begins and ending with the day given by **subsection (3)** for the security assignment, subject to **subsections (4) and (5)**.

Timely security return

(3) **Subsection (4)** applies if the security return occurs on or before the day that is the earlier of—

(a) the day on which the security return is required under the arrangement:

(b) the day on which the arrangement comes to an end.

Effect of timely security return

(4) If the unit holder receives a returned unit under the arrangement on or before the day given by **subsection (3)**,—

(a) the returned unit is treated as being the original unit; and

(b) the unit holder is treated as continuing to hold the original unit for the period beginning with the day on which the arrangement begins and ending with the day of the security return; and

(c) the original unit and the returned unit are treated as having a value for the unit holder equal to the cost of the original unit for the unit holder immediately before the arrangement begins; and

(d) the original unit and the returned unit are treated as having a value for the lender of—

(i) the cost of the original unit for the unit holder immediately before the arrangement begins, for the security assignment and the security return:

(ii) zero, for an assignment of the original unit other than the security return.

Effect of failure to make timely security return

(5) If the unit holder does not receive a returned unit under the arrangement on or before the day given by **subsection (3)**,—

(a) the original unit is treated as being assigned to the lender on the day of the security assignment; and

(b) the unit holder is treated as ceasing to hold the original unit from the day of the security assignment; and

(c) the original unit is treated as having a value for the unit holder and the lender at the time of the security assignment equal to the market value of the original unit for the unit holder immediately before the arrangement begins.

Relationship with section ED 1

(6) **Subsections (4)(c) and (d) and (5)(c)** override sections EA 1(4)(c), and ED 1 (which relate to the valuation of excepted financial arrangements).

Defined in this Act: arrangement, associated person, emissions unit, excepted financial arrangement, New Zealand emissions unit, pre-1990 forest land emissions unit

(2) **Subsection (1)** applies for arrangements entered on or after the beginning of the 2018–19 income year.

54 Section EY 30 amended (Transitional adjustments: life risk)

(1) Replace section EY 30(5)(b) with:

(b) for a life insurance policy for which the premium is set under an agreement entered into before the grandparenting start day, for a continuous period (the **continuous rate period**) beginning before the grandparenting start day, and that meets the additional requirements of **subsection (5BA)**, the period that—

(i) starts on the grandparenting start day; and

(ii) ends on the later of the day that is the last day of the continuous rate period and whichever day described in paragraph (c)(i) and (ii) is earlier:

(2) After section EY 30(5) insert:

Additional requirements for subsection (5)(b) to apply to policy

(5BA) The additional requirements referred to in **subsection (5)(b)** for a life insurance policy are that—

(a) every increase in the premium under the policy during the continuous rate period arises from an increase, under a formula in the agreement, in the sum assured under the policy; and

(b) the increase in the sum assured under the policy during the continuous rate period does not exceed the greater of 3% and the percentage change in the consumer price index.

(3) **Subsections (1) and (2)** apply for a person for the income year that includes 1 July 2010 and later income years.

55 Section FE 4 amended (Some definitions)

In section FE 4, in the definition of **excess debt outbound company**, replace "section FE 2(1)(a) to (d)" with "section FE 2(1)(a) to (db)".

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

(1) After section HC 27(5), insert:

Beneficiary lending to trustee

(6) When a trustee of a trust owes an amount to a beneficiary of the trust, the beneficiary does not become a settlor of the trust under subsection (2)(a) in an income year of the trustee solely as a result of being owed the amount if—

(a) the trustee pays to the beneficiary in the income year interest on the amount owing at a rate equal to or greater than the prescribed rate of interest:

(b) the amount owing at the end of the income year is not more than $25,000.

(2) In section HC 27, in the list of defined terms, insert "income year", "interest", and "prescribed rate of interest".

57 New section MB 12B inserted (Family scheme income from trusts, not being beneficiary income, and where recipient not settlor)

After section MB 12, insert:

MB 12B Family scheme income from trusts, not being beneficiary income, and where recipient not settlor

When this section applies

(1) This section applies for the purpose of determining the amount that represents the family scheme income of a person for an income year when—

(a) the person receives a payment from a trust in the income year; and

(b) the payment is not beneficiary income of the person; and

(c) the person is not the settlor of the trust.

Amounts included in family scheme income

(2) The amount of the payment is included in the family scheme income of the person for the income year.

Exclusion

(3) Despite **subsection (2)**, the Commissioner may determine the circumstances in which a payment from a trust should be excluded for the purposes of calculating family scheme income. If a person receives a payment from a trust in circumstances in which the Commissioner has determined that a payment should

be excluded for the purposes of calculating family scheme income, the amount of the payment is not included in the family scheme income of the person for the income year.

Defined in this Act: amount, beneficiary income, Commissioner, family scheme income, income year, pay, settlor

58 New section OB 78B inserted (Co-operative companies attaching imputation credits to cash distributions to groups)

After section OB 78, insert:

OB 78B Co-operative companies attaching imputation credits to cash distributions to groups

Election

(1) On meeting the requirements of **subsection (2)**, a co-operative company that is an ICA company may choose, for an income year, to attach an imputation credit to a cash distribution paid to the members of a group of the company's shareholders and be denied a deduction for the payment by section DV 18 (Statutory producer boards and co-operative companies).

Requirements

(2) A co-operative company may make an election under **subsection (1)** if—

(a) the company is registered under the Co-operative Companies Act 1996; and

(b) the distribution is made to all the persons who are members of a group of shareholders at a time during the income year; and

(c) the company's constitution permits a distribution to be made to the members of the group; and

(d) the amount of the distribution to a member of the group is based on the payments for the income year to or by the member for produce transactions as a proportion of the total amount of payments for the income year to or by the members of the group for all produce transactions; and

(e) the company would, in the absence of this section, have a deduction for some or all of the distribution under subpart HE and section DV 19 (which relate to mutual associations) or another provision of the Act; and

(f) no other election for a cash distribution is made in the income year; and

(g) the company notifies the Commissioner of the election as required by section OB 82(3).

Total credit attached

(3) The total amount of imputation credit attached to the distribution is calculated using the formula—

$$\text{total net dividend} \times \text{tax rate} \div (1 - \text{tax rate}).$$

Definition of items in formula

(4) In the formula in **subsection (3)**,—

(a) **total net dividend** is the total amount of the distribution excluding the amount of imputation credit:

(b) **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 income year.

Shareholder's credit

(5) The amount of a shareholder's share of the imputation credit attached as described in **subsection (3)** is calculated using the formula—

shareholder's distribution ÷ total distribution × total imputation credit attached.

Definition of items in formula

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

(a) **shareholder's distribution** is the amount that is the shareholder's share of the distribution, excluding the amount of imputation credit:

(b) **total distribution** is the amount of the total distribution paid, excluding the amount of imputation credit:

(c) **total imputation credit attached** is the total amount of imputation credit attached to the distribution calculated under **subsection (3)**.

Relationship with section OZ 15

(7) Section OZ 15 (Attaching imputation credits and notional distributions: modifying amounts) may apply to modify **subsection (3)**.

Defined in this Act: amount, Commissioner, co-operative company, deduction, dividend, ICA company, imputation credit, income tax. income year, notify, pay, produce transactions, shareholder

59 Section OB 82 amended (When and how co-operative company makes election)

(1) In section OB 82(1), words before paragraph (a), replace "section OB 78 or OB 79" with "section OB 78, **OB 78B**, or OB 79".

(2) In section OB 82(3), after "subsection (1)(a)", insert "or **(b)**".

60 Section OZ 15 amended (Attaching imputation credits and notional distributions: modifying amounts)

In section OZ 15(4), replace "section OB 78(3) (Co-operative companies attaching imputation credits to cash distributions)" with "sections OB 78(3) and **OB 78B(3)** (which relate to co-operative companies making cash distributions)".

61 Section RD 7B replaced (Treatment of certain benefits under employee share agreements)

(1) Replace section RD 7B with:

RD 7B Treatment of employee share schemes

When this section applies

(1) This section applies for employees or a former employee in relation to benefits under an employee share scheme, if—

(a) an employer has irrevocably chosen to withhold and pay tax for a benefit for an employee under the scheme in accordance with **subsection (3)**; or

(b) an employer chooses to withhold and pay tax for a benefit for an employee under the scheme in accordance with **subsection (4)**.

Irrevocable obligation

(2) An employer who has made an irrevocable election described in **subsections (1)(a) and (3)** must comply with **subsection (4)(a) to (c)** for the relevant benefit and employee under the scheme.

Irrevocable obligation: form

(3) For the purposes of **subsection (1)(a)**, an employer has irrevocably chosen to withhold and pay tax for a benefit for an employee, if, at the time the benefit is offered or provided, it is a term of the offer of the benefit, or of the scheme under which the benefit is provided, that the employer must withhold and pay tax under this section.

Withholding and paying

(4) For the purposes of **subsection (1)(b)**, an employer chooses to withhold and pay tax for some benefits for some employees by—

(a) calculating the amounts of tax that must be withheld for the relevant benefits and employees, and paying the amounts to the Commissioner as described in section RD 4(1); and

(b) including the amounts in the employer's employment income information under subpart 3C of the Tax Administration Act 1994, treating the relevant ESS deferral date as the relevant payday; and

(c) making the disclosure referred to in **paragraph (b)** within the time required under section RD 6(3)(a).

Defined in this Act: amount, amount of tax, Commissioner, employee, employee share scheme, employment income information, ESS deferral date, pay, payday, tax

(2) **Subsection (1)** applies for the 2019–20 and subsequent income years.

62 Section RE 21 amended (Basis for payment of RWT)

(1) In the heading to section RE 21(2), replace "*Interest of more than $500*" with "*RWT of $500 or more*".

(2) In section RE 21(2), replace "more than $500" with "$500 or more".

(3) In the heading to section RE 21(3), replace "*Interest*" with "*RWT*".

63 Section RF 2B amended (Non-resident financial arrangement income: outline and concepts)

In section RF 2B, in the list of defined terms, delete "approved issuer".

64 Section RF 2C amended (Meaning of non-resident financial arrangement income)

In section RF 2C, in the list of defined terms, delete "approved issuer".

65 Section YA 1 amended (Definitions)

(1) This section amends section YA 1.

(2) In the definition of **dispose**, in paragraph (a), replace "and CB 22" with "CB 22, **DB 18AC, DB 18AD, DB 18AF to DB 18AH, DB 18AJ, and DB 18AK**".

(3) In the definition of **dwelling**, in paragraph (c), replace "years) and" with "years), and **DB 18AE** (Main home exclusion for residential rental property), and".

(4) In the definition of **principal settlor**, replace "that section" with "that section and **section DB 18AE** (Main home exclusion for residential rental property)".

(5) Insert, in appropriate alphabetical order:

residential land-rich entity is defined in **section DB 18AJ(7)** (Interest expenditure: interests in residential land-rich companies and trusts) for the purposes of that section and **section DB 18AK** (Interest expenditure: interests in residential land-rich partnerships and look-through companies)

(6) Insert, in appropriate alphabetical order:

residential rental property,—

(a) means residential land; and

(b) does not include—

(i) land excluded from the definition of residential rental property by **section DB 18AE** (Main home exclusion for residential rental property):

(ii) land excluded from the definition of residential rental property by **section DB 18AF** (Revenue account land exclusion for residential rental property):

(iii) land that is an asset for the purposes of subpart DG (Expenditure related to use of certain assets):

(iv) land provided by a person to their employees or other workers, or both, for accommodation where it is necessary to provide that accommodation due to the nature or remoteness of a business carried on by the person; and

(c) is further defined in **sections DB 18AC and DB 18AD** (which relate to residential rental property portfolios) for the purposes of those sections

66 Minor nomenclature-related amendments to Income Tax Act 2007

The Income Tax Act 2007 is amended as set out in schedule 1.

Amendments to Tax Administration Act 1994

67 Tax Administration Act 1994 amended

Sections 68 to 74 amend the Tax Administration Act 1994.

68 Section 22 amended (Keeping of business and other records)

(1) In section 22(2BA)(a), after "English", insert "or te reo Maori".

(2) In section 22(8)(a)(i), after "English", insert "or te reo Maori".

69 Section 22A amended (Records required under subpart EW of Income Tax Act 2007)

(1) In section 22A(1), after "English", insert "or te reo Maori".

(2) In section 22A(2), after "English", insert "or te reo Maori".

70 Section 22B amended (Further records required)

In section 22B(1), words before paragraph (a), after "English", insert "or te reo Maori".

71 Section 26 amended (Records to be kept for RWT purposes)

(1) In section 26(1), words before paragraph (a), after "English", insert "or te reo Maori".

(2) In section 26(2), words before paragraph (a), after "English", insert "or te reo Maori".

(3) In section 26(4), after "English", insert "or te reo Maori".

(4) In section 26(6), after "English", insert "or te reo Maori".

72 Section 143A amended (Knowledge offences)

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

(fb) knowingly does not issue a receipt relating to a supply of distantly taxable goods as required by section **24BAB(3)** of the Goods and Services Tax Act 1985; or

(fc) knowingly does not provide information relating to a supply of distantly taxable goods as required by section **24BAC** of the Goods and Services Tax Act 1985; or

73 Section 185O amended (Application of Common Reporting Standard)

(1) In section 185O(2), after "schedule 2", insert ", part 1".

(2) In section 185O(3)(b), after "as amended at the time", insert "and as modified and clarified in the ways specified in schedule 2, part 2".

74 Schedule 2 amended (Application of CRS standard)

(1) In schedule 2, before the heading before item 1, insert "**Part 1**".

(2) In schedule 2, after item 25, insert:

Part 2
Items modifying and clarifying Commentary on the CRS standard

1 In the application of the *Commentary on the CRS standard* (the **Commentary**) to the interpretation of the definitions of Investment Entity and Custodial Institution in the CRS, a reference in a definition to "the Entity's gross income attributable to [certain activities of the Entity]" is treated as being a reference to the total gross income arising for the Entity and other entities that is attributable to the Entity's performance of the activities.

Amendments to Child Support Act 1991

75 Child Support Act 1991 amended

Sections 76 to 81 amend the Child Support Act 1991.

76 Section 89Y amended (Application for exemption on grounds relating to sex offence)

(1) Replace section 89Y(1)(a) with:

(a) any of the following apply:

(i) another person has been convicted of a sex offence:

(ii) another person has been proved before the Youth Court to have committed a sex offence:

(iii) the liable parent believes that another person has committed a sex offence; and

(2) After section 89Y(1), insert:

(1A) A liable person may apply under **subsection (1)(a)(iii)** even if the liable person is unable to name the other person referred to in that subparagraph.

77 Section 89Z amended (Grant of exemption to victim of sex offence)

(1) Replace section 89Z(1)(b) and (c) with:

(b) any of the following apply:

(i) the Commissioner is satisfied that another person has been convicted of a sex offence:

(ii) the Commissioner is satisfied that another person has been proved before the Youth Court to have committed a sex offence:

(iii) in the opinion of the Commissioner, it is likely that another person has committed a sex offence; and

(c) the Commissioner is satisfied that the liable parent is a victim of that sex offence; and

(2) After section 89Z(1), insert:

(1A) The Commissioner may act under **subsection (1)(b)(iii)** even if the other person has been acquitted of the sex offence.

(3) Replace section 89Z(3) with:

(3) However, the period of exemption may commence on a day determined by the Commissioner that is earlier than the day on which the Commissioner received the application for exemption if the Commissioner is satisfied that it is—

(a) just and equitable as regards the child, the receiving carer, the liable parent, and any other child, carer, or parent that may be affected by the Commissioner's decision; and

(b) otherwise proper.

78 Section 89ZA amended (Exemption is void if conviction quashed or finding is reversed or set aside)

(1) In the heading to section 89ZA, replace "**if conviction quashed or finding is reversed or set aside**" with "**in certain circumstances**".

(2) In section 89ZA(1)(b), replace "aside." with "aside; or".

(3) After section 89ZA(1)(b), insert:

(c) in the case where the Commissioner relies on **section 89Z(1)(b)(iii)** when granting the exemption, the Commissioner is no longer of the opinion that it is likely that another person has committed the sex offence.

(4) Replace section 89ZA(2) and (3) with:

(2) Subsection (1) does not prevent a liable parent from making a new application under section 89Y.

(3) If, following a new application, an exemption is granted under section 89Z(1), the exemption commences on—

(a) the date on which the Commissioner received the new application for the exemption; or

(b) an earlier date under **section 89Z(3)**.

79 Section 89ZB amended (Commissioner must give effect to exemption and may take changes into account)

In section 89ZB(2), after "becoming aware", insert ", or deciding,".

80 Section 152A amended (Relief in case of exemption granted to liable person)

In section 152A(1)(b), after "subpart 2", insert "or 4".

81 Schedule 1 amended (Application, transitional, and savings provisions relating to amendments to Act made on or after 1 April 2015)

In Schedule 1, after Part 2, insert:

Part 3
Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act 2018

12 Exemption for victim of sex offence may take effect on or after 26 September 2006

(1) An application may be made, and an exemption may be granted, under subpart 4 of Part 5A (as in force after commencement) in respect of—

(a) a sex offence that was committed (or is alleged to have been committed) before or after commencement:

(b) periods before or after commencement.

(2) However, a day determined under **section 89Z(3)** (as in force after commencement) as the date on which the period of exemption commences may only be a date on or after 26 September 2006.

(3) In this clause, **commencement** means the commencement of **section 80** of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Act **2018**.

Amendments to Student Loan Scheme Act 2011

82 Student Loan Scheme Act 2011 amended

Sections 83 to 93 amend the Student Loan Scheme Act 2011.

83 Section 4 amended (Interpretation)

(1) In section 4(1), definition of **primary employment earnings**, before paragraph (a), insert:

(aa) includes a schedular payment paid to the borrower in the pay period; and

(2) In section 4(1), definition of **salary or wages**, replace paragraphs (a) and (b) with:

(a) includes an extra pay; and

(b) includes a schedular payment, except as provided in **section 202A**

(3) In section 4(1), insert in its appropriate alphabetical order:

schedular payment has the same meaning as in section RD 8 (Schedular payments) of the Income Tax Act 2007

(4) In section 4(1), definition of **secondary employment earnings**, replace paragraphs (a) and (b) with:

(a) includes an extra pay; but

(b) does not include a schedular payment

84 Section 22 amended (Meaning of New Zealand-based)

Replace section 22(1) with:

(1) A borrower is **New Zealand-based** if—

(a) the borrower is physically in New Zealand for a period of 183 consecutive days; or

(b) the borrower is treated as being physically in New Zealand because—

(i) the borrower is physically absent from New Zealand for a period, or aggregated periods, of no more than 31 days during a period of 183 consecutive days; and

(ii) the borrower is physically in New Zealand for the first day of that 183-day period.

(1A) A day on which a borrower is treated as being physically in New Zealand under section 24 or 25 counts in the same way as a day on which the borrower is actually physically in New Zealand.

85 Section 23 amended (Meaning of overseas-based)

Replace section 23(1) with:

(1) The following persons are **overseas-based**:

(a) a borrower who is not New Zealand-based under section 22:

(b) a New Zealand-based borrower who is physically absent from New Zealand for a period of 184 consecutive days:

(c) a New Zealand-based borrower who is treated as physically absent from New Zealand because—

(i) the borrower is physically in New Zealand for a period, or aggregated periods, of 31 days or less during a period of 184 consecutive days; and

(ii) the borrower is physically absent from New Zealand for the first day of that 184-day period.

(1A) A borrower must not be treated as being physically absent from New Zealand for any day on which that borrower is treated as being physically in New Zealand under **section 22(1)(b)**.

(1B) A day on which a borrower is treated as being physically in New Zealand under section 24 or 25 counts in the same way as a day on which the borrower is actually physically in New Zealand.

86 Section 73 amended (Meaning of adjusted net income, Schedule 3 adjustments, and related terms)

In section 73(1), definition of **adjusted net income**, paragraph (b), after "excludes salary and wages", insert "(but *see* **section 202A** in relation to schedular payments)".

87 Cross-heading above section 134 replaced

Replace the cross-heading above section 134 with:

Loan interest charged for all overseas-based borrowers

88 Section 134 amended (Loan interest charged for all borrowers)

(1) Replace the heading to section 134 with "**Loan interest charged for all overseas-based borrowers**".

(2) Replace section 134(1) with:

(1) A borrower is liable to pay loan interest on his or her loan balance for each day—

(a) that the borrower has a loan balance; and

(b) that the borrower is overseas-based.

89 Section 135 amended (Loan interest calculated daily and charged and compounded annually)

Replace section 135(1) with:

(1) Loan interest is calculated and accrues each day—

(a) that a borrower has a loan balance; and

(b) that a borrower is overseas-based.

90 Section 137 repealed (Full interest write-off for New Zealand-based borrowers)

Repeal section 137.

91 New section 202A inserted (Treatment of schedular payments)

After section 202, insert:

202A Treatment of schedular payments

(1) Sections 63 to 68C do not apply in respect of schedular payments.

(2) In section 73(1), definition of **adjusted net income**, paragraph (b), schedular payments are excluded only to the extent that deductions have been made as required by subpart 1 of Part 2.

(3) Schedular payments are disregarded for the purpose of calculating the amount of interim payments that a borrower is obliged to pay towards the 2020–21 and later tax years' end-of-year repayment obligation in accordance with section 82 or 83 and section 84 or 85.

92 Schedule 2 amended (Application of PAYE rules for purposes of section 70)

(1) In Schedule 2, clause 2(a), replace "RD 8" with "RD 9".

(2) In Schedule 2, clause 2(a), replace "RD 17(2) and (3), and RD 18 to RD 20" with "and RD 17(2) and (3)".

93 Schedule 3 amended (Adjustments to net income for purposes of section 73, applying from 1 April 2014 for 2014–2015 and later tax years)

Excluded income

(1) In Schedule 3, after clause 5, insert:

5A Excluded income

(1) The following amounts are not included in adjusted net income of the borrower:

Retirement scheme contributions

(a) an amount of retirement scheme contribution that is not excluded income of the borrower and would be their excluded income in the absence of section CX 50B(2) of the Act (Contributions to retirement savings schemes):

Amounts of depreciation loss on disposal of building

(b) in relation to a building from the disposal of which the borrower derives assessable income, an amount of depreciation loss allowed in the 2002–03 or earlier income year.

(2) However, **subclause (1)(b)** does not apply to an amount of depreciation loss of a business or investment activity that under clause 4 is treated as having no net income for the purposes of calculating adjusted net income.

Compare: 2007 No 97 s MB 1(5B), (5C)

Borrowers who are major shareholders in close companies

(2) In Schedule 3, replace clause 8(2) to (5) with:

(2) Section MB 4 of the Act applies as if the references in that section to "family scheme income" were references to "adjusted net income" and with all other necessary modifications.

Schedule 1
Minor nomenclature-related amendments to Income Tax Act 2007

s 66

Section EW 15F amended (Expected value method)

In section EW 15F, in the list of defined terms, delete "NZIAS 39".

Section EX 20B (Attributable CFC amount)

In section EX 20B(4)(b)(iii), replace "NZIAS 39" with "IFRS 9".

In section EX 20B, in the list of defined terms, insert "IFRS 9".

Section EX 21E (Non-attributing active CFC: test based on accounting standard)

In section EX 21E(7)(f), in the words before the sub-paragraphs, replace "NZIAS 39" with "IFRS 9".

In section EX 21E(7)(f)(ii), replace "NZIAS 39" with "IFRS 9".

In section EX 21E(7)(fb)(i), replace "NZIAS 39" with "IFRS 9".

In section EX 21E(7)(fb)(ii), replace "NZIAS 39" with "IFRS 9".

In section EX 21E(7)(g), in the words before the sub-paragraphs, replace "NZIAS 39" with "IFRS 9".

In section EX 21E(7)(g)(iii), replace "NZIAS 39" with "IFRS 9".

In section EX 21E(10)(c), in the words before the sub-paragraphs, replace "NZIAS 39" with "IFRS 9".

In section EX 21E(10)(c)(ii), replace "NZIAS 39" with "IFRS 9".

In section EX 21E(10)(cb)(i), replace "NZIAS 39" with "IFRS 9".

In section EX 21E(10)(cb)(ii), replace "NZIAS 39" with "IFRS 9".

In section EX 21E(10)(d), in the words before the sub-paragraphs, replace "NZIAS 39" with "IFRS 9".

In section EX 21E(10)(d)(iii), replace "NZIAS 39" with "IFRS 9".

In section EX 21E(12)(d)(ii), replace "NZIAS 39" with "IFRS 9".

In section EX 21E, in the list of defined terms, insert "IFRS 9".

Section EX 46 (Limits on choice of calculation methods)

In section EX 46(10)(c)(ii), replace "NZIAS 39" with "IFRS 9".

In section EX 46(10)(cb)(iii), replace "NZIAS 39" with "IFRS 9".

In section EX 46, in the list of defined terms, insert "IFRS 9".

Section EX 50 (Attributable FIF income method)

In section EX 50(4B)(e)(ii), replace "NZIAS 39" with "IFRS 9".

In section EX 50(4B)(f)(ii), replace "NZIAS 39" with "IFRS 9".

Section EX 50 (Attributable FIF income method)—*continued*

In section EX 50(4B)(g)(ii), replace "NZIAS 39" with "IFRS 9".

In section EX 50(4B)(h)(ii), replace "NZIAS 39" with "IFRS 9".

In section EX 50(4B)(p), replace "NZIAS 39" with "IFRS 9" in each place where it appears.

In section EX 50(4B)(r), replace "NZIAS 39" with "IFRS 9" in each place where it appears.

In section EX 50(4B)(s), replace "NZIAS 39" with "IFRS 9" in each place where it appears.

In section EX 50(7C)(a)(iii), replace "NZIAS 39" with "IFRS 9".

In section EX 50, in the list of defined terms, delete "NZIAS 39".

In section EX 50, in the list of defined terms, insert "IFRS 9".

Section HM 35B (Treatment of certain provisions made by multi-rate PIEs)

In section HM 35B(4), replace "NZIAS 39" with "IFRS 9".

In section HM 35B, in the list of defined terms, delete "NZIAS 39".

In section HM 35B, in the list of defined terms, insert "IFRS 9".

Section YA 1 (Definitions)

In section YA 1, repeal the definition of **NZIAS 39**.

In section YA 1, insert, in appropriate alphabetical order:

> **IFRS 9** means the IFRS, numbered 9, that relates to financial reporting of financial assets and financial liabilities

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