

Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Bill

Government Bill

As reported from the Finance and Expenditure Committee

Commentary

Recommendation

The Finance and Expenditure Committee has examined the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Bill and recommends unanimously that it be passed. We also recommend all amendments unanimously.

Further to recommending amendments to the bill, we recommend that the Government undertake policy work to streamline the legislative process for tax responses to emergency events.

Introduction

The bill is an omnibus bill that seeks to amend the following Acts:

- Income Tax Act 2007
- Tax Administration Act 1994
- Goods and Services Tax Act 1985
- KiwiSaver Act 2006
- Child Support Act 1991
- Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022
- Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023.

We are also proposing amendments to the Income Tax Act 2004.

The bill has three main purposes. First, it would set the annual rates of income tax for the 2023–24 tax year. Second, the bill aims to improve tax settings within a broad-base, low-rate framework for income tax. Third, it aims to improve settings for tax

administration, KiwiSaver, and child support rules administered by the Inland Revenue Department (Inland Revenue).

Supplementary Order Paper 423

The previous Government introduced Supplementary Order Paper No 423 (now referred to as Amendment Papers under changes to Standing Orders) and asked that it be considered alongside the bill. The current Government has indicated that it supports the supplementary order paper.

Supplementary Order Paper 423 would amend the Income Tax Act 2007 to:

- temporarily extend Fonterra’s existing ability to deduct certain distributions to its shareholders from its assessable income
- ensure that the bright-line and other time-related tests in the Income Tax Act do not apply to a property that has been affected by the North Island floods and subsequently bought out by the Crown or a local authority
- ensure that, if a property owner needs to vacate their flood-damaged or cyclone-damaged home for more than 12 months, it will not affect the main home exclusion from the 10-year bright-line test.

We have considered the supplementary order paper and incorporated it into the version of the bill that we are reporting back to the House. The main provisions that it would insert are clauses 9(1B), 18B, 20B, new sections CB 16A(1C), CZ 26B, and CZ 41 of the Income Tax Act.

Legislative scrutiny

As part of our consideration of the bill, we have examined its consistency with principles of legislative design. We are satisfied that our initial questions have been addressed by officials.¹

Proposed amendments and the structure of this commentary

In this commentary, we discuss only the main changes we recommend to the bill. We have organised our comments by topic, rather than following the order of the clauses as they appear in the bill.

The recommendations that we discuss in this commentary cover the following topics:

- Global Anti-Base Erosion rules
- trustee tax rate
- taxation of backdated lump sum payments
- taxation rollover relief
- Nelson floods and bright-line test

¹ Refer to pages 21, 32, 44, 47, 195, and 207 of the departmental report.

- overseas donee status
- correcting extra pay inaccuracy on termination
- gift-exempt bodies
- deregistration tax.

Remedial and minor amendments

The bill would make several remedial amendments designed to ensure that tax legislation works as intended, such as updating terminology and correcting cross-referencing errors. We have recommended further changes of a similar nature. We do not discuss these minor and technical amendments in this commentary.²

Global anti-base erosion rules

Clause 44 of the bill would insert subpart HP into the Income Tax Act 2007. This subpart would implement the OECD’s global anti-base erosion (GloBE) rules in New Zealand. These rules are intended to prevent a “race to the bottom”, where countries compete to attract mobile income (such as interest, dividends, and royalties) by offering tax incentives and low tax rates. This “race to the bottom” can mean that some large multinational enterprises pay comparatively little tax.

The GloBE rules would apply only to multinational enterprises with consolidated revenue above €750 million in any two of the preceding four years. These entities would have to pay a multinational top-up tax to Inland Revenue, based on:

- an income inclusion rule, applying when a New Zealand based multinational enterprise has under-taxed income in another country
- a domestic income inclusion rule, applying when a New Zealand based multinational enterprise has under-taxed income in New Zealand
- an under-taxed profits rule, which is a back-up rule that would ensure that multinational enterprises based in countries that do not implement the GloBE rules still have to pay top-up tax.

Incorporating GloBE rules by reference

The GloBE rules are set out in documents published by the OECD.³ The bill proposes to refer to these documents rather than replicating their entire content in legislation.

We acknowledge that some submitters oppose incorporating the GloBE rules by reference. They were concerned about the potential for undermining New Zealand’s autonomy, not being able to easily access the rules, and not being aware of changes to the rules.

² For a list of the technical and remedial changes that we are recommending, refer to pages 289 to 291 of the departmental report.

³ These documents are available on the OECD website: 1) model GloBE rules; 2) commentary to the GloBE rules; and 3) agreed administrative guidance.

On balance, we accept that incorporating GloBE rules by reference is preferable to replicating them in legislation. The documents that set out the GloBE rules and their application are lengthy. Reproducing this content in legislation would require substantial resources, might give rise to inadvertent errors, and risks New Zealand diverging from the rules. We note that New Zealand contributes to setting GloBE rules, and affected businesses generally have input into the agreed administrative guidance.

We agree with submitters that it is vital that entities affected by GloBE rules have the information they need to comply with the law. We urge Inland Revenue to ensure that this occurs.

Clarifying that GloBE rules should apply for a fiscal year

We recommend amending proposed section HP 3(3) to clarify that the GloBE rules apply for a fiscal year.

Consistency with OECD commentary and guidance

In the unlikely event that the GloBE model rules were inconsistent with the commentary and agreed administrative guidance, the desired policy outcome would be for the latter documents to prevail. Proposed section HP 3(3) says that the GloBE rules would be treated as applying “consistently with” the most recent commentary and agreed administrative guidance. However, this wording might not mean that the commentary and guidance prevailed as desired.

We recommend inserting section HP 3(4), which states “if there is a conflict between the [GloBE] rules and commentary or guidance ... the commentary or guidance prevails.” We also recommend replacing the phrase “consistently with” in proposed section HP 3(3) with “subject to the modifications made by subsection (2), in accordance with”. We recommend deleting the phrase “treated as” to reduce ambiguity.

Application date

In the bill as introduced, the GloBE rules would apply from a date set by Order in Council. However, we understand that many countries have adopted the income inclusion rule from 1 January 2024, and an under-taxed profits regime from 1 January 2025. Therefore, we recommend that the application dates for the GloBE rules be set out in the bill, rather than left to Order in Council.

We recommend amending the bill so that the income inclusion rule and under-taxed profits rule apply from 1 January 2025, and that the domestic income inclusion rule applies from 1 January 2026. Having these dates set in legislation would give certainty to affected entities and allow them time to establish systems that ensure they comply with the rules.

Release from joint and several liability

Proposed section HP 1(3) states that constituent entities located in New Zealand are jointly and severally liable for any tax payable under the GloBE rules. We recom-

mend inserting section HP 1(4) to allow for the release of an entity from joint and several liability when it leaves a particular multinational enterprise group.

Foreign tax credit

Submitters suggested that the bill did not make clear whether money paid under a qualified domestic minimum top-up tax (QDMTT) would be included within the meaning of “foreign income tax”. This would make it eligible for a foreign tax credit. We recommend amending clause 48 to make it clear that such a payment would be considered “foreign income tax” which would be eligible for a foreign tax credit.

Binding rules on the applied GloBE rules

The Commissioner of Inland Revenue can issue binding rulings in respect of the application of tax law.⁴ The rulings give taxpayers certainty about how the Commissioner will apply the law.

We believe the Commissioner should be able to issue binding rulings in relation to GloBE rules, including the commentary and agreed administrative guidance. We therefore recommend inserting clause 71D into the bill, to amend section 91C of the Tax Administration Act.

Empowering assessment provisions for discretionary penalties

Two discretionary penalties proposed by the bill and two existing penalties do not have provisions empowering Inland Revenue to assess the penalties. We recommend inserting clauses 72C and 72D (to insert new sections 94BB to 94BD into the Tax Administration Act) so there is no doubt that Inland Revenue can assess the penalties if the relevant statutory requirements are met.

Trustee tax rate

The trustee tax rate is currently 33%. The bill would increase it to 39%. This increase would align the trustee tax rate with the top personal tax rate from the 2024–25 tax year.

We received submissions that called for a differentiated approach, where trusts with different levels of trustee income would be taxed at different rates. Submitters had a range of views about the possible details of this differentiated approach and potential thresholds.

We broadly agree with the proposal in these submissions that trusts with income below a *de minimis* threshold be taxed at the lower rate. We recommend amending clauses 39 and 62 of the bill to insert proposed section HC 40 and update the schedule of basic tax rates in the Income Tax Act. These amendments would mean that, for the 2024–25 and later income years:

⁴ Section 91C of the Tax Administration Act.

- trusts with trustee income up to and including \$10,000 (after deductible expenses) would continue to be taxed at 33%
- trusts with trustee income of more than \$10,000 (after deductible expenses) would be taxed at 39%.

Trustee income is concentrated in a small number of trusts. In the 2021–22 tax year, 5% of trusts (9,000 out of 177,000) accounted for 78% of trustee income (\$13.3 billion out of \$17.1 billion). Given this concentration, a \$10,000 threshold would help to reduce over-taxation for many trusts, while still addressing most of the under-taxation of trust income.

A \$10,000 threshold (rather than a higher one) would also mitigate the incentive to create multiple trusts to take advantage of the lower tax rate. The maximum benefit would be \$600. (A trust with \$10,000 in income would pay \$3,300 in tax. A trust with \$10,001 in income would pay \$3,900 in tax.)

We note that ongoing compliance costs for a trust can range from \$750 to \$1,000, negating the \$600 maximum benefit. Given this low incentive to settle multiple trusts, we do not think there need to be additional rules or anti-avoidance provisions.

A threshold higher than \$10,000 would increase the maximum possible benefit of settling multiple trusts, incentivising this behaviour and increasing the need for a complicated anti-avoidance provision.

Disabled beneficiary trusts

To mitigate over-taxation, the bill proposes to tax trusts set up for the care of disabled people at the personal tax rate of the disabled beneficiary, rather than at the trustee tax rate.

Instead, we recommend that a 33% flat rate apply to all disabled beneficiary trusts. We recommend this change because:

- in some cases, trustees may not be aware of a beneficiary’s personal tax rate
- a 33% rate is the status quo, and would be consistent with other amendments to the bill that we are recommending
- it would be simpler to tax at a flat rate if a disabled beneficiary trust has multiple disabled beneficiaries. (We recommend below allowing disabled beneficiary trusts to have multiple beneficiaries.)

This change would be made to clauses 39 and 62(2) of the bill, proposed section HC 39(1) and schedule 1, part A, clause 6B(a) of the Income Tax Act.

Definition of the term “disabled beneficiary”

The bill as introduced would insert a definition of the term “disabled beneficiary” into the Income Tax Act. The bill defines a disabled beneficiary as a person who receives a supported living payment or a child disability allowance.

We agree with submitters that this definition is too narrow and recommend broadening the definition to also include:

- a person who receives Jobseeker support on the ground of a health condition, injury, or disability
- a person who receives the disability allowance
- a person aged 65 or older, and who met the definition of disabled beneficiary in the income year they turned 65, or the year prior.

This new definition is set out in proposed section HC 39(3), inserted by clause 39.

It is important that the definition is based on objectively verifiable criteria to ensure it can be administered by Inland Revenue. We encourage Inland Revenue to monitor whether the definition needs to be updated to account for scenarios that have not yet been identified.

Limit on the number of beneficiaries

In the bill as introduced, trusts with multiple beneficiaries would be ineligible for the disabled beneficiary trust tax rate. We believe this is too restrictive and could result in unnecessary additional compliance costs. We recommend allowing disabled beneficiary trusts to have multiple beneficiaries, if they all meet the definition of “disabled beneficiary”.

Trust deeds commonly include provisions to add and remove beneficiaries. A trust set up to provide for a disabled person that includes such provisions would not be eligible under the bill as introduced. We recommend amending the bill (proposed new section HC 39(2)) so that these trusts are eligible.

Receiving payments in relation to an income year

We understand that it is not unusual for people to receive a support payment after the end of the income year due to administrative delays. We recommend amending clause 39 (the definition of a “disabled beneficiary”) so that it does not refer to people receiving government support payments *during* a particular income year. This would otherwise limit eligibility.

Deceased estates

In the bill as introduced, clause 33 would insert new section HC 8B into the Income Tax Act. This section would enable trustees to elect to have trustee income derived within 12 months after someone has died taxed at the deceased’s personal tax rate (instead of the trust tax rate).

Instead of the deceased’s personal tax rate applying, we recommend a flat tax rate of 33%. This would be simpler for taxpayers and Inland Revenue. Given that 84% of estates have trustee income of \$10,000 or less, reducing compliance costs is particularly desirable. We also recommend amending the bill so that this flat rate is the default for all estates, instead of being opt-in.

We agree with the numerous submissions that 12 months is insufficient for this provision. We understand that the average estate requires at least 18 months to be wound up, and that 85% of estates are likely to be wound up within 3 years after the income

year of a person's death. We therefore recommend that this provision apply for the income year of the person's death and the 3 subsequent income years.

Superannuation schemes

We acknowledge concerns raised by submitters about the possible over-taxation of trusts that are superannuation schemes.

The Income Tax Act defines a “widely-held superannuation fund” as a retirement scheme that has 20 or more members. These schemes are taxed at a flat rate of 28%. This tax rate is intended to ensure that such schemes are taxed in a similar manner to PIEs.

We note that, over time, membership of a retirement scheme that is not accepting new members will naturally decline below 20 members, so it will no longer meet the definition of a “widely-held superannuation fund”. These schemes should not then become subject to a higher tax rate. We recommend applying a 28% tax rate to trusts that formerly qualified as a “widely-held superannuation fund” and cannot have new members. This change would be made by inserting clauses 59(11B) and 62(1B) into the bill.

Energy consumer trusts

We received submissions that trusts with beneficiaries representing a wide range of the public, such as trusts that own electricity distribution companies, should be excluded from the 39% trustee tax rate due to the risk of over-taxation. We agree that all energy consumer trusts should continue to be taxed at the current 33% tax rate and recommend amending the bill to this effect. These trusts are a well-defined group, so providing them an exclusion does not raise integrity concerns. This change would be made by amending clause 62(2) of the bill.

Corporate beneficiary income

A company can be a beneficiary of a trust. The bill proposes to treat income that is derived by certain corporate beneficiaries as trustee income. This treatment would apply if a settlor of a trust has natural love and affection for a shareholder of the close company beneficiary. This would ensure that the proposal is targeted towards family trusts and companies.

This treatment may not apply if the settlor is the sole shareholder of the company because a settlor cannot have natural love and affection for themselves. We recommend amending clause 39 of the bill (proposed section HC 38(1) of the Income Tax Act) so that it also applies if a direct or indirect shareholder of the close company is a trustee of a trust or a settlor of the trust making the beneficiary income allocation.

To ensure that this rule does not affect the use of trusts in the securitisation industry, we recommend amending clause 39 to exclude securitisation trust beneficiaries.

Foreign trusts

Section 78(1) of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 amended section HC 26 of the Income Tax Act. The amendment replaced “New Zealand resident trustee” with “resident trustee of a foreign trust”. This appears to narrow the scope of section HC 26, which concerns exempt income, so that it only applies to foreign trusts. This was not intended. We recommend inserting clause 36B into the bill to reverse this change.

Taxation of backdated lump sum payments

The bill would change the way backdated lump sum payments from ACC and the Ministry of Social Development are taxed. The current treatment of these payments often results in over-taxation. Recipients can be pushed into a higher tax bracket by a lump sum payment and end up paying more tax than they otherwise would have if the payment had been made across multiple income years.

The bill proposes to tax backdated lump sum payments in a way that is intended to approximate the lower amount of tax that would have been owed. As introduced, the bill would not extend this change to attendant care payments. That would create unfairness.

We recommend amending clause 57 (proposed new section RD 20B of the Income Tax Act) so that the proposed changes also apply to backdated lump sum payments for attendant care.

Taxation rollover relief for 2023 North Island floods

Insurance proceeds for assets destroyed by the January and February 2023 North Island flooding events may give rise to unexpected taxable gains. The bill would enable taxpayers to defer the resulting tax liability for up to five years, provided they commit to rebuilding or replacing the destroyed assets. The deferred income would be offset against the cost of the replacement asset. (Clauses 18 to 18C, and 26.) This would provide some cash flow benefits to insured businesses and limit the windfall revenue gain that the Government would otherwise receive.

The proposed amendments would be effective for the 2022–23 and later income years. They would cease in the 2027–28 income year. Similar temporary tax relief was provided for assets destroyed by the Canterbury and Hurunui/Kaikōura earthquakes.

We recommend the below changes to provisions related to taxation rollover relief.

Central and local government buy-outs

Since the bill was introduced to the House in May 2023, the Government has announced funding to assist local councils to purchase certain flood- and cyclone-affected residential properties. For consistency, the taxation rollover provisions should also apply to gains or depreciation recovery income arising from the buy-out of a property. To this effect, we recommend amending clause 18.

Extending taxation rollover relief to land improvements

Some taxpayers may receive an insurance pay-out for land improvements covered by sections DO 4 and DO 5 of the Income Tax Act, potentially giving rise to taxable gains. (Section DO 4 covers a range of land improvements, such as support frames for crops, access roads and tracks, dams, stop-banks, and vineyard vines. Section DO 5 covers horticultural plants such as apple trees.) Again, for consistency, we recommend extending taxation rollover relief to cover these land improvements by inserting clause 18B.

June 2023 East Coast floods

Clause 59(13) of the bill would replace the definition of “North Island flooding events” in the Income Tax Act. The new definition would include “circumstances where damage caused by [Cyclones Hale and Gabrielle and heavy rainfall from 26 January to 3 February 2023] is exacerbated by a subsequent weather event”.

One submission asked that the bill be amended to make it clear that the June 2023 East Coast floods are covered by the new definition of North Island flooding events to the extent the June 2023 East Coast floods exacerbate the damage resulting from the earlier events, and are therefore eligible for taxation rollover relief. We do not consider an amendment to the bill necessary as current clause 59(13) includes within the definition circumstances where damage caused by any of the listed January-February 2023 events is exacerbated by a subsequent weather event, such as the June 2023 East Coast flood event.

Requirement to assess asset as uneconomic to repair

Tax rules generally distinguish between assets that are repairable and those that are irreparably damaged or rendered useless. Assets may be technically repairable, but it could be uneconomic to do so. Proposed section EZ 83 of the Income Tax Act, as inserted by clause 27, provides for the disposal and reacquisition of assets that are damaged by a January/February North Island flooding event and are uneconomic to repair. This would ensure that the assets would be eligible for taxation rollover relief.

As introduced, the proposed section would only apply if the asset is “assessed by the payer of the insurance or compensation, or another qualified assessor, as uneconomic to repair”. We consider that businesses can be relied on to make this assessment themselves. Requiring a third-party assessment would be a barrier to rollover relief.

We recommend amending proposed section EZ 83(1)(c) to apply to property that a person reasonably assesses as uneconomic to repair.

Thin capitalisation rule

Proposed section FZ 7B of the Income Tax Act would allow for an optional adjustment to how group assets are measured for the purposes of thin-capitalisation rules.

A person who chooses to take advantage of this option would be required to notify the Commissioner of Inland Revenue and provide certain information. We recommend amending proposed section FZ 7B, as inserted by clause 30, to only require

people to provide a “reasonable assessment” of the relevant amount of income. This should address concerns that a precise measurement of the relevant income would be onerous.

Date for providing rollover notification to Inland Revenue

The bill would require taxpayers who want to take advantage of taxation rollover relief in the 2022–23 income year to notify the Commissioner of Inland Revenue by 31 January 2024, or 31 March 2024 if they have a tax agent.

Given the timeline for consideration and probable enactment of this bill, the deadline for notifying IRD needs to be extended. We recommend amending proposed sections CZ 25C(6) and EZ 23BE(10) of the Income Tax Act so that the new deadline is 30 April 2024 (clauses 18 and 26).

Recommended future policy work

Although not directly related to the bill, we recommend that Inland Revenue undertake policy work to streamline the legislative process for tax responses to emergency weather events. Currently if there is an emergency event, Inland Revenue must wait for the next tax bill to be introduced or quickly propose amendments in the fortunate event that a tax bill is already before the House. This can create uncertainty and delays for taxpayers at a time of high stress.

One possibility could be to pass legislation that establishes a framework of “off the shelf” tax measures. Then, following an emergency event, the appropriate tax response could be chosen and activated by way of an Order in Council.

We recommend that the Government put this policy matter on the tax and social policy work programme.

Nelson floods and bright-line test

Proposed section CZ 26B of the Income Tax Act (to be inserted by new clause 18C) would ensure that the bright-line and other time-related tests do not apply to a property that has been affected by North Island adverse weather events and subsequently bought out by the Crown or a local authority.

Since this proposal was developed, the Government has announced a support package to help fund the Nelson City Council’s buy-out of properties affected by the August 2022 floods. We understand that this will involve 14 properties. It is possible that the bright-line or other time-related tests could apply to these properties.

We recommend adjusting clause 59(12B), originally proposed by the amendment paper, so that these floods are included in the definition of a North Island adverse weather event. This would make them eligible for the exclusion in proposed section CZ 26B.

Overseas donee status

If someone donates to a charity with overseas donee status, they are able to claim tax benefits, such as the donation tax credit, for their donation. Schedule 32 of the Income Tax Act lists organisations that have overseas donee status.

Clause 64 of the bill would add and remove some charities from that schedule. We recommend amending clause 64 so that Emergency Alliance is also granted overseas donee status.

Emergency Alliance has eight members. These members are all charities that are already listed in schedule 32. Emergency Alliance has been created to achieve efficiencies and remove cost duplication. Its purposes are consistent with Cabinet's approval criteria for granting overseas donee status.

On 26 October 2023, Emergency Alliance started an urgent appeal in response to the humanitarian crisis in Gaza. We recommend inserting clause 2(14C) into the bill so that Emergency Alliance is deemed to have had overseas donee status beginning on 26 October 2023.

Correcting inaccuracy in taxing extra pay on termination

Section RD 17 of the Income Tax Act can result in the inaccurate taxation of extra pay received when employment is terminated. Clause 56 of the bill would amend section RD 17 to provide a new method for calculating the applicable tax rate for all extra pay. This is intended to reduce inaccurate taxation.

The new method would annualise the amount received in the last two pay periods for which payment was received. Submitters raised the possible situation where the two prior pay periods are not available. We suggest that this matter be addressed through guidance produced by Inland Revenue, not through legislation.

We recommend limiting the application of this new method to the specific situation where extra pay arises from the termination of employment. The current rules should remain in force for other instances of extra pay. This would allow time to design legislation that best improves the accuracy of taxation in those other instances.

Given the timeline for consideration and probable enactment of this bill, we recommend extending the application date of this provision from 1 April 2024 to 1 April 2025. This would allow time for payroll providers to develop the proposed new rule.

Gift-exempt bodies

Clause 66(4) would update the definition of gift-exempt body to include all charities registered under the Charities Act 2005 and all tax-exempt persons eligible to apply for exempt status from resident withholding tax. We recommend deleting this subclause from the bill. This would allow time to work through any unintended consequences, such as those raised by submitters about reporting and monitoring requirements for gift-exempt bodies.

Deregistration tax

Clause 46 would amend section HR 12 of the Income Tax Act. This amendment would mean that when a charity is deregistered and does not re-register within one year, certain net assets would be taxed if they are not disposed of or transferred to another registered charity.

We recommend inserting clause 46(2) so that the deregistration tax applies only to charities that deregister on or after 1 April 2024. It would not be fair to apply the tax to charities that are already in the process of deregistering.

Not all charitable entities are registered charities. Registering under the Charities Act 2005 is voluntary, and there are various legitimate reasons why an entity may not register. We recommend amending clause 46(1) so deregistered charities can transfer assets for charitable purposes to “a New Zealand resident person, other than a natural person, that derives exempt income under any of sections CW 38 to CW 52, CW 55BA, or CW 64” of the Income Tax Act. These will be entities that are already tax-exempt, such as amateur sporting bodies and community housing entities. We think it would be overly restrictive to limit the transfer of assets to registered charities.

Appendix

Committee process

On 18 May 2023, the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Bill was referred to the Finance and Expenditure Committee of the 53rd Parliament. On 6 December 2023, the bill was reinstated with the Finance and Expenditure Committee of the 54th Parliament. We considered Supplementary Order Paper 423 alongside the bill.

The closing date for submissions on the bill was 14 July 2023. Written submissions from 67 interested groups and individuals were received and considered. We heard oral evidence from 25 submitters at hearings held in Wellington and via videoconfer-
ence.

We received advice from the Inland Revenue Department and our independent specialist tax adviser Therese Turner. The Inland Revenue Department assisted with legal drafting. The Office of the Clerk provided advice on the bill’s legislative quality. The Regulations Review Committee wrote to us about clauses 2, 44, and 77 of the bill.

We wish to register our sincere thanks to Therese Turner for her work as the independent specialist adviser on tax bills over the last 25 years. Her advice has been invaluable to members of the Finance and Expenditure Committee and undoubtedly improved parliamentary scrutiny of tax legislation. We wish her all the best.

Committee membership

Stuart Smith (Chairperson)

Jamie Arbuckle

Hon Barbara Edmonds

Nancy Lu

David MacLeod

Hon Grant Robertson

Hon Dr Deborah Russell

Todd Stephenson

Chlöe Swarbrick

Rawiri Waititi

Catherine Wedd

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Key to symbols used in reprinted bill

As reported from a select committee

text inserted unanimously

~~text deleted unanimously~~

Hon Simon Watts

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<u>20B</u>	<u>New section CZ 41 inserted (Distributions to supplying shareholders of Fonterra: 2022–23 to 2024–25 income years)</u>	<u>26</u>
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21	Section DB 1 amended (Taxes, other than GST, and penalties)	28
<u>21B</u>	<u>Section DB 46 replaced (Avoiding, remedying, or mitigating effects of discharge of contaminant or making of noise)</u>	<u>29</u>
	<u>DB 46 Avoiding, remedying, or mitigating effects of discharge of contaminant or making of noise</u>	<u>29</u>
<u>21C</u>	<u>Section DH 4 amended (When this subpart does not apply: exemptions for new builds, development, social or emergency or transitional housing, and council housing)</u>	<u>32</u>
<u>21D</u>	<u>Section DH 5 amended (Key terms)</u>	<u>32</u>
<u>21E</u>	<u>New section DO 9B inserted (Meaning of diminished value)</u>	<u>33</u>
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<u>21F</u>	<u>Section DV 11 amended (Distribution to member of co-operative company, excluded from being dividend)</u>	<u>34</u>
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23	Section EW 37 amended (Consideration when person enters rules: accrued obligation)	35
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<u>24B</u>	<u>Section EW 46C amended (Consideration when debt remitted within economic group)</u>	<u>36</u>
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**Taxation (Annual Rates for 2023–24, Multinational Tax,
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30	New cross-heading and section FZ 7B inserted	46
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32	Section HC 7 amended (Trustee income)	47
33	New section HC 8B inserted (Trustee income within 12 months after person's death <u>Trustee income in income year of person's death and following 3 income years</u>)	48
	HC 8B <u>Trustee income within 12 months after person's death</u>	48
	HC 8B <u>Trustee income in income year of person's death and following 3 income years</u>	49
34	Section HC 13 repealed (Charitable trusts)	49
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**Taxation (Annual Rates for 2023–24, Multinational Tax,
and Remedial Matters) Bill**

36B	<u>Section HC 26 amended (Foreign-sourced amounts: resident trustees)</u>	50
37	Section HC 29 amended (Settlors' liability to income tax)	50
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	HP 2 Payment date for multinational top-up tax	55
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**Taxation (Annual Rates for 2023–24, Multinational Tax,
and Remedial Matters) Bill**

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61	Section YD 4 amended (Classes of income treated as having New Zealand source)	71
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**Taxation (Annual Rates for 2023–24, Multinational Tax,
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67	Section 32E amended (Applications for RWT-exempt status)	75
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70	Section 79 amended (Other annual returns)	79
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<u>71C</u>	<u>Section 91AAS amended (Declaration of emergency event for purposes of family scheme income)</u>	<u>79</u>
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<u>94BCB</u>	<u>Assessment of penalty for failing to register or provide information for purposes of applied global anti-base erosion rules</u>	<u>81</u>
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Amendments to other enactments and revocations

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79	Section 10 amended (Value of supply of goods and services)	85
80	Section 11A amended (Zero-rating of services)	85
81	Section 19N amended (Supply correction information)	85
82	Section 20 amended (Calculation of tax payable)	85
83	Section 25 amended (Adjustments for inaccuracies)	85
<u>83B</u>	<u>Section 60C amended (Electronic marketplaces)</u>	<u>85</u>

Amendments to KiwiSaver Act 2006

84	Amendments to KiwiSaver Act 2006	86
85	Section 4 amended (Interpretation)	86
86	Section 220B amended (Information sharing)	86

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Amendments to Child Support Act 1991

87	Amendments to Child Support Act 1991	86
88	Section 87A amended (Four-year time bar for amendment of certain assessments)	87
89	Schedule 1 amended (Application, transitional, and savings provisions relating to amendments to Act made on or after 1 April 2015)	87

Amendments to Income Tax Act 2004

<u>89B</u>	Amendments to Income Tax Act 2004	87
<u>89C</u>	Section DB 37 replaced (Avoiding, remedying, or mitigating effects of discharge of contaminant)	87
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Amendments to Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022

90	Amendments to Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022	91
<u>90B</u>	Section 48 amended (Section CB 6A replaced (Disposal within 10 years: Bright-line test for residential land))	91
<u>90C</u>	Section 227 amended (Section 183ABAC amended (Remission of interest on terminal tax for 2020–21 tax year for provisional taxpayers affected by COVID-19))	91

Amendments to Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023

91	Amendments to Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023	91
<u>91B</u>	Section 2 amended (Commencement)	91
<u>91C</u>	Section 24 repealed (Section CX 1 amended (Goods and services tax))	92
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<u>24B</u>	New section CX 1B inserted (Treatment of flat-rate credits under platform economy rules)	92
<u>CX 1B</u>	Treatment of flat-rate credits under platform economy rules	92
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<u>91F</u>	Section 123 amended (Section 3A amended (Meaning of input tax))	92
<u>91G</u>	Section 130 amended (New section 8C inserted (Supplies of listed services))	92
<u>91H</u>	Section 131 repealed (Section 9 amended (Time of supply))	93

**Taxation (Annual Rates for 2023–24, Multinational Tax,
and Remedial Matters) Bill**

<u>91I</u>	<u>Section 134 replaced (Section 11A amended (Zero-rating of services))</u>	<u>93</u>
	134 Section 11A amended (Zero-rating of services)	93
<u>91J</u>	<u>Section 136 repealed (Section 19K amended (Taxable supply information: supplies by registered person))</u>	<u>93</u>
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	136B New section 19NB inserted (Taxable supply information and supply correction information for listed services)	93
	19NB Taxable supply information and supply correction information for listed services	93
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<u>91M</u>	<u>New section 145B inserted (New section 25AAA inserted (Corrections of inaccuracies by marketplace operators))</u>	<u>94</u>
	145B New section 25AAA inserted (Corrections of inaccuracies by marketplace operators)	94
	25AAA Corrections of inaccuracies by marketplace operators	94
<u>91N</u>	<u>Section 151 amended (Section 60 amended (Agents and auctioneers))</u>	<u>94</u>
<u>91O</u>	<u>Section 152 amended (Section 60C amended (Electronic marketplaces))</u>	<u>95</u>
<u>91P</u>	<u>New section 152B inserted (New section 60CB inserted (Listing intermediaries and supply of listed services))</u>	<u>95</u>
	152B New section 60CB inserted (Listing intermediaries and supply of listed services)	95
	60CB Listing intermediaries and supply of listed services	95
<u>91Q</u>	<u>Section 153 amended (New section 60H inserted (Information requirements for underlying suppliers operating through electronic marketplaces))</u>	<u>97</u>
	<i>Amendment to Tax Administration (Regular Collection of Bulk Data) Regulations 2022</i>	
<u>91R</u>	<u>Amendment to Tax Administration (Regular Collection of Bulk Data) Regulations 2022</u>	<u>97</u>
	<i>Revocations</i>	
92	Revocations	97
	Schedule 1	
	New schedule 25B inserted into Income Tax Act 2007	98
	Schedule 2	
	New Part 7 inserted into Schedule 1 of Child Support Act 1991	100

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act **2023**.

2 Commencement

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

(1B) Sections 89C and 89D come into force on 1 October 2005.

(2) **Sections 12, 21B, 21E, 23, 24, 41, 42, 50, and 55 55, and 59(2B), (8C), (8D), (15D), and (16B)** come into force on 1 April 2008.

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(2B) Section 30B comes into force on 1 April 2011.

(3) **Sections 24D and 25** comes into force on 1 July 2011.

(3B) Section 83B(1) comes into force on 1 October 2016.

(4) **Section 58** comes into force on 1 April 2017.

(5) **Section 99(1) and (2)** comes into force on 29 March 2018.

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(6) **Section 61** comes into force on 1 July 2018.

(6B) Section 77B comes into force on 18 March 2019.

(6C) Sections 66(4B) and (6), 66C, 66D, and 67B come into force on 1 April 2019.

(6D) Section 83B(2) comes into force on 1 December 2019.

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(7) **Sections 59(6) and 67, 67, and 67D** come into force on 1 April 2020.

(8) **Sections 70(1) and (3) and 71(1) and (3)** come into force on 7 December 2020.

(9) **Sections 8, 8B(3), 8C(2), 8D, 9(1C), 12B, 20, 21C, 21D, and 59(7B), (10B), (14) and (18)** come into force on 27 March 2021.

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(9B) Section 67C(1) and (3) comes into force on 1 April 2021.

(10) **Section 88** comes into force on 26 October 2021.

(11) **Sections 73, 82(1A), (2), and (3), 83(1), and 90C** come into force on 30 March 2022.

(12) Sections 18, 22, 26, 27, 29, and 30 come into force on 1 April 2022.

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(12) Sections 18, 18B, 18C, 22, 26, 27, 29, 30, 55B(1), 59(12B) and (13F), and 90B come into force on 1 April 2022.

(12B) Sections 9B, 9C, 15C, 20B, 21F, and 59(10C), (13B), (13C), (13D), (15E), (15F), and (15G) come into force on 1 July 2022.

(12C) Section 64B(2) comes into force on 20 October 2022.

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- (13) **Sections 119(1B) and (1D), 11, 14, 15, 19, and 59(2), (3), and (13)** come into force on 8 January 2023.
- (13B) **Section 64B(3) and (4)** comes into force on 9 March 2023.
- (14) **Sections 8B(1), 16B, 24C, 36B, 64(2), 66(3B), 67C(2) and (4), 81, 82(1), and 83(2), and 83B(3)** come into force on 1 April 2023. 5
- (14B) **Section 71C** comes into force on 1 September 2023.
- (14C) **Section 64(2B)** comes into force on 26 October 2023.
- (15) **Section 46** comes into force on the date of introduction of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Bill.
- (15B) **Sections 21(1) and (1C), 48(1), 59(11), 66(3C), 66B, and 76C** come into force on 1 January 2024. 10
- (16) **Sections 91B to 91Q** comes into force on 31 March 2024.
- (17) **Sections 10, 13, 15B, 17, 31, 32, 33, 35, 36, 39, 46, 47, 55B(2), 55C, 56, 57, 59(8B), (9), (10), (11B), (11C), (13E), (15), (15B), (15C), (16), (17), and (19), 62, 66E, and 86** come into force on 1 April 2024. 15
- (18) **Section 85** comes into force on 1 July 2024.
- (19) **Sections 6, 7, 16, 44, 59(4), (5), and (12), 63(1) and (5), 66(3) and (5), 68, 69, 70(2), 71(2), 71B(2), 71D, 72, 72B(2), 72D, 73B, 75, 76B, and 77** comes into force on 1 January 2025.
- (19B) **Section 56** comes into force on 1 April 2025. 20
- (19C) **Sections 21(1B) and (2), 48(2), 51, 52, 53, 54, and 63(2), (3), (4), and (6)** come into force on 1 January 2026.
- (20) **Section 76** comes into force on 1 January 2027.
- (21) **Section 64(4)** comes into force on 1 April 2028.
- (22) **Sections 45, 66(3) and (5), 68, 69, 70(2), 71(2), 72, and 75** come into force on a single date set by Order in Council. 25
- (23) An Order in Council made under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Part 1

Annual rates of income tax

30

3 Annual rates of income tax for 2023–24 tax year

Income tax imposed by section BB 1 (Imposition of income tax) of the Income Tax Act 2007 must, for the 2023–24 tax year, be paid at the basic rates specified in schedule 1 of that Act.

Part 2 Amendments to Income Tax Act 2007

4	Amendments to Income Tax Act 2007	
	This Part amends the Income Tax Act 2007.	
5	Section BC 7 amended (Income tax liability of person with schedular income)	5
(1)	In section BC 7(5), replace “of a natural person investor” with “of a natural person who is resident in New Zealand and is an investor”.	
(2)	<u>In section BC 7, list of defined terms, insert “natural person” and “resident in New Zealand”.</u>	10
6	Section BF 1 amended (Other obligations)	
(1)	After section BF 1(b), insert:	
	(bb) multinational top-up tax under Part H:	
(2)	In section BF 1, list of defined terms, insert “multinational top-up tax”.	
7	Section BH 1 amended (Double tax agreements)	15
(1)	Replace section BH 1(4) with:	
	<i>Overriding effect</i>	
(4)	Despite anything in this Act, except the provisions listed in subsection (4B) , or in any other Inland Revenue Act or the Official Information Act 1982 or the Privacy Act 2020, a double tax agreement has effect in relation to—	20
(a)	income tax:	
(b)	any other tax imposed by this Act:	
(c)	the exchange of information that relates to a tax, as defined in paragraph (a)(i) to (v) of the definition of tax in section 3(1) of the Tax Administration Act 1994.	25
	<i>Provisions</i>	
(4B)	The provisions of this Act referred to in subsection (4) are—	
(a)	subsection (4C):	
(b)	subsection (5):	
(c)	subsection (5B):	30
(d)	section BG 1 (Tax avoidance):	
(e)	section GB 54 (Arrangements involving establishments):	
(f)	section RF 11C (Interest paid by non-resident companies to non-residents).	

	<i>Exclusion: multinational top-up tax</i>	
(4C)	A double tax agreement does not have effect in relation to multinational top-up tax; unless the double tax agreement expressly provides otherwise.	
(2)	In section BH 1, list of defined terms, insert “multinational top-up tax”.	
8	Section CB 6A amended (Disposal within 10 years: Bright-line test for residential land)	5
(1)	In section CB 6A(7), delete “original”.	
(2)	In section CB 6A, list of defined terms, insert “settlor”.	
8B	Section CB 6AB amended (Residential land transferred in relation to certain family trusts and other capacities)	10
(1)	Replace section CB 6AB(2), other than the heading, with:	
(2)	<u>When persons (the transferees) dispose of land that was transferred to them from a trustee of a trust that is a rollover trust (trust A), the bright-line acquisition date for the land is the bright-line acquisition date that the trustee of trust A had for the land if the trustee transfers the land to the transferees on or after 1 April 2022 and either,—</u>	15
(a)	<u>if the transferees had previously transferred the land to the trustee, the transferees acquire proportionally the same amount of land back from the trustee and, at the time the trustee transfers the land to the transferees,—</u>	20
(i)	<u>the transferees are beneficiaries of trust A; and</u>	
(ii)	<u>at least 1 transferee is a principal settlor of trust A; or</u>	
(b)	<u>if the transferees had not previously transferred the land to the trustee, all transferees were principal settlors at the time the trustee acquired the land and at the time the trustee transferred the land to the transferees.</u>	25
(2)	After section CB 6AB(2), insert:	
	<i>Family trusts: transfers from trusts — modified proportionality rule</i>	
(2B)	<u>For the purposes of the proportionality requirement in subsection (2)(a), in the case where a settlor who had previously transferred the land to the trustee has died, the proportionality requirement is met if the transferees receive at least the same proportion of the land back from the trustee as they had previously transferred.</u>	30
(3)	Repeal section CB 6AB(5)(a).	
8C	Section CB 6AC amended (Residential land transferred in relation to certain Māori family trusts)	35
(1)	After section CB 6AC(2), insert:	

Transfers from trusts — modified proportionality rule

(2B) For the purposes of the proportionality requirement in subsection (2)(b), in the case where a settlor who had previously transferred the land to the trustee has died, the proportionality requirement is met if the transferees receive at least the same proportion of the land back from the trustee as they had previously transferred.

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(2) Repeal section CB 6AC(4)(a).

8D New cross heading and section CB 15E inserted

After section CB 15D, insert:

Exclusion for land acquired from a co-owner on a partition or subdivision

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CB 15E Disposals of land subject to section CW 3C

When this section applies

(1) This section applies to a person for a disposal of land acquired from a co-owner on a partition or subdivision if—

(a) the person derives income from the disposal under section CB 10(2) or CB 15(1); and

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(b) at the time the person originally acquired their interest in the land that was partitioned or subdivided, the person was not associated with a person that carried on a business of developing land or dividing land into lots.

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Exclusion from some land provisions where no or minor acquisition of land while associated

(2) The amount of income the person derives under section CB 10(2) or CB 15(1) from disposing of the land is exempt income if the person's end value proportion under **section CW 3C** (Certain partitions or subdivisions of land) is no more than 105% of their acquisition proportion under **section CW 3C**.

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Partial exclusion from some land provisions where more than minor acquisition of land while associated

(3) If **subsection (2)** does not apply, the amount of income the person derives under section CB 10(2) or CB 15(1) from disposing of the land is reduced by the amount calculated by the formula—

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amount derived x (acquisition proportion ÷ end value proportion).

Definition of items in formula

(4) The items in the formula are defined in **subsections (5) to (7)**.

Amount derived

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(5) **Amount derived** is the amount the person derives from disposing of the land.

	<i>Acquisition proportion</i>	
(6)	<u>Acquisition proportion</u> is the person’s acquisition proportion as described in section CW 3C .	
	<i>End value proportion</i>	
(7)	<u>End value proportion</u> is the person’s end value proportion as described in section CW 3C .	5
	<i>Exclusion for group members and members of consolidated group</i>	
(8)	If subsection (2) or (3) applies to prevent an amount from being income of a person who is a member of a wholly-owned group of companies or a consolidated group, the amount is not income of the person under section CV 1 or CV 2 (which apply to group companies and consolidated groups).	10
	<small>Defined in this Act: amount, associated, consolidated group, co-owner, dispose, exempt income, income, land, wholly-owned group of companies</small>	
9	Section CB 16A amended (Main home exclusion for disposal within 10 years)	15
(1)	After section CB 16A(1), insert:	
	<i>Modified rule for constructing main home</i>	
(1B)	For the purposes of determining under subsection (1) whether residential land has been used for most of the bright-line period as a main home, the period in which the dwelling is constructed is ignored.	20
(1B)	Replace section CB 16A(1C), other than the heading, with:	
(1C)	Exempt main home period limit means—	
	(a) 365 days:	
	(b) a reasonable period in the case of a period during which person A—	
	(i) constructs a dwelling used as a main home for 1 or more main home persons:	25
	(ii) remediates a dwelling affected by a North Island flooding event and that dwelling is used as a main home for 1 or more main home persons.	
(1C)	Before subsection (3), insert:	30
	<i>Modified rule for transfers where rollover relief applies</i>	
(2B)	For the purposes of determining whether subsection (1) applies, if person A was the transferee in a transaction to which section CB 6AB applied, the transferor’s use of the property is attributed to person A (for example, if the transferor used the property as a main home for 1 year, this is attributed to person A).	35
(1D)	In section CB 16A, list of defined terms, insert “North Island flooding events”.	

- (2) **Subsection (1)** applies to a person’s disposal of residential land if the person acquires an estate or interest in the land on or after 29 March 2018 and disposes of it before 27 March 2021.

9B Section CD 2 amended (Distribution excluded from being dividend)

In section CD 2, after “section CD 34B”, insert “or **CZ 41** (Distributions to supplying shareholders of Fonterra: 2022–23 to 2024–25 income years)”. 5

9C Section CD 34B amended (Distributions to members of co-operative companies)

After section CD 34B(1), insert:

Exclusion 10

- (1B) Despite subsection (1), this section does not apply to a distribution to which **section CZ 41** (Distributions to supplying shareholders of Fonterra: 2022–23 to 2024–25 income years) applies.

10 Section CD 44 amended (Available capital distribution amount)

- (1) After section CD 44(7)(db), insert: 15

(dc) an amount is derived by the company that is subject to **section HC 38(2)** (Beneficiary income of certain close companies); or

- (2) **Subsection (1)** applies for the 2024–25 and later income years.

11 Section CE 1 amended (Amounts derived in connection with employment)

- (1) In section CE 1(2), words before the paragraphs, replace “CZ 29, and CZ 30” with “CZ 23B, and CZ 29 to CZ 30”. 20

- (2) In section CE 1(3)(a), replace “in sections CE 1B, and CW 16B to CW 16F, CZ 29, and CZ 30 (which relate to accommodation provided in connection with employment)” with “and in sections CE 1B, CW 16B to CW 16F, CZ 23B, and CZ 29 to CZ 30 (which relate to accommodation provided in connection with employment),”. 25

- (3) In section CE 1(3)(b), replace “sections CW 16B to CW 16F, CZ 29, and CZ 30” with “sections CW 16B to CW 16F, CZ 23B, and CZ 29 to CZ 30”.

12 Section CH 8 amended (Market value substituted)

- (1) In section CH 8(1), replace “section GB 7 (Arrangements involving CFC control interests)” with “section GC 8 (Insufficient amount receivable by person)”. 30

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

12B Section CW 3C replaced (Certain subdivisions of land)

Replace section CW 3C with:

CW 3C Certain partitions or subdivisions of land

Exempt income where no more than minor economic disposal of land

- (1) An amount that a person who is a co-owner of land derives from disposing of land to another co-owner on a partition or subdivision is exempt income if the person's proportion of the value of the land they receive on the partition or subdivision out of the total value of the land still held by persons who were co-owners, whether alone or jointly or in common with another person, is no less than 95% of their contribution to the cost of the land, including costs to subdivide, develop, and build on the land, as a proportion of the total cost.

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Partially exempt income where more than minor economic disposal of land

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- (2) If **subsection (1)** does not apply, an amount that a person who is a co-owner of land derives from disposing of land to another co-owner on a partition or subdivision is exempt income to the extent given by the following formula:

$$\text{amount derived} - (\text{total land value} \times (\text{acquisition proportion} - \text{end value proportion})).$$

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Definition of items in formula

- (3) The items in the formula are defined in **subsections (4) to (7)**.

Amount derived

- (4) **Amount derived** is the amount a co-owner receives from the disposal of their interest in the land to another co-owner on a partition or subdivision.

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Total land value

- (5) **Total land value** is the total value of the land held by all persons who were co-owners, whether alone or jointly or in common with another person, at the end of the partition or subdivision.

Acquisition proportion

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- (6) **Acquisition proportion** is the person's contribution to the cost of the land, including costs to subdivide, develop, and build on the land, as a proportion of the total cost.

End value proportion

- (7) **End value proportion** is the person's proportion of the value of the land they receive, whether alone or jointly or in common with another person, on the partition or subdivision out of the total value of the land still held by persons who were co-owners.

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Meaning of co-owner

- (8) **Co-owner**, in relation to land, includes a company in which the person is a shareholder, a person acting in their personal capacity, or their capacity as a trustee of a trust, partner in a partnership, or owner of a look-through company,

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	<u>even if they became a co-owner of the land in a different one of those capacities.</u>	
	<u>Defined in this Act: amount, co-owner, company, dispose, exempt income, land, look-through company, partner, partnership, shareholder, trustee</u>	
13	Section CW 10 amended (Dividend within New Zealand wholly-owned group)	5
(1)	After section CW 10(6), insert: <i>Relationship with other provisions</i>	
(7)	This section overrides section HC 38 section HC 38 (Beneficiary income of certain close companies).	10
(2)	Subsection (1) applies for the 2024–25 and later income years.	
14	Section CW 16B amended (Accommodation expenditure: out-of-town secondments and projects)	
	In section CW 16B(5), replace “CZ 29, and CZ 30” with “and CZ 29 to CZ 30”.	15
15	Section CW 16C amended (Time periods for certain accommodation expenditure)	
	In section CW 16C(6), replace “or CZ 29 (Accommodation expenditure: Canterbury earthquake relief)” with “, CZ 29 (Accommodation expenditure: Canterbury earthquake relief), or CZ 29B (Accommodation expenditure: North Island flooding events)”.	20
15B	Section CW 35 amended (Personal service rehabilitation payments)	
	In section CW 35(2), replace “CZ 36, DF 4, and LB 7” with “DF 4, LB 7, and RD 20B ”.	
15C	Section CW 52B amended (Disability support services)	25
	<u>In section CW 52B(1), replace “or the Māori Health Authority” with “, the Māori Health Authority, the Ministry for Disabled People, or the Ministry of Health”.</u>	
16	Section CW 57 amended (Non-resident company involved in exploration and development activities)	30
(1)	In section CW 57(1)(a), replace “2020” with “2025”.	
(2)	In section CW 57(1)(b), replace “2024” with “2029”.	
16B	Section CX 19D amended (Certain self-powered and low-powered vehicles and vehicle-share services)	
	<u>After section CX 19D(4), insert:</u>	35

Secondary legislation

- (5) Regulations made under this section are secondary legislation (see Part 3 of the Legislation Act 2019 for publication requirements).

17 New cross-heading and section CX 58B inserted

- (1) After section CX 58, insert: 5

*Certain amounts from trusts***CX 58B Amounts derived by certain close companies from trusts**

To the extent to which **section HC 38** (Beneficiary income of certain close companies) applies to an amount of beneficiary income of a close company, the amount is excluded income of the close company. 10

Defined in this Act: amount, beneficiary income, close company, excluded income

- (2) **Subsection (1)** applies for the 2024–25 and later income years.

18 New section CZ 25C inserted (Land or buildings as revenue account property affected by North Island flooding events and replaced—insurance or compensation) 15

- (1) After section CZ 25B, insert:

CZ 25C Land or buildings as revenue account property affected by North Island flooding events and replaced—insurance or compensation

When this section applies

- (1) This section applies for a person and an income year (the **current year**) before the 2028–29 income year when the person,— 20
- (a) in or before the current year, derives for buildings or land (the **affected property**), all of which is revenue account property under section CB 6, CB 7, CB 12 or CB 13 (which relate to income from certain disposals of land), insurance, ~~or a government or local authority buy-out or other compensation, or a combination of these,~~ if a North Island flooding event damages the land or the building, or the neighbourhood of the building, causing the building to be useless for the purpose of deriving income and consequently to be demolished or abandoned for later demolition; and 25 30
- (b) in the absence of this section, would have, in or before the current year, a total amount of income (the **insurance income**) under section CB 6, CB 7, CB 12, CB 13, or CG 6 (Receipts from insurance, indemnity, or compensation for trading stock) from the compensation or insurance for the affected property that exceeds the total amount of deductions under section DB 23 (Cost of revenue account property) for the affected property; and 35

- (c) plans, in the current year, to acquire property (the **replacement property**)—
- (i) replacing affected property; and
 - (ii) meeting the requirements of **subsection (4)**; and
 - (iii) having a cost exceeding the total amount of deductions under section DB 23 for the affected property; and
- (d) notifies the Commissioner under **subsection (6)** in relation to the affected property.
- Suspended recovery income*
- (2) The amount (the **excess recovery**) by which the insurance income referred to in **subsection (1)(b)** exceeds the deductions referred to in **subsection (1)(b)** is not income of the person except to the extent of the amount (the **suspended recovery income**) remaining after adjustment under **subsection (3)** that is attributed to an income year by **subsection (5)**.
- Effect of purchase of replacement property*
- (3) If the person incurs expenditure (the **replacement cost**) to acquire replacement property,—
- (a) for the purposes of determining the value of the replacement property for section EA 2 (Other revenue account property), the amount of the person’s expenditure on the replacement property is reduced by—
 - (i) the amount calculated by dividing the replacement cost by the total amount of deductions under section DB 23 for the affected property and multiplying the result by the excess of the insurance income over the replacement cost, if the insurance income exceeds the replacement cost and the calculated amount is less than or equal to the amount of insurance income; or
 - (ii) the amount of the excess recovery, if the insurance income does not exceed the replacement cost or is less than the amount calculated in **subparagraph (i)**; and
 - (b) the amount of the suspended recovery income immediately before the expenditure is reduced by an amount equal to the reduction of expenditure under **paragraph (a)** for the purposes of section EA 2.
- Requirements for replacement property*
- (4) For an item of affected property, replacement property must be a building or land that is revenue account property—
- (a) acquired in or before the person’s 2027–28 income year; and
 - (b) located in New Zealand.

	<i>Amount remaining at end of 2027–28 income year or when person changes intentions, is liquidated, or becomes bankrupt</i>	
(5)	The person has an amount of income for the affected property in the current year equal to the amount of suspended recovery income when—	
	(a) the current year ends, if the current year is the 2027–28 income year:	5
	(b) in the current year, the person decides not to replace the affected property:	
	(c) in the current year, the person goes into liquidation or becomes bankrupt.	
	<i>Notice of election for affected property</i>	
(6)	A person choosing to rely on this section to suspend in a current year the recognition of suspended recovery income from the insurance for affected property must notify the Commissioner—	10
	(a) by the later of 31 January <u>30 April</u> 2024 and the date on which the return of income is filed for the earliest income year (the estimate year) in which the amount of the insurance for the affected property can be reasonably estimated; and	15
	(b) if the current year is after the estimate year,—	
	(i) for each income year between the estimate year and the current year, by the date on which the return of income is filed for that income year; and	20
	(ii) for the current year, by the date on which the return of income is filed for the current year.	
	<i>Later deadline for notice of election</i>	
(7)	The Commissioner may allow the person to file the notice under subsection (6) at a later time; if the Commissioner considers there are exceptional circumstances.	25
	<i>Contents of notice of election</i>	
(8)	A notice under subsection (6) must—	
	(a) describe the affected property; and	
	(b) give details of replacement property acquired in the current year to replace, in full or in part, the affected property; and	30
	(c) give the cost of the replacement property and the reduction under subsection (3) of that cost for the purposes of section EA 2; and	
	(d) give the amount, for the affected property, of the income from insurance or compensation remaining suspended under this section at the end of the current year.	35

Relationship to section CG 6 and other sections

- (9) This section overrides sections CB 6, CB 7, CB 12, CB 13, and CG 6.
Defined in this Act: ~~acquire~~, amount, Commissioner, deduction, income, income year, land, liquidation, New Zealand, North Island flooding events, notice, notify, return of income, revenue account property

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- (2) **Subsection (1)** applies for the 2022–23 and later income years.

18B **New section CZ 25D inserted (Improvements to farmland and horticultural plants affected by North Island flooding events and replaced—insurance or compensation)**

- (1) After section CZ 25C, insert: 10

CZ 25D **Improvements to farmland and horticultural plants affected by North Island flooding events and replaced—insurance or compensation**

When this section applies

- (1) This section applies for a person and an income year (the **current year**) before the 2028–29 income year when the person,— 15
- (a) in or before the current year, receives an amount of insurance or compensation for improvements to land subject to section DO 4 or DO 5 (which relate to improvements to land) (the **affected property**) that was damaged or destroyed by a North Island flooding event; and
- (b) in the absence of this section, would have, in or before the current year, a total amount of income (the **insurance income**) under section CG 4 (Receipts for expenditure or loss from insurance, indemnity, or otherwise) from the compensation or insurance for the affected property; and 20
- (c) has claimed deductions for the affected property under 1 or more of section DO 4, DO 5, or DO 11 (which relate to improvements to land); and 25
- (d) plans, in the current year, to acquire property (the **replacement property**)—
- (i) replacing the affected property; and
- (ii) meeting the requirements of **subsection (4)**; and
- (e) notifies the Commissioner under **subsection (7)** in relation to the affected property. 30

Income or compensation not income

- (2) The amount of the insurance or compensation is not income unless **subsection (3) or (6)** apply.

Income where insurance or compensation proceeds exceed replacement cost 35

- (3) Where the person incurs expenditure (the **replacement cost**) in the current year to acquire replacement property and the amount of the insurance or compensation exceeds the replacement cost,—

- (a) the amount of the insurance or compensation is income in the current year to the extent to which it exceeds the replacement cost; but
- (b) the amount of that income is reduced to the extent to which the amount of the insurance or compensation is also greater than the original cost of the affected property. 5
- Value of replacement property*
- (4) If the person acquires replacement property, the value attributed to the expenditure to acquire the replacement property for the purposes of section DO 4 or DO 5, as applicable, is,—
- (a) if the insurance income is equal to or greater than the replacement cost, zero; 10
- (b) if the insurance income is less than the replacement cost, the extent to which the replacement cost exceeds the insurance income.
- Requirements for replacement property*
- (5) For an item of affected property, replacement property must be an improvement to farm land as described in schedule 20, part A (Expenditure on farming, horticultural, aquacultural, and forestry improvements) or a listed horticultural plant— 15
- (a) acquired in or before the person’s 2027–28 income year; and
- (b) located in New Zealand. 20
- Income if replacement property not acquired by end of 2027–28 income year or when person changes intentions, is liquidated, or becomes bankrupt*
- (6) The person has an amount of income for the affected property in the current year equal to the insurance income when—
- (a) the current year ends, if the current year is the 2027–28 income year; 25
- (b) in the current year, the person decides not to replace the affected property;
- (c) in the current year, the person goes into liquidation or becomes bankrupt.
- Notice of election for affected property*
- (7) A person choosing to rely on this section to suspend in a current year the recognition of income from the insurance for affected property must notify the Commissioner— 30
- (a) by the later of 30 April 2024 and the date on which the return of income is filed for the earliest income year (the **estimate year**) in which the amount of the insurance for the affected property can be reasonably estimated; and 35
- (b) if the current year is after the estimate year,—

- (i) for each income year between the estimate year and the current year, by the date on which the return of income is filed for that income year; and
- (ii) for the current year, by the date on which the return of income is filed for the current year. 5
- Later deadline for notice of election*
- (8) The Commissioner may allow the person to file the notice under **subsection (7)** at a later time if the Commissioner considers there are exceptional circumstances.
- Contents of notice of election* 10
- (9) A notice under **subsection (7)** must—
- (a) describe the affected property; and
- (b) give details of replacement property acquired in the current year to replace, in full or in part, the affected property; and
- (c) give the cost of the replacement property and the value attributed to that cost under **subsection (4)** for the purposes of section DO 4 or DO 5, as applicable; and 15
- (d) give the amount, for the affected property, of the income from insurance or compensation remaining suspended under **subsection (2)** at the end of the current year. 20
- Relationship to section CG 4*
- (10) This section overrides section CG 4.
- Defined in this Act: amount, Commissioner, deduction, income, income year, land, liquidation, New Zealand, North Island flooding events, notice, notify, return of income
- (2) **Subsection (1)** applies for the 2022–23 and later income years. 25
- 18C New section CZ 26B inserted (Land and buildings affected by North Island adverse weather event—sections CB 6A, CB 9 to CB 11, and CZ 39 overridden for local authority and Crown purchases)**
- (1) After section CZ 26, insert:
- CZ 26B Land and buildings affected by North Island adverse weather event— sections CB 6A, CB 9 to CB 11, and CZ 39 overridden for local authority and Crown purchases** 30
- Sections CB 6A, CB 9 to CB 11, and CZ 39 (which relate to income from disposals of land) do not apply to a person and land or buildings, or both, purchased by the Crown or a local authority from the person if the land or buildings, or both, were damaged by a North Island adverse weather event. 35
- Defined in this Act: land, local authority, North Island adverse weather event
- (2) **Subsection (1)** applies for the 2022–23 and later income years.

- 19 Section CZ 29B amended (Accommodation expenditure: North Island flooding events)**
- (1) In section CZ 29B(3), replace “6 months” with “5 years”.
- (2) After section CZ 29B(3), insert:
- How time limit determined* 5
- (3B) For the purposes of this section and section CW 16C, the time limit is determined by whether the actual period of continuous work of the employee at the distant workplace is for a period of no more than 5 years.
- (3) In section CZ 29B(4), words before the paragraphs, replace “The time limit” with “Any time limit”. 10
- (4) In section CZ 29B(4)(b), replace “the time limit” with “the expiry of the relevant time limit”.
- (5) In section CZ 29B, list of defined terms, insert “period of continuous work” and “project of limited duration”.
- (6) In section CZ 29B, list of defined terms, replace “North Island flooding event” with “North Island flooding events”. 15
- 20 Section CZ 40 amended (Main home exclusion for bright-line: acquisition on or after 29 March 2018)**
- After section CZ 40(2), insert:
- Modified rule for constructing main home* 20
- (2B) For the purposes of determining under subsection (2) whether residential land has been used for most of the bright-line period as a bright-line grandparented home, the period in which the dwelling is constructed is ignored.
- Modified rule for transfers where rollover relief applies*
- (2C) For the purposes of determining whether the land has been used predominantly for a dwelling that was the bright-line grandparented home as described in subsection (2), if person A was the transferee in a transaction to which section CB 6AB applied, the transferor’s use of the property is attributed to person A (for example, if the transferor used the property as a main home for 1 year, this is attributed to person A). 25 30
- 20B New section CZ 41 inserted (Distributions to supplying shareholders of Fonterra: 2022–23 to 2024–25 income years)**
- After section CZ 40, insert:

CZ 41 Distributions to supplying shareholders of Fonterra: 2022–23 to 2024–25 income years

What this section applies to

- (1) This section applies to a distribution by Fonterra to a supplying shareholder if the distribution is made for Fonterra’s 2022–23, 2023–24, or 2024–25 income year. 5

Treatment of distribution

- (2) The distribution is not a dividend to the extent to which the distribution is for the supplying shareholder’s—
- (a) transaction shares: 10
 - (b) projected transactions shareholding:
 - (c) qualifying non-transaction shares:
 - (d) projected qualifying non-transaction shareholding.

Companies Act 1993

- (3) The 20-working-day rule for fixing a date in section 125(2) of the Companies Act 1993 does not apply to shareholders’ entitlements to receive distributions from Fonterra if, for the purposes of subsection (1) of that section, the board of Fonterra has fixed a date in relation to shareholders’ entitlements to receive distributions before the entitlements arise, and that date is within the year or period to which the distributions relate. 15
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Some definitions

- (4) In this section,—

Fonterra means Fonterra Co-operative Group Limited

projected qualifying non-transaction shareholding means the number of qualifying non-transaction shares in Fonterra that the supplying shareholder would have held if the trading transactions actually had occurred that the supplying shareholder had projected, using reasonable assumptions, would occur in the period to which the distribution relates 25

projected transactions shareholding means the number of shares in Fonterra that the supplying shareholder would have had to hold if the trading transactions actually had occurred that the supplying shareholder had projected, using reasonable assumptions, would occur in the period to which the distribution relates. The number of shares must determine the value of the trading transactions 30

qualifying non-transaction shares means the number of shares in Fonterra that the supplying shareholder holds— 35

- (a) that are not transaction shares and are not their projected transactions shareholding; but

(b) not including any shares in Fonterra that the supplying shareholder holds described in **paragraph (a)** in excess of the nearest whole number to the number calculated by multiplying the supplying shareholder's transaction shares on the date of entitlement for the distribution under section 125 of the Companies Act 1993 by 2.0303

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supplying shareholder means a supplying shareholder, within the meaning of that term in section 34 of the Co-operative Companies Act 1996, in relation to Fonterra

trading transactions means transactions between the supplying shareholder and Fonterra that are—

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(a) the disposal and acquisition of trading stock of the vendor that is not intangible property; and

(b) not subject to section CB 2 (Amounts received on disposal of business assets that include trading stock)

transaction shares means the number of shares in Fonterra that the supplying shareholder holds for trading transactions that occurred in the period to which the distribution relates. The number of shares must determine the value of the trading transactions.

15

Defined in this Act: dividend, Fonterra, income year, projected qualifying non-transaction shareholding, projected transactions shareholding, qualifying non-transaction shares, share, supplying shareholder, trading stock, trading transactions, transaction shares

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21 Section DB 1 amended (Taxes, other than GST, and penalties)

(1) After section DB 1(1)(c), insert:

~~(eb) a tax imposed in a country or territory outside New Zealand that is substantially the same as multinational top-up tax, ignoring **section HP 1(2)** (Liability for multinational top-up tax):~~

25

(1) Replace section DB 1(1)(b) with:

(b) a tax imposed in a country or territory outside New Zealand that is 1 or more of the following:

(i) substantially the same as income tax:

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(ii) based on Articles 2.1 to 2.3 of the global anti-base erosion model rules:

(iii) based on Articles 2.4 to 2.6 of those model rules:

(iv) a qualified domestic minimum top-up tax, as defined in Article 10.1.1 of those model rules:

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(v) substantially the same as the tax that will be imposed by this Act—

(A) when all the provisions of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act

	2023 (the amendment Act) listed in section 2(19) and (19C) of the amendment Act have come into force; and	
	(B) because of the application of the modifications to Article 2.1 of the global anti-base erosion model rules made by section 63(3) of the amendment Act:	5
(1B)	Replace section DB 1(1)(b)(v) (as inserted by subsection (1)) with:	
	(v) substantially the same as multinational top-up tax payable because of the application of the modifications to Article 2.1 of the global anti-base erosion model rules set out in schedule 25B, item 1B (Items modifying global anti-base erosion model rules):	10
(1C)	In section DB 1, list of defined terms, insert “global anti-base erosion model rules”.	
(2)	In section DB 1, list of defined terms, insert “multinational top-up tax”.	
21B	Section DB 46 replaced (Avoiding, remedying, or mitigating effects of discharge of contaminant or making of noise)	15
(1)	Replace section DB 46 with:	
	DB 46 Avoiding, remedying, or mitigating effects of discharge of contaminant or making of noise	
	<i>When this section applies</i>	
(1)	This section applies when a person—	20
	(a) carries on a business in New Zealand; and	
	(b) the person incurs, in the business or in ending the operations of the business, expenditure that is—	
	(i) of a kind listed in schedule 19, in either part A or B (Expenditure in avoiding, remedying, or mitigating detrimental effects of discharge of contaminant or making of noise) and not in schedule 19, part C; and	25
	(ii) not incurred in relation to revenue account property other than land that is subject to section CB 8 (Disposal: land used for land-fill, if notice of election); and	30
	(c) no other provision allows a deduction for the expenditure.	
	<i>Amount and timing of deduction</i>	
(2)	The person is allowed for an income year a deduction for the expenditure of,—	
	(a) if paragraphs (b) and (c) do not apply, an amount that is calculated using the formula—	35
	rate × value:	

- (b) if the operations of the business for which the expenditure was incurred come to an end in the income year, the diminished value or adjusted value of the expenditure for the income year:
- (c) if an improvement to land described in schedule 19, part A, on which the expenditure was incurred is destroyed or is rendered useless for the purposes for which the expenditure was incurred, and **paragraph (b)** does not apply, the diminished value or adjusted value of the expenditure for the income year. 5
- Definition of items in formula*
- (3) The items in the formula in **subsection (2)(a)** are defined in **subsections (4) and (6)**. 10
- Rate*
- (4) **Rate** is—
- (a) 100% if the expenditure is of a kind listed in schedule 19, part A, item 1, or part B and neither **paragraph (b) nor (c)** applies: 15
- (b) the appropriate rate under **subsection (5)** if—
- (i) the expenditure is of a kind listed in schedule 19, part A, items 2 to 5; and
- (ii) **paragraph (c)** does not apply:
- (c) the rate for the kind of expenditure, the income year, the valuation method adopted under **subsection (6)**, and the person, determined by the Commissioner under section 91AAN of the Tax Administration Act 1994 if such a rate is determined. 20
- Schedule 12 rates*
- (5) The rate for expenditure if the requirements of **subsection (4)(b)** are met is— 25
- (a) the rate set out in schedule 12, column 2 (Old banded rates of depreciation) that is nearest to the rate calculated for the expenditure using the formula in **subsection (7)** if the person chooses to use the straight-line equivalent method:
- (b) the rate set out in schedule 12, column 1 that corresponds to the rate under **paragraph (a)** if the person chooses to use the diminishing value equivalent method. 30
- Value*
- (6) **Value** is—
- (a) the amount of the expenditure incurred if the person chooses to use the straight-line equivalent method: 35
- (b) the diminished value of the expenditure for the income year if the person chooses to use the diminishing value equivalent method.

- Formula for rate for expenditure with assumed life*
- (7) The formula for the rate referred to in **subsection (5)(a)** for a kind of expenditure to which **subsection (4)(b)** applies is—
$$100\% \div \text{assumed life.}$$
- Definition of item in formula* 5
- (8) In the formula in **subsection (7)**, **assumed life** for expenditure and an income year is,—
- (a) for expenditure associated with a business activity that does not require a resource consent, 35:
- (b) for expenditure associated with a business activity that requires a resource consent, the lesser of 35 and the number of years in the period of the resource consent that include or follow the time at which the expenditure is incurred. 10
- Adjusted value*
- (9) In this section, **adjusted value** means, where the person chooses to use the straight-line equivalent method, the amount calculated using the formula—
$$\text{amount of expenditure} - \text{deductions allowed} + \text{income derived.}$$
- Definition of items in formula*
- (10) In the formula in **subsection (9)**,—
- (a) **amount of expenditure** is the total amount of the expenditure incurred: 20
- (b) **deductions allowed** is the total amount of the expenditure allowed as a deduction in previous income years:
- (c) **income derived** is the total amount of income derived under section CB 28(8) (Environmental restoration accounts) in relation to the expenditure. 25
- Diminishing value equivalent method*
- (11) In this section, **diminishing value equivalent method** means the method of calculating an amount of deduction under this section by subtracting, in each income year, a constant percentage of the diminished value of the expenditure from the diminished value of the expenditure. 30
- Straight-line equivalent method*
- (12) In this section, **straight-line equivalent method** means the method of calculating an amount of deduction under this section by subtracting, in each income year, a constant percentage of the amount of the expenditure incurred from the adjusted value of the expenditure. 35

Link with subpart DA

(13) This section overrides the capital limitation. The general permission must still be satisfied and the other general limitations still apply.

Defined in this Act: adjusted value, amount, business, capital limitation, deduction, diminished value, diminishing value equivalent method, general limitation, general permission, income, income year, New Zealand, revenue account property, straight-line equivalent method

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(2) **Subsection (1)** applies for the 2008–09 and later income years. However, **subsection (1)** does not apply to a person in relation to a tax position taken by the person—

(a) in the period that starts on the first day of the 2008–09 income year and ends on the day after this Act receives the Royal assent; and

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(b) in relation to a deduction allowed for expenditure incurred to avoid, remedy, or mitigate the effects of discharge of contaminant or the making of noise; and

(c) relying on section DB 46 as it was before the amendments made by **subsection (1) and sections 21E and 59(2B), (8C), (8D), and (15D).**

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21C Section DH 4 amended (When this subpart does not apply: exemptions for new builds, development, social or emergency or transitional housing, and council housing)

Replace section DH 4(4), other than the heading, with:

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(4) This subpart does not apply to interest incurred by a person for land to the extent to which the land is used by an exempt housing provider solely for 1 or more of the following:

(a) social housing, as defined in section 2 of the Public and Community Housing Management Act 1992:

25

(b) temporary accommodation for people in need while they seek, or are assisted in finding, more permanent accommodation:

(c) accommodation for people in need:

(d) services connected with housing or accommodation described in **paragraph (a), (b), or (c).**

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21D Section DH 5 amended (Key terms)

After section DH 5(3), insert:

Exempt housing provider

(3B) **Exempt housing provider** means—

(a) a registered community housing provider under the Public and Community Housing Management Act 1992:

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(b) a department listed in schedule 2, part 1 of the Public Service Act 2020:

- (c) Kāinga Ora—Homes and Communities and its wholly-owned subsidiaries:
- (d) a person contracted, directly or indirectly, by a department listed in schedule 2, part 1 of the Public Service Act 2020 to provide land for one or more of the uses listed in **section DH 4(4)**.

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21E New section DO 9B inserted (Meaning of diminished value)

- (1) After section DO 9, insert:

DO 9B Meaning of diminished value

Meaning

- (1) In section DB 46 (Avoiding, remedying, or mitigating effects of discharge of contaminant or making of noise), and sections DO 4, DO 5, DO 11, DO 12, DO 13, DP 3, DP 4, DZ 17, DZ 18, and schedule 20 (which relate to improvements to land and aquacultural business), **diminished value**, for an income year, means the amount calculated using the formula—

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amount of expenditure + income derived – deductions allowed.

15

Definition of items in formula

- (2) In the formula in **subsection (1)**,—

- (a) **amount of expenditure** is the amount of expenditure incurred—

- (i) on an improvement described in section DO 4, DO 5, DO 12, or DP 3:

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- (ii) of a type described in section DB 46:

- (b) **income derived** is the total amount of income derived under section CB 28(8) (Environmental restoration accounts) in relation to the expenditure:

- (c) **deductions allowed** is the total amount allowed as a deduction for the expenditure to any person—

25

- (i) in any earlier income years under this Act or an earlier Act:

- (ii) in the income year under this Act, except an amount allowed in the income year under section DB 46, DO 4, DO 5, DO 6, DO 12, or DP 3.

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Defined in this Act: amount, deduction, diminished value, income, income year

- (2) **Subsection (1)** applies for the 2008–09 and later income years. However, **subsection (1)** does not apply to a person in relation to a tax position taken by the person—

- (a) in the period that starts on the first day of the 2008–09 income year and ends on the day after this Act receives the Royal assent; and

35

- (b) in relation to a deduction allowed for expenditure incurred to avoid, remedy, or mitigate the effects of discharge of contaminant or the making of noise; and
- (c) relying on the definition of **diminished value** as it was before the amendments made by **subsection (1) and section 59(8C)**. 5
- 21F Section DV 11 amended (Distribution to member of co-operative company, excluded from being dividend)**
- (1) In section DV 11(1), replace “(Distributions to members of co-operative companies)” with “or **CZ 41** (which relate to distributions to members of co-operative companies)”. 10
- (2) In section DV 11(2), after “section CD 34B”, insert “or **CZ 41**, as applicable.”.
- 22 New section DZ 20B inserted (Expenditure incurred while income-earning activity interrupted by North Island flooding event)**
- (1) After section DZ 20, insert:
- DZ 20B Expenditure incurred while income-earning activity interrupted by North Island flooding event** 15
- When this section applies*
- (1) This section applies for a person and an income year (the **current year**) before the 2028–29 income year when—
- (a) the person has an income-earning activity in New Zealand immediately before a North Island flooding event; and 20
- (b) the activity is interrupted for a period (the **period of interruption**) as a result of the North Island flooding event; and
- (c) in the current year, during the period of interruption, the person incurs expenditure or loss (the **interruption expenditure**) in meeting an obligation relating to the income-earning activity; and 25
- (d) the interruption expenditure does not meet the requirements of the general permission for the person and the income-earning activity but would do so but for the interruption; and
- (e) the person resumes the income-earning activity in an income year (the **resumption year**) before the 2028–29 income year. 30
- Deduction for interruption expenditure*
- (2) The person is allowed a deduction for the interruption expenditure.
- Timing of deduction*
- (3) The deduction is allocated to the resumption year. 35

Link with subpart DA

- (4) This section supplements the general permission. The general limitations still apply.

Defined in this Act: deduction, general limitation, general permission, income year, loss, New Zealand, North Island flooding events, ~~loss~~, supplement

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- (2) **Subsection (1)** applies for the 2022–23 and later income years.

23 Section EW 37 amended (Consideration when person enters rules: accrued obligation)

- (1) After section EW 37(1)(a), insert:

(ab) the person is a non-resident who—

- (i) becomes a party to the arrangement after 1 April 2008; and
- (ii) becomes a transitional resident after becoming a party to the arrangement; and
- (iii) must calculate and allocate income or expenditure under the arrangement for an income year under the financial arrangements rules:

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- (2) In section EW 37, list of defined terms, insert “financial arrangements rules”.

- (3) **Subsection (1)** applies to a person and a financial arrangement if the person is not required to complete a base price adjustment for the financial arrangement before the date on which the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act **2023** receives the Royal assent.

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24 Section EW 41 amended (Consideration when person enters rules: accrued entitlement)

- (1) After section EW 41(1)(a), insert:

(ab) the person is a non-resident who—

- (i) becomes a party to the arrangement after 1 April 2008; and
- (ii) becomes a transitional resident after becoming a party to the arrangement; and
- (iii) must calculate and allocate income or expenditure under the arrangement for an income year under the financial arrangements rules:

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- (2) In section EW 41, list of defined terms, insert “financial arrangements rules”.

- (3) **Subsection (1)** applies to a person and a financial arrangement if the person is not required to complete a base price adjustment for the financial arrangement before the date on which the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act **2023** receives the Royal assent.

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- 24B Section EW 46C amended (Consideration when debt remitted within economic group)**
- (1) In section EW 46C(5), words before the paragraphs, replace “The creditor” with “Unless **subsection (5C)** applies, the creditor”.
- (2) After section EW 46C(5), insert: 5
- When **subsection (5C)** applies*
- (5B) **Subsection (5C)** applies when—
- (a) the relevant debt, creditor, and debtor are described in subsection (1)(a) or (b); and
- (b) the creditor is a person to which section EW 41 applies in relation to the relevant debt. 10
- Consideration: special case*
- (5C) The creditor is treated as having been paid, on the date on which the amount of debt is remitted, the lesser of the following 2 amounts, or the first amount if they are the same: 15
- (a) the amount of debt;
- (b) the amount calculated by subtracting, from the amount of debt, any impairment of the relevant debt under generally accepted accounting practice at the time the creditor is treated under section EW 41(2) as having acquired their accrued entitlement to receive consideration in relation to the relevant debt. 20
- (3) In section EW 46C, list of defined terms, insert “generally accepted accounting practice”.
- (4) **Subsections (1) and (2)** apply in relation to an amount of debt that is remitted on or after the date on which those subsections come into force. 25
- 24C Section EW 46D amended (Consideration when insolvent company’s debt repaid with consideration received for issuing shares)**
- (1) After section EW 46D(1)(c), insert:
- (cb) the shares are not issued on conversion of a debt instrument that—
- (i) was issued when the debtor satisfied the solvency test set out in section 4 of the Companies Act 1993; and 30
- (ii) at the time of its issue, was convertible into shares at a future time; and
- (2) In section EW 46D, list of defined terms, insert “issue”.
- 24D Section EX 35 amended (Exemption for interest in FIF resident in Australia)** 35
- In section EX 35(a), after “10% or more”, insert “, treating the period that the person has rights in the FIF as the accounting period for the purposes of section

EX 50(4) when the person does not have rights in the FIF for the entire accounting period”.

25 Section EX 46 amended (Limits on choice of calculation methods)

- (1) In section EX 46(3)(a), words before the subparagraphs, after “period”, insert “during which the person has rights in the FIF”. 5
- (2) In section EX 46(3)(a)(ii), after “10% or more”, insert “, treating the period that the person has rights in the FIF as the accounting period for the purposes of section EX 50(4) when the person does not have rights in the FIF for the entire accounting period”.

26 New section EZ 23BE inserted (Property acquired after depreciable property affected by North Island flooding events) 10

- (1) After section EZ 23BD, insert:

EZ 23BE Property acquired after depreciable property affected by North Island flooding events

When this section applies

- (1) This section applies for a person and an income year (the **current year**) before the 2028–29 income year when the person,— 15
 - (a) in or before the current year, receives insurance or compensation (the **flood compensation**) for items of depreciable property (the **affected property**), each of which is— 20
 - (i) not depreciable intangible property; and
 - (ii) included in 1 of the categories (an **affected class**) of the person’s depreciable property referred to in **subsection (12)(b)**; and
 - (b) is entitled to the flood compensation because each item of the affected property, as a result of a North Island flooding event, is affected by— 25
 - (i) damage meeting the requirements of section EE 47(4) (Events for purposes of section EE 44); or
 - (ii) a disposal and reacquisition under **section EZ 83**; and
 - (c) would have, in the absence of this section, from the flood compensation for the affected property in the affected class, depreciation recovery income under section EE 48 (Effect of disposal or event) in or before the current year; and 30
 - (d) has a total amount of depreciation loss under section EE 48 for the affected property in the affected class that, treated as a positive amount, is less than the total amount of depreciation recovery income referred to in **paragraph (c)** by an amount (the **excess recovery**); and 35
 - (e) plans in the current year to acquire depreciable property (the **replacement property**) meeting the requirements of **subsection (8)**; and

- (f) notifies the Commissioner under **subsection (10)**—
- (i) specifying the affected property and affected class; and
 - (ii) linking, for the purposes of this section, each item of acquired replacement property with an affected class.
- Suspended recovery income* 5
- (2) For an affected class, the amount that may be depreciation recovery income of the person in or after the current year (the **suspended recovery income**) is the excess recovery that remains at the beginning of the current year after—
- (a) adjustment under **subsections (4) and (7)** for an earlier income year; and 10
 - (b) attribution to an earlier income year by **subsection (9)**.
- Depreciation recovery income*
- (3) The person has an amount of depreciation recovery income for the current year equal to the amount of suspended recovery income that is attributed to the current year by **subsection (9)**. 15
- Effect of acquiring item of replacement property if suspended recovery income from affected property not in pool*
- (4) If the person acquires an item of replacement property (the **replacement item**) and links the replacement item with an affected class of affected property for which the person does not use the pool method, the amount given by **subsection (5)**— 20
- (a) is treated as not being included in the amount of the person’s expenditure on the replacement item for the purposes of determining,—
 - (i) under section EE 16(4) (Amount resulting from standard calculation), the item value or cost for the replacement item, if the person uses the diminishing value method or straight-line method for the replacement item; or 25
 - (ii) under section EE 22 (Cases affecting pool), the cost of the replacement item, if the person uses the pool method for the replacement item; and 30
 - (b) is a reduction in the amount of the suspended recovery income for the affected class.
- Amount of reduction: expenditure on replacement item and suspended recovery income*
- (5) The amount of the reduction under **subsection (4)(a) or (b)** for a replacement item and an affected class of affected property for which the person does not use the pool method is— 35
- (a) zero, if the cost of the affected class equals or is less than the person’s total expenditure in acquiring, before the replacement item, other replacement property linked with the affected class; or 40

- (b) the amount calculated using the formula—

$$\text{limited replacement cost} \times \text{excess} \div \text{affected cost.}$$
- Definition of items in formula*
- (6) In the formula,—
- (a) **limited replacement cost** is the lesser of— 5
- (i) the amount by which the cost of the affected class exceeds the total expenditure in acquiring, before the replacement item, other replacement property linked with the affected class:
- (ii) the amount of the expenditure on the replacement item:
- (b) **excess** is the excess recovery for the affected class: 10
- (c) **affected cost** is the total cost for the person of the affected class.
- Effect of acquiring item of replacement property if suspended recovery income from affected property in pool*
- (7) If the person acquires ~~an item of replacement property (the **replacement item**)~~ a replacement item and links the replacement item with an affected class of affected property for which the person uses the pool method,— 15
- (a) the amount of the person’s expenditure on the replacement item is treated as being reduced by the amount equal to the lesser of the amount of expenditure on the replacement item and the amount of suspended recovery income for the affected property after the acquisition of other replacement property before the replacement item for the purposes of determining— 20
- (i) the adjusted tax value of the replacement item, if **subparagraph (ii) or (iii)** does not apply; or
- (ii) the cost of the replacement item for the straight-line method, if that method is used to determine depreciation loss for the replacement item; or 25
- (iii) the adjusted tax value of the pool of the replacement item, if the person uses the pool method for the replacement item; and
- (b) the amount of the suspended recovery income for the affected class is reduced by the amount of the treated reduction under **paragraph (a)**. 30
- Requirements for replacement property*
- (8) An item of replacement property for a person must—
- (a) be included in the same category under **subsection (12)(b)** as the affected class with which the person links the item if the affected class is described in **subsection (12)(b)(i), (ii), (v), or (vi)**; and 35
- (b) be located in New Zealand, if the item is a building or commercial fit-out.

	<i>Attribution of suspended recovery income to income year: other events</i>	
(9)	The person has, in the current year, an amount of depreciation recovery income for an affected class equal to the amount of suspended recovery income for the affected class—	
	(a) at the end of the current year, if that year is the 2027–28 income year and neither of paragraph (b) and (c) apply earlier; or	5
	(b) when in the current year the person decides not to acquire more replacement property, if neither of paragraph (a) and (c) apply earlier; or	
	(c) when in the current year the person goes into liquidation or becomes bankrupt, if neither of paragraph (a) and (b) apply earlier.	10
	<i>Notice of election for affected property</i>	
(10)	A person choosing to rely on this section to suspend in a current year the recognition of suspended recovery income from the insurance or compensation for affected property must notify the Commissioner,—	
	(a) for the earliest income year (the estimate year) in which the amount of the insurance or compensation for the affected property can be reasonably estimated, by the later of 31 January <u>30 April</u> 2024 and the date on which the return of income is filed for the estimate year; and	15
	(b) if the current year is after the estimate year,—	
	(i) for each income year between the estimate year and the current year, by the date on which the return of income is filed for that income year; and	20
	(ii) for the current year, by the date on which the return of income is filed for the current year.	
	<i>Later deadline for notice of election</i>	25
(11)	The Commissioner may allow the person to file the notice under subsection (10) at a later time if the Commissioner considers there are exceptional circumstances.	
	<i>Contents of notice of election</i>	
(12)	A notice under subsection (10) must—	30
	(a) describe the items of affected property; and	
	(b) indicate in which of the following categories each item of affected property is included:	
	(i) a building not referred to in subparagraph (iii) :	
	(ii) commercial fit-out not referred to in subparagraph (iv) :	35
	(iii) buildings for which the person uses the pool method:	
	(iv) commercial fit-out for which the person uses the pool method:	

<ul style="list-style-type: none"> (v) depreciable property for which the person uses the pool method, other than a building or commercial fit-out: (vi) depreciable property not referred to in subparagraphs (i) to (v); and 	5
<ul style="list-style-type: none"> (c) give details of each item of replacement property acquired in the current year and the affected class to which the person is linking the item; and (d) give the amount of the expenditure on the replacement item and the reduction under subsection (4) or (7) of that expenditure for the purposes of determining adjusted tax value or depreciation loss; and (e) give the amount, for each affected class, of the suspended recovery income at the end of the current year. 	10
<i>Disposal of replacement property: reduction in cost treated as depreciation loss</i>	
<p>(13) For the purposes of section EE 48, the amount by which a person’s expenditure on a replacement item is treated as being reduced under subsection (4) or (7) is an amount of depreciation loss for the item for which the person has been allowed a deduction.</p>	15
<i>Order of acquisition for items acquired at same time</i>	
<p>(14) If items of replacement property are acquired at the same time and the effect of this section depends on the order in which the items are acquired, the items are treated as being acquired in the order chosen by the person in the first return of income for which the order of acquisition is taken into account.</p>	20
<i>Relationship to subpart EE</i>	
<p>(15) This section overrides subpart EE (Depreciation).</p>	25
<p>Defined in this Act: <u>acquire</u>, adjusted tax value, amount, commercial fit-out, Commissioner, deduction, depreciable intangible property, depreciable property, depreciation loss, depreciation recovery income, diminishing value method, <u>dispose</u>, income year, liquidation, New Zealand, North Island flooding events, notice, notify, <u>pool</u>, pool method, return of income, straight-line method</p>	
<p>(2) Subsection (1) Subsection (1) applies for the 2022–23 and later income years.</p>	
27 New cross-heading and sections EZ 83 to EZ 87 inserted	
<p>(1) After section EZ 82, insert:</p>	30
<i>Damage from North Island flooding events</i>	
EZ 83 Insurance for damage of property caused by North Island flooding events: treatment as disposal and reacquisition	
<i>When this section applies</i>	
<p>(1) This section applies for a person and an item of depreciable property when—</p> <ul style="list-style-type: none"> (a) the item is damaged by a North Island flooding event; and 	35

<ul style="list-style-type: none"> (b) the person is entitled to an amount of insurance or compensation for the damage to the item; and (c) the item is assessed by the payer of the insurance or compensation, or another qualified assessor, as <u>person reasonably assesses that the item is</u> uneconomic to repair; and (d) the damage does not meet the requirements of section EE 47(4) (Events for purposes of section EE 44). <p><i>Treatment as disposal and reacquisition of item</i></p> <ul style="list-style-type: none"> (2) The person is treated as, on the date of the relevant North Island flooding event,— <ul style="list-style-type: none"> (a) disposing of the item for the amount of insurance or compensation; and (b) reacquiring the item for zero consideration. <p><i>Relationship with section EE 52</i></p> <ul style="list-style-type: none"> (3) This section overrides section EE 52 (Amount of depreciation recovery income when compensation received). <p>Defined in this Act: amount, depreciable property, dispose, North Island flooding events</p> <p>EZ 84 Insurance for damage of property caused by North Island flooding events: limit on depreciation recovery income</p> <p><i>When this section applies</i></p> <ul style="list-style-type: none"> (1) This section applies for a person and an item of depreciable property when— <ul style="list-style-type: none"> (a) the item is damaged by a North Island flooding event; and (b) the person is entitled to an amount of insurance or compensation for the damage to the item; and (c) the damage does not meet the requirements of section EE 47(4) (Events for purposes of section EE 44); and (d) section EZ 83 does not apply for the item. <p><i>Limit on depreciation recovery income under section EE 52</i></p> <ul style="list-style-type: none"> (2) If the person would derive depreciation recovery income under section EE 52 (Amount of depreciation recovery income when compensation received) in an income year for the item in the absence of this section, the person derives in the income year an amount of depreciation recovery income equal to the lesser of— <ul style="list-style-type: none"> (a) the amount of depreciation recovery income under section EE 52 that the person would derive in the income year for the item in the absence of this section: (b) the total of the amounts of depreciation loss for which the person has been allowed deductions for the item. 	<p>5</p> <p>10</p> <p>15</p> <p>20</p> <p>25</p> <p>30</p> <p>35</p>
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Relationship with section EE 52

- (3) This section overrides section EE 52.

Defined in this Act: amount, deduction, depreciable property, depreciation loss, depreciation recovery income, income year, North Island flooding events

EZ 85 Item treated as available for use if access restricted due to North Island flooding events 5

An item of depreciable property is treated for an income year as being available for use while access to the item is affected by a restriction imposed due to the effects of a North Island flooding event; if—

- (a) the item was used or available for use immediately before the restriction was imposed; and 10
- (b) the item would be used or available for use in the absence of the restriction; and
- (c) the income year is the 2027–28 or an earlier income year. 15

Defined in this Act: depreciable property, income year, North Island flooding events 15

EZ 86 Insurance for North Island flooding event damage causing disposal: optional timing rule for income, deductions

When this section applies

- (1) This section applies for a person and an item of depreciable property when—
- (a) the item is damaged by a North Island flooding event; and 20
 - (b) the damage—
 - (i) results in the item being affected by a disposal and reacquisition under **section EZ 83**; or
 - (ii) meets the requirements of section EE 47(4) (Events for purposes of section EE 44); and 25
 - (c) the person is entitled to an amount of insurance or compensation for the damage to the item; and
 - (d) the person chooses to apply this section for all items of depreciable property meeting the requirements of **paragraphs (a) to (c)**. 30

Attribution of income from insurance and disposal 30

- (2) If the amount of insurance or compensation for the damage (the **insurance receipt**) is derived or able to be reasonably estimated before the end of the 2027–28 income year, the person’s income from the insurance receipt and the consideration derived from the disposal of the item are attributed to the earlier of— 35
- (a) the 2027–28 income year:
 - (b) the first income year in which—

<ul style="list-style-type: none"> (i) the amount of the cost of disposing of the item (the disposal cost) is, or has been, incurred or able to be reasonably estimated; and (ii) the insurance receipt is, or has been, derived or able to be reasonably estimated; and (iii) the consideration from the disposal of the item is, or has been, 	5
<i>Attribution of deductions</i>	
<p>(3) If the disposal cost is incurred or able to be reasonably estimated before the end of the 2027–28 income year, the person’s deductions for the disposal cost and for depreciation loss under section EE 48 (Effect of disposal or event) are attributed to the earlier of—</p> <ul style="list-style-type: none"> (a) the 2027–28 income year: (b) the first income year in which— <ul style="list-style-type: none"> (i) the disposal cost is, or has been, incurred or able to be reasonably estimated; and (ii) the insurance receipt is, or has been, derived or able to be reasonably estimated; and (iii) the consideration from the disposal of the item is, or has been, derived or able to be reasonably estimated. 	10
<i>Relationship with other sections</i>	
<p>(4) This section overrides sections EE 1, EE 22, and EE 48 (which state when depreciation loss and depreciation recovery income arise) in relation to the timing of the person’s—</p> <ul style="list-style-type: none"> (a) income from the insurance receipt and consideration from the disposal of the item: (b) deductions for the disposal cost and depreciation loss. 	20
<p>Defined in this Act: amount, deduction, depreciable property, depreciation loss, dispose, income, income year, North Island flooding events</p>	
EZ 87 Insurance for repairs of North Island flooding event damage: optional timing rule for income, deductions	
<i>When this section applies</i>	
<p>(1) This section applies for a person and an item of depreciable property when—</p> <ul style="list-style-type: none"> (a) the item is damaged by a North Island flooding event; and (b) the damage— <ul style="list-style-type: none"> (i) does not result in the item being subject to a disposal and reacquisition under section EZ 83; and (ii) does not meet the requirements of section EE 47(4) (Events for purposes of section EE 44); and 	35

- (c) the person is entitled to an amount of insurance or compensation for the damage to the item; and
- (d) the person chooses to apply this section for all items of depreciable property meeting the requirements of **paragraphs (a) to (c)**.
- Attribution of income from insurance* 5
- (2) If the amount of insurance or compensation for the damage (the **insurance receipt**) is derived or able to be reasonably estimated before the end of the 2027–28 income year, the person’s income from the insurance receipt is attributed to the earlier of—
- (a) the 2027–28 income year: 10
- (b) the first income year in which—
- (i) the amount of expenditure for total repair of the damage (the **repair cost**) is, or has been, incurred or able to be reasonably estimated; and
- (ii) the insurance receipt is, or has been, derived or able to be reasonably estimated. 15
- Attribution of deductions for repairs*
- (3) If the repair cost is incurred or able to be reasonably estimated before the end of the 2027–28 income year, the person’s deductions for the repair cost are attributed to the earlier of— 20
- (a) the 2027–28 income year:
- (b) the first income year in which—
- (i) the repair cost is, or has been, incurred or able to be reasonably estimated; and
- (ii) the insurance receipt is, or has been, derived or able to be reasonably estimated. 25
- Relationship with other sections*
- (4) This section overrides sections CG 4, EE 22, and EE 52 (which provide for receipts of insurance or indemnity payments) in relation to the timing of the person’s— 30
- (a) income from the insurance receipt:
- (b) deductions for the repair cost.
- Defined in this Act: amount, deduction, depreciable property, dispose, income, income year, North Island flooding events
- (2) **Subsection (1)** applies for the 2022–23 and later income years. 35
- 28 Section FC 2 amended (Transfer at market value)**
- In section FC 2(3), replace “FC 6” with “FC 9C”.

29	Section FC 9B amended (Residential land: certain transferors)	
(1)	In section FC 9B(b), replace “an original” with “a”.	
(2)	In section FC 9B(e), replace “an original” with “a”.	
(3)	<u>In section FC 9B, list of defined terms, insert “settlor”.</u>	
30	New cross-heading and section FZ 7B inserted	5
(1)	After section FZ 7, insert:	
<i>Group property affected by North Island flooding events</i>		
	FZ 7B Valuation of group assets: insurance proceeds from North Island flooding events	
	<i>When this section applies</i>	10
(1)	This section applies for the purposes of sections FE 16 (Total group assets) and FE 18 (Measurement of debts and assets of worldwide group) and a person if—	
(a)	an asset of the person’s New Zealand group is damaged as a result of a North Island flooding event; and	
(b)	the asset is impaired or derecognised under generally accepted accounting practice as a result of the damage; and	15
(c)	insurance for the damage is recognised at a later date under generally accepted accounting practice.	
	<i>Optional treatment of insurance</i>	
(2)	The person may choose to include an amount of the insurance, corresponding to the amount of the impairment or the derecognised value of the asset, in the value of the total group assets of the person’s New Zealand group during the period—	20
(a)	beginning with the impairment or derecognition of the asset; and	
(b)	ending before the earlier of—	25
(i)	the recognition of the amount of insurance;	
(ii)	the beginning of the 2027–28 income year.	
	<i>Corresponding treatment for worldwide group</i>	
(3)	If a person includes an amount under subsection (2) in the value of the total group assets of the person’s New Zealand group for a period, the person must include the amount in the value of the total group assets of the person’s worldwide group for the period.	30
	<i>Notice to Commissioner</i>	
(4)	A person choosing to apply subsection (2) for an income year must give notice to the Commissioner of the following:	35
(a)	that the person has applied this section for the income year; and	

<p>(b) a reasonable estimate of the amount of income that would arise under section CH 9 (Interest apportionment: excess debt entity) for the income year in the absence of this section; and</p> <p>(c) the amount of income that arises under section CH 9 for the income year after the application of this section; and</p> <p>(d) any further information required by the Commissioner.</p> <p><i>Form and timing of notice</i></p> <p>(5) The information required by subsection (4) must be given—</p> <p>(a) in the form and by the means prescribed by the Commissioner; and</p> <p>(b) no later than the day by which the person is required to make a return of income for the corresponding tax year, or at a later time if the Commissioner considers there are exceptional circumstances.</p> <p>Defined in this Act: amount, Commissioner, generally accepted accounting practice, income, income year, North Island flooding events, notice, return of income, tax year, total group assets</p>	<p>5</p> <p>10</p> <p>15</p>
<p>(2) Subsection (1) applies for the 2022–23 and later income years.</p>	<p>15</p>
<p>30B Section HB 13 amended (LTC elections)</p>	
<p>(1) <u>In section HB 13(3)(b), replace “Commissioner before” with “Commissioner on or before”.</u></p> <p>(2) Subsection (1) applies for the 2011–12 and later income years.</p>	
<p>31 Section HC 4 amended (Corpus of trust)</p>	
<p>(1) Replace section HC 4(3), other than the heading, with:</p> <p>(3) A property settlement by a trustee of another trust is excluded from corpus to the extent to which the property—</p> <p>(a) is not first distributed to a beneficiary, resident in New Zealand, of the other trust; and</p> <p>(b) if it were first distributed to a beneficiary, resident in New Zealand, of the other trust, the property would be beneficiary income or a taxable distribution to that beneficiary.</p>	<p>20</p> <p>25</p>
<p>(2) Subsection (1) applies for the 2024–25 and later income years.</p>	
<p>32 Section HC 7 amended (Trustee income)</p>	
<p>(1) <u>Replace section HC 7(2), other than the heading, with:</u></p> <p>(2) <u>An amount of beneficiary income to which section HC 35 applies that is derived in an income year by a person who is a minor is—</u></p> <p>(a) <u>treated as trustee income for the purposes of who pays the tax and who provides the return of income; and</u></p> <p>(b) <u>subject to the basic rate of income tax set out in Schedule 1, Part A, clause 3.</u></p>	<p>30</p> <p>35</p>

(12) After section HC 7(2), insert:

Close companies' beneficiary income

(2B) An amount of beneficiary income to which **section HC 38** applies is treated as if it were trustee income for the purposes of—

(a) ~~determining the tax rate that applies; and~~ treated as trustee income for the purposes of who pays the tax and who provides the return of income; and

(b) ~~paying the tax; and~~ subject to the basic rate of income tax set out in Schedule 1, Part A, clause 3.

(c) ~~providing returns of income.~~

(23) In section HC 7, list of defined terms, insert “tax”.

(34) ~~**Subsection (1)**~~ **Subsections (1) and (2)** apply for the 2024–25 and later income years.

33 New section HC 8B inserted (Trustee income within 12 months after person's death—Trustee income in income year of person's death and following 3 income years)

(1) After section HC 8, insert:

HC 8B Trustee income within 12 months after person's death

When this section applies

(1) This section applies when a trustee of an estate of a deceased person derives, within 12 months after the death of the person, an amount that is trustee income (the **post-death amount**) and elects that **subsection (2)** apply to post-death amounts.

Optional rate of tax

(2) For an income year in which the trustee derives post-death amounts, the basic rate of income tax for the trustee on each dollar of the trustee's taxable income is the rate calculated using the formula—

$$(\text{combined tax} - \text{pre-death tax}) \div \text{post-death income.}$$

Definition of items in formula

(3) In the formula,—

(a) **combined tax** means the total tax calculated under schedule 1, part A, clause 1, table 1 for each dollar of taxable income derived by the deceased person or the trustee—

(i) in the income year; and

(ii) within 12 months after the death of the person:

(b) **pre-death tax** means the total tax calculated under schedule 1, part A, clause 1, table 1 for each dollar of taxable income derived in the income year by the deceased person:

- (e) **post-death income** means the total amount of trustee income derived by the trustee—
- (i) in the income year; and
 - (ii) within 12 months after the death of the person.

Defined in this Act: amount, basic rate, income tax, income year, tax, taxable income, trustee, trustee income 5

HC 8B Trustee income in income year of person’s death and following 3 income years

When this section applies

- (1) This section applies to a trustee of an estate of a deceased person for the income year in which the person died and the subsequent 3 income years. 10

Basic rate of tax for trustee

- (2) For an income year in which the trustee derives trustee income, the basic rate of income tax for the trustee on each dollar of the trustee’s taxable income is set out in schedule 1, part A, clause 6B (Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits). 15

Defined in this Act: income tax, income year, taxable income, trustee, trustee income

- (2) **Subsection (1)** applies for the 2024–25 and later income years.

34 Section HC 13 repealed (Charitable trusts)

Repeal section HC 13. 20

35 Section HC 17 amended (Amounts derived as beneficiary income)

- (1A) Replace the heading to section HC 17(1) with:

Beneficiaries other than minors or close companies

- (1AB) In section HC 17(1), after “section HC 35”, insert “or **HC 38**”.

- (1) After section HC 17(2), insert: 25

Beneficiaries that are close companies

- (3) Subsection (1) does not apply to beneficiary income derived by a close company to which **section HC 38** applies. The beneficiary income is excluded income of the company under **section CX 58B** (Amounts derived by certain close companies from trusts) and treated as trustee income under **section HC 38**. 30

- (2) In section HC 17, list of defined terms, insert “close company” and “company”.

- (3) ~~**Subsection (1)**~~ **Subsections (1A), (1AB) and (1)** apply for the 2024–25 and later income years. 35

36 Section HC 24 amended (Trustees’ obligations)

- (1) After section HC 24(3), insert:

<i>Beneficiary income of certain close companies</i>	
(3B) Section HC 38 applies to treat beneficiary income derived by a close company that meets the requirements of the section as if it were trustee income.	
(2) In section HC 24, list of defined terms, insert “close company”.	
(3) Subsection (1) applies for the 2024–25 and later income years.	5
36B Section HC 26 amended (Foreign-sourced amounts: resident trustees)	
<u>In section HC 26(1), replace “resident trustee of a foreign trust” with “New Zealand resident trustee”.</u>	
37 Section HC 29 amended (Settlers’ liability to income tax)	
(1) In section HC 29(4)(a), replace “charitable trust” with “trust that is a tax charity”.	10
(2) In section HC 29, list of defined terms, delete “charitable trust” and insert “tax charity”.	
38 Section HC 31 amended (When existing trusts come into tax base)	
(1) In section HC 31(1B), replace “charitable trust” with “trust that is a tax charity”.	15
(2) In section HC 31, list of defined terms, delete “charitable trust” and insert “tax charity”.	
38B Section HC 35 amended (Beneficiary income of minors)	
(1) <u>In section HC 35(2)(a), replace “trusts:” with “trusts); and”.</u>	20
(2) <u>In section HC 35(2), replace paragraph (b) with:</u>	
(b) <u>treated as trustee income for the purposes of who pays the relevant tax and who provides the return of income; and</u>	
(c) <u>subject to the basic rate of income tax set out in Schedule 1, Part A, clause 3.</u>	25
(3) Subsections (1) and (2) apply for the 2024–25 and later income years.	
39 New sections HC 38 to HC 40 and HC 39 inserted	
(1) After section HC 37, insert:	
HC 38 Beneficiary income of certain close companies	
<i>When this section applies</i>	30
(1) This section applies when a close company that is not a Maori authority or tax charity derives an amount of beneficiary income from a trust in an income year and a person for whom a settlor of the trust has natural love and affection holds, under sections YC 2 to YC 4 (which relate to interests held in a company), a voting interest or a market value interest in the close company. derives	35

an amount of beneficiary income from a trust (**trust A**) in an income year and a voting interest or market value interest in the close company is held, directly or indirectly, by 1 or more of the following:

- (a) a settlor of trust A:
- (b) the trustees of trust A: 5
- (c) a person for whom a settlor of trust A has natural love and affection:
- (d) the trustees of a trust (**trust B**), if a settlor of trust A has natural love and affection for a settlor or beneficiary of trust B.

When this section does not apply

(1B) This section does not apply to a close company that is a— 10

- (a) Maori authority:
- (b) tax charity:
- (c) securitisation trust beneficiary.

Treatment of amount derived

(2) The amount is— 15

- (a) excluded income of the close company under **section CX 58B** (Amounts derived by certain close companies from trusts); and
- (b) ~~treated as trustee income for the purposes of determining the rate of tax that applies, who pays the relevant tax, and who provides the return of income.~~ 20
- (b) treated as trustee income for the purposes of who pays the relevant tax and who provides the return of income; and
- (c) subject to the basic rate of income tax set out in Schedule 1, Part A, clause 3.

Relationship with other provisions 25

(3) This section—

- (a) ~~overrides sections HC 5, HC 18 to HC 20, HC 22, HC 23, and HC 32;~~
and
- (b) is overridden by section CW 10 (Dividend within New Zealand wholly-owned group). 30

Defined in this Act: amount, beneficiary income, close company, excluded income, income year, Maori authority, market value interest, ~~pay~~, return of income, securitisation trust beneficiary, settlor, tax, tax charity, ~~trust, trustee~~, trustee income, voting interest

HC 39 Trustee income: disabled beneficiary trusts 35

When this section applies

(1) ~~This section applies when the trustee of a disabled beneficiary trust derives an amount of taxable income in an income year.~~

Basic rate of tax for trustee

- (2) For an income year in which the trustee derives taxable income, the basic rate of income tax for the trustee on each dollar of the trustee's taxable income is the rate calculated using the formula—

$$(\text{combined tax} - \text{tax on beneficiary's income}) \div \text{trustee income.}$$

5

Definition of items in formula

- (3) In the formula,—

(a) **combined tax** means the total tax calculated under schedule 1, part A, clause 1, table 1 for each dollar of taxable income derived in the income year by the disabled beneficiary or the trustee:

10

(b) **tax on beneficiary's income** means the total tax calculated under schedule 1, part A, clause 1, table 1 for each dollar of taxable income derived in the income year by the disabled beneficiary:

(c) **trustee income** means the total amount of trustee income derived in the income year by the trustee.

15

Definition of disabled beneficiary trust

- (4) A **disabled beneficiary trust** is a trust with 1 beneficiary who,—

(a) for each income year for which the trustee claims that **subsection (2)** applies to the trust (the **claim year**), is a disabled beneficiary; and

(b) during the claim year and each income year after the claim year,—

20

(i) is the only person entitled to receive distributions from the trust that are not from the dissolution of the trust; and

(ii) is the only person entitled to receive distributions from the trust on the dissolution of the trust, if the beneficiary is alive when the trust is dissolved; and

25

(iii) cannot be replaced as a beneficiary.

Definition of disabled beneficiary

- (5) A **disabled beneficiary**, for an income year, is a person—

(a) who, at a time in the income year, is paid a supported living payment under the Social Security Act 2018 on the ground of restricted work capacity:

30

(b) for whom a child disability allowance is paid under the Social Security Act 2018 at a time in the income year.

Defined in this Act: amount, disabled beneficiary, disabled beneficiary trust, distribution, income year, tax rate, taxable income, trust, trustee

35

HC 39 Trustee income: disabled beneficiary trusts

Basic rate of tax for trustee of disabled beneficiary trust

- (1) When a trustee of a disabled beneficiary trust derives trustee income in an income year, the basic rate of income tax for the trustee on each dollar of the trustee’s taxable income is set out in schedule 1, part A, clause 6B (Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits). 5

Definition of disabled beneficiary trust

- (2) **A disabled beneficiary trust** is a trust—
- (a) with 1 or more beneficiaries who are all disabled beneficiaries; and
 - (b) from which no person other than a disabled beneficiary may ever receive distributions, except on the dissolution of the trust if no disabled beneficiaries are alive. 10

Definition of disabled beneficiary

- (3) **A disabled beneficiary**, for an income year, is a person who—
- (a) derives for the income year, under the Social Security Act 2018, 1 or more of the following: 15
 - (i) a supported living payment on the ground of restricted work capacity:
 - (ii) a child disability allowance:
 - (iii) Jobseeker support on the ground of health condition, injury, or disability: 20
 - (iv) a disability allowance; or
 - (b) satisfied 1 or more of **paragraph (a)(i), (iii), or (iv)** for the income year in which the person turned 65 years of age or the income year before that income year. 25

Defined in this Act: disabled beneficiary, disabled beneficiary trust, distribution, income year, taxable income, trustee, trustee income

HC 40 De minimis trust

A trust is a **de minimis trust** in an income year if the net income of the trustee for that income year, excluding any income treated as trustee income under section HC 35 or **HC 38**, is \$10,000 or less. 30

Defined in this Act: de minimis trust, distribution, income, income year, net income, trustee, trustee income

- (2) **Subsection (1)** applies for the 2024–25 and later income years.

40 Section HD 12 amended (Trusts) 35

- (1) In section HD 12(2), replace “charitable trust” with “trust that is a tax charity”.
- (2) In section HD 12, list of defined terms, delete “charitable trust” and insert “tax charity”.

- 41 Section HF 1 amended (Maori authorities and the Maori authority rules)**
In section HF 1(2)(f), replace “clause 6” with “clause 7”.
- 42 Section HG 4 amended (Disposal upon final dissolution)**
- (1) In section HG 4(4), replace “partners” with “partner’s”.
- (2) For a person who is not a limited partner of a limited partnership registered under the Limited Partnerships Act 2008, **subsection (1)** applies for income years starting on and after 1 April 2008. 5
- 43 Section HM 60 amended (Notified investor rates)**
- (1) In section HM 60(1), delete “Section 28B of the Tax Administration Act 1994 sets out the requirements for the notice.” 10
- (2) In section HM 60(4), delete “other than an investor who is a natural person”.
- 44 New subpart HP inserted (Taxation of members of certain multinational groups)**
- (1) After subpart HM, insert:
- Subpart HP—Taxation of members of certain multinational groups 15
- HP 1 Liability for multinational top-up tax**
- Payment of tax*
- (1) Subject to **subsection (2)**, a constituent entity (**entity A**) that is required to pay an amount of tax for a fiscal year under the applied global anti-base erosion rules must pay the amount to the Commissioner. 20
- Exclusion*
- (2) ~~No amount of tax is payable to the Commissioner under this subpart for a component of the applied global anti-base erosion rules set out in **section HP 4(2)**—~~
- (a) ~~if a date has not been declared under that section for the implementation in New Zealand of the component; or~~ 25
- (b) ~~for fiscal years starting before the date declared under that section for the implementation in New Zealand of the component, otherwise.~~
- Joint and several liability*
- (3) Each constituent entity that is located in New Zealand under the applied global anti-base erosion rules and that is a member of the same MNE group as a constituent entity described in **subsection (1)** (**entity A**) entity A is jointly and severally liable with entity A for the amount of tax for the fiscal year payable by entity A under the applied global anti-base erosion rules. 30

Member leaving MNE group

(4) If a constituent entity (**entity B**) that is a member of the same MNE group as entity A leaves the MNE group, entity B is relieved from liability under **subsection (3)** for a fiscal year if—

(a) the assessment of entity A’s multinational top-up tax liability for the fiscal year is made after entity B leaves the MNE group; and 5

(b) the amount assessed is more than an earlier assessment of entity A’s multinational top-up tax liability for the fiscal year; and

(c) the Commissioner considers that the removal of the liability will not significantly prejudice the recovery, or likely recovery, of the amount of multinational top-up tax assessed for the fiscal year; and 10

(d) the Commissioner notifies entity A and entity B that the requirements of **paragraph (c)** are met.

Defined in this Act: amount, amount of tax, applied global anti-base erosion rules, assessment, Commissioner, multinational top-up tax, New Zealand, notify, pay 15

HP 2 Payment date for multinational top-up tax

A constituent entity must pay its multinational top-up tax for a fiscal year to the Commissioner by,—

(a) for the first fiscal year for which the constituent entity is required to provide a return under **section 78J** of the Tax Administration Act 1994, the date that is 20 months after the end of the fiscal year, if either or both of the following apply: 20

(i) the earliest date declared under **section HP 4** for the implementation in New Zealand of a component of the applied global anti-base erosion rules set out in **subsection (2)** of that section falls in the fiscal year; 25

(ii) it is the first fiscal year in which the constituent entity is an entity to which the global anti-base erosion model rules apply, ignoring fiscal years that precede the fiscal year described in **subparagraph (i)**; or 30

(b) otherwise, the date that is 16 months after the end of the fiscal year, otherwise.

Defined in this Act: applied global anti-base erosion rules, Commissioner, global anti-base erosion model rules, multinational top-up tax, New Zealand, pay

HP 3 Application of global anti-base erosion model rules 35

What this section does

(1) This section provides for the application of the global anti-base erosion model rules in determining the obligations of a person under the Inland Revenue Acts.

	<i>Modifications to global anti-base erosion model rules</i>	
(2)	For the purposes of determining the obligations of a person under the Inland Revenue Acts, the global anti-base erosion model rules are modified in the ways specified in schedule 25B (Items modifying global anti-base erosion model rules).	5
	<i>Application of global anti-base erosion model rules</i>	
(3)	Subject to section HP 1(2) and any regulations made under section 226G of the Tax Administration Act 1994, the global anti-base erosion model rules are treated as applying at a time for a fiscal year—	
	(a) as modified by subsection (2) ; and	10
	(b) consistently subject to the modifications made by subsection (2) , in accordance with—	
	(i) the most recent commentary to the global anti-base erosion model rules developed by the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting (the Inclusive Framework) and published by the OECD before the start of the fiscal year in which the time falls ; and	15
	(ii) the most recent guidance on the interpretation or administration of the global anti-base erosion model rules issued by the Inclusive Framework and published by the OECD before the start of the fiscal year in which the time falls .	20
	<i>Commentary or guidance prevails</i>	
(4)	<u>For the purposes of subsection (3)(b), if there is a conflict between the global anti-base erosion model rules and commentary or guidance described in that paragraph, the commentary or guidance prevails.</u>	25
	<i>Relationship between provisions</i>	
(5)	Subsection (4) does not limit or affect any of the modifications to the global anti-base erosion model rules made by subsection (2) .	
	Defined in this Act: global anti-base erosion model rules, Inland Revenue Acts	
	HP 4 Implementation of components of applied global anti-base erosion rules	30
	<i>Implementation by Order in Council</i>	
(1)	The Governor-General may, by Order in Council made on the recommendation of the Minister of Revenue, declare a date on which a component of the applied global anti-base erosion rules set out in subsection (2) is to be implemented in New Zealand.	35
	<i>Components of applied global anti-base erosion rules</i>	
(2)	The components are—	

(a)	the rules set out in Article 2.1 to Article 2.3 of the global anti-base erosion model rules, as modified in the ways specified in schedule 25B, item 1 (Items modifying global anti-base erosion model rules):	
(b)	the modifications to Article 2.1 of the global anti-base erosion model rules set out in schedule 25B, item 2 :	5
(c)	the rules set out in Article 2.4 to Article 2.6 of the global anti-base erosion model rules, as modified in the ways specified in schedule 25B, items 1 and 3 .	
	<i>Declaration of dates</i>	
(3)	For the purposes of subsections (1) and (2) ,—	10
(a)	an Order in Council may deem a component to have been implemented in New Zealand on a date in the past if the date is not earlier than—	
(i)	1 January 2024; and	
(ii)	the first day of the calendar year in which the date is declared; and	
(b)	1 or more Orders in Council may be made declaring different dates for different components.	15
	<i>Secondary legislation</i>	
(4)	An Order in Council made under this section is secondary legislation (<i>see</i> Part 3 of the Legislation Act 2019 for publication requirements).	
	Defined in this Act: applied global anti-base erosion rules, global anti-base erosion model rules, New Zealand	20
HP 5 Meaning of terms defined in global anti-base erosion model rules		
	In the application of this subpart, and sections 78H to 78J and 92BA of the <u>Tax Administration Act 1994</u> , and the global anti-base erosion model rules <u>at a time for a fiscal year</u> , a term defined in the global anti-base erosion model rules and used in the Inland Revenue Acts has the meaning that it has at the <u>time start of the fiscal year</u> under the global anti-base erosion model rules, as modified by section HP 3(2) .	25
	Defined in this Act: global anti-base erosion model rules, Inland Revenue Acts	
(2)	Subsection (1) applies for fiscal years, as defined in Article 10.1.1 of the <u>global anti-base erosion model rules</u> , starting on or after 1 January 2025.	30
45 Section HP 5 amended (Meaning of terms defined in global anti-base erosion model rules)		
	In section HP 5 (as inserted by section 44), after “subpart”, insert “, and sections 78H to 78J and 92BA of the Tax Administration Act 1994,”.	35
46 Section HR 12 amended (Non-exempt charities: treatment of tax-exempt accumulations)		
(i)	In section HR 12(3)(a), replace “another person” with “a tax charity”.	

- (1) Replace section HR 12(3)(a) with:
- (a) assets that are disposed of or transferred for charitable purposes within 1 year of the end date, together with any rights and obligations, to—
- (i) a tax charity, other than a tax charity as defined in paragraph (c) of the definition of tax charity: 5
- (ii) a New Zealand resident person, other than a natural person, that derives exempt income under any of sections CW 38 to CW 52, CW 55BA, or CW 64 (which relate to exempt income of certain entities):
- (2) **Subsection (1)** applies to a person that is removed from the register of charitable entities on or after 1 April 2024. 10

47 New section LE 4B inserted (Trustees for certain close companies)

- (1) After section LE 4, insert:

LE 4B Trustees for certain close companies

When this section applies 15

- (1) This section applies when a person who has a tax credit under section LE 1 (the **tax credit**) is the trustee of a trust and a close company derives beneficiary income from the trust.

Trustee treated as beneficiary

- (2) To the extent to which **section HC 38** (Beneficiary income of certain close companies) applies, the person may act as an agent of the close company to apply the tax credit in satisfaction of a tax liability arising for the company from the beneficiary income is treated as deriving the company's beneficiary income as a beneficiary. 20

Defined in this Act: agent, beneficiary income, close company, tax credit, trustee 25

- (2) **Subsection (1)** applies for the 2024–25 and later income years.

48 Section LJ 3 replaced and amended (Meaning of foreign income tax)

- (1) Replace section LJ 3 with:

LJ 3 Meaning of foreign income tax

For the purposes of this Part, **foreign income tax**— 30

(a) means—

- (i) an amount of a tax of another country meeting the requirements of section YA 2(5) (Meaning of income tax varied):
- (ii) in relation to a double tax agreement providing relief from tax or double taxation, an amount of tax to which the double tax agreement applies; and 35

(ab) includes an amount of a tax of another country that is a qualified domestic minimum top-up tax, as defined in Article 10.1.1 of the global anti-base erosion model rules; and

(ac) includes an amount of a tax of another country that is of substantially the same nature as the tax that will be imposed by this Act— 5

(i) when all the provisions of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act **2023** (the **amendment Act**) listed in **section 2(19) and (19C)** of the amendment Act have come into force; and

(ii) because of the application of the modifications to Article 2.1 of the global anti-base erosion model rules made by **section 63(3)** of the amendment Act; and 10

(b) ~~does not include an amount of a tax of another country that is based on—substantially the same nature as multinational top-up tax, ignoring **section HP 1(2)** (Liability for multinational top-up tax).~~ 15

(i) Articles 2.1 to 2.3 of the global anti-base erosion model rules; or

(ii) Articles 2.4 to 2.6 of those model rules.

Defined in this Act: amount, amount of tax, double tax agreement, global anti-base erosion model rules, multinational top-up tax, tax

(2) In **section LJ 3** (as replaced by **subsection (1)**),— 20

(a) replace **paragraphs (ab) and (ac)** with:

(b) includes an amount of a tax of another country that is either or both of the following:

(i) a qualified domestic minimum top-up tax, as defined in Article 10.1.1 of the global anti-base erosion model rules; 25

(ii) of substantially the same nature as multinational top-up tax payable because of the application of the modifications to Article 2.1 of the global anti-base erosion model rules set out in **schedule 25B, item 1B** (Items modifying global anti-base erosion model rules); and 30

(b) list of defined terms, insert “multinational top-up tax”.

49 Section MB 7 amended (Family scheme income of settlor of trust)

(1) In section MB 7(3), formula, replace “trustee income” with “trustee’s adjusted net income”.

(2) In section MB 7(4)(a), replace “**trustee income**” with “**trustee’s adjusted net income**”. 35

(3) In section MB 7(7)(a), replace “**trustee income**” with “**trustee’s adjusted net income**”.

- (4) In section MB 7(8)(a), replace “trustee income” with “trustee’s adjusted net income”.
- (5) In section MB 7, list of defined terms, delete “trustee income”.

50 Section MK 2 amended (Eligibility requirements)

In section MK 2, list of defined terms, delete “resident in New Zealand”. 5

51 New section OB 7BB inserted (ICA payment of multinational top-up tax)

After section OB 7B, insert:

OB 7BB ICA payment of multinational top-up tax

Credit

- (1) An ICA company has an imputation credit for an amount of multinational top-up tax paid under **section HP 1** (Liability for multinational top-up tax) to the extent to which it was payable because of the application of the modifications to Article 2.1 of the global anti-base erosion model rules set out in **schedule 25B, item 21B** (Items modifying global anti-base erosion model rules). 10

Table reference

- (2) The imputation credit in **subsection (1)** is referred to in table O1: imputation credits, **row 5BB** (payment of multinational top-up tax). 15

Credit date

- (3) The credit date is the day the multinational top-up tax is paid.

Defined in this Act: amount, global anti-base erosion model rules, ICA company, imputation credit, ~~global anti-base erosion model rules~~, multinational top-up tax, pay 20

52 Table O1 amended (Imputation credits)

In table O1, after row 5B, insert:

5BB	Payment of multinational top-up tax	day of payment	section OB 7BB
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53 New section OP 11BA inserted (Consolidated ICA payment of multinational top-up tax)

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After section OP 11, insert:

OP 11BA Consolidated ICA payment of multinational top-up tax

Credit

- (1) A consolidated imputation group has an imputation credit for an amount of multinational top-up tax paid under **section HP 1** (Liability for multinational top-up tax) to the extent to which it was payable because of the application of the modifications to Article 2.1 of the global anti-base erosion model rules set out in **schedule 25B, item 21B** (Items modifying global anti-base erosion model rules). 30

Table reference

- (2) The imputation credit in **subsection (1)** is referred to in table O19: imputation credits of consolidated imputation groups, **row 6BA** (~~payment of multinational top-up tax paid for group tax liability~~).

Credit date

- (3) The credit date is the day the multinational top-up tax is paid.

Defined in this Act: amount, consolidated imputation group, ~~imputation credit~~, global anti-base erosion model rules, imputation credit, multinational top-up tax, pay

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54 Table O19 amended (Imputation credits of consolidated imputation groups)

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In table O19, after row 6B, insert:

6BA	Multinational top-up tax paid for group tax liability	day of payment	section OP 11BA
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55 Section RC 6 amended (Standard method)

In section RC 6(5), replace “preceding tax year” with “relevant tax year”.

55B Section RC 38 amended (Crediting income tax with early-payment discount)

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- (1) Replace section RC 38(4)(a) with:

(a) the rate that is 2% greater than the highest Commissioner’s paying rate set by an Order in Council under section 120H of the Tax Administration Act 1994 that applied at any time during the tax year if no rate is set under paragraph (b):

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- (2) Replace section RC 38(4)(a) (as inserted by **subsection (1)**) with:

(a) the rate that is 2% greater than the Commissioner’s paying rate set by an Order in Council under section 120H of the Tax Administration Act 1994 that applied at the end of the preceding tax year if no rate is set under paragraph (b):

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- (3) **Subsection (1)** applies for the 2022–23 and later income years.

- (4) **Subsection (2)** applies for the 2024–25 and later income years.

55C Section RD 10 amended (Amounts of tax for PAYE income payments)

In section RD 10(1), replace “RD 20” with “**RD 20C**”.

56 Section RD 17 amended (Payment of extra pay with other PAYE income payments)

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- (1) Replace section RD 17(1)(b) with:

(b) the annualised value of the PAYE income payments for the last two pay periods before the 1 for the extra pay.

(1) After section RD 17(1), insert:

End of employment

(1BA) Despite subsection (1), if the extra pay arises from the ending of the employee’s employment, the amount of tax for the extra pay is based on the sum of—

- (a) the amount of the extra pay; and
- (b) the annualised value of the PAYE income payments for the last 2 pay periods before the PAYE income payment for the extra pay.

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(2) In section RD 17, list of defined terms, insert “pay period”.

57 New sections RD 20B and RD 20C inserted

(1) After section RD 20, insert:

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RD 20B Payments of accident compensation earnings-related payment for period of more than 1 year

What this section applies to

(1) This section applies to a person for a payment (the **multi-year compensation payment**) ~~that is an accident compensation earnings-related payment consisting of a lump sum and relating is made in a lump sum and relates to a period of more than 1 income year for the person, person and is—~~

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- (a) an accident compensation earnings-related payment, except to the extent to which the payment is the conversion of weekly compensation to an aggregated payment under schedule 1, part 4, clause 67 of the Accident Compensation Act 2001; or
- (b) a personal service rehabilitation payment, except to the extent to which the payment is a reimbursement payment to which section CW 35 (Personal service rehabilitation payments) applies.

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Tax rate for payment and income year

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(2) The tax rate given by **subsection (3)** applies to the multi-year compensation payment for the income year in which the person derives the payment.

Tax rate

(3) The tax rate referred to in **subsection (2)** is—

- (a) 10.5%, if the rate given by the formula in **subsection (4)** (the **average basic tax rate**) is less than 10.5% and **paragraph (c)** does not apply; or
- (b) the person’s average basic tax rate, if neither of **paragraphs (a) and (c)** applies; or
- (c) the person’s basic tax rate for the income year in which the person derives the multi-year compensation payment, if that basic tax rate is less than the average basic tax rate.

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Formula for average basic tax rate

(4) ~~The average basic tax rate for this section is calculated using the formula—~~

$$0.25 \times (\text{basic rate 1} + \text{basic rate 2} + \text{basic rate 3} + \text{basic rate 4}).$$

- (4) The person's average basic tax rate for this section is calculated over the period of the 4 income years (the **rate averaging period**) ending before the income year in which the person derives the multi-year compensation payment using the formula—

5

$$\text{total basic rates} \div \text{number of income years.}$$

Definition of items in formula

- (5) In the formula in **subsection (4)**,—
- (a) **basic rate 1** is the person's basic tax rate calculated under schedule 1, Part A, clause 1 for the first income year in the period of 4 income years (the **rate averaging period**) ending before the income year in which the person derives the multi-year compensation payment:
- (b) **basic rate 2** is the person's basic tax rate calculated under schedule 1, Part A, clause 1 for the second income year in the rate averaging period:
- (c) **basic rate 3** is the person's basic tax rate calculated under schedule 1, Part A, clause 1 for the third income year in the rate averaging period:
- (d) **basic rate 4** is the person's basic tax rate calculated under schedule 1, Part A, clause 1 for the fourth income year in the rate averaging period:
- (a) **total basic rates** is the sum of the person's basic tax rate calculated under schedule 1, part A, clause 1 for each of the income years in the rate averaging period for which that rate is known by the Commissioner:
- (b) **number of income years** is the number of income years within the rate averaging period for which the person's basic tax rate is known by the Commissioner and included in the total basic rates.

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Withholding from payment

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- (6) For the purposes of section RA 5 (Tax obligations for employment-related taxes), if the multi-year compensation payment is an accident compensation earnings-related payment, the person making the payment must withhold an amount of tax from the payment at the rate given by **subsection (7)**.

Rate of withholding

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- (7) The rate referred to in **subsection (6)** is—

- (a) if the person's average basic tax rate is less than 10.5%, 10.5%; or
- (b) in any other case, the person's average basic tax rate.

Defined in this Act: accident compensation earnings-related payment, amount, amount of tax, basic tax rate, Commissioner, income year, pay, personal service rehabilitation payment, reimbursement payment

35

RD 20C Payments of recalculated main benefit for period of more than 1 year*What this section applies to*

- (1) This section applies to a person for a payment (the ~~multi-year main benefit payment~~) that is a main benefit as defined in paragraph (a) of the definition of **main benefit** in section YA 1 and consists of a lump sum relating to a period of more than 1 income year for the person. 5

- (1) This section applies to a person for a payment (the **recalculated main benefit payment**) that is made in a lump sum in an income year and arises from a recalculation of the amount of main benefit payable to the person for 1 or more earlier income years. 10

Tax rate for payment

- (2) The rate of income tax given by **subsection (3)** applies to the ~~multi-year recalculated~~ main benefit payment for the income year in which the person derives the payment.

Formula for tax rate

- (3) The rate of income tax referred to in **subsection (2)** is the rate calculated using the formula— 15

$$\text{tax deduction} \div (\text{received amount} + \text{tax deduction}).$$

Definition of items in formula

- (4) In the formula in **subsection (3)**,— 20
- (a) **tax deduction** is the amount paid to the Commissioner by the department of State responsible for the administration of the Social Security Act 2018 (the **MSD**) as the amount for income tax payable on the ~~multi-year recalculated~~ main benefit payment:
- (b) **received amount** is the amount paid to the person by the MSD as the amount of the ~~multi-year recalculated~~ main benefit payment after the withholding of income tax. 25

Defined in this Act: amount, Commissioner, income tax, income year, main benefit, pay

- (2) **Subsection (1)** applies for accident compensation earnings-related payments, personal service rehabilitation payments, and payments of main benefit, made on or after 1 April 2024. 30

58 Section RE 14C amended (Non-cash dividends distributed through intermediaries)

- (1) In section RE 14C, words before the paragraphs, replace “RE 5” with “RE 4”.
- (2) In section RE 14C, paragraph (a)(i), replace “derives” with “receives”. 35
- (3) In section RE 14C, paragraph (a)(ii), insert “attributes or” before “distributes”, and replace “company” with “foreign company”.
- (4) In section RE 14C, paragraph (a)(iii), insert “attribution or” before “distribution”.

- (5) In section RE 14C, paragraph (b), insert “attribution or” before “distribution”, and replace “derived” with “received”.
- (6) **Subsections (1) to (5)** apply for the 2017–18 and later income years.
- 59 Section YA 1 amended (Definitions)**
- (1) This section amends section YA 1. 5
- (2) In the definition of **accommodation**, paragraph (b), replace “CZ 29, and CZ 30” with “CZ 23B, and CZ 29 to CZ 30”.
- (2B) Insert, in appropriate alphabetical order:
adjusted value is defined in **section DB 46** (Avoiding, remedying, or mitigating effects of discharge of contaminant or making of noise) for the purposes of that section 10
- (3) Insert, in appropriate alphabetical order:
affected area means any of the following regions or districts:
 (a) the regions of Northland, Auckland, Waikato, Bay of Plenty, Gisborne, and Hawke’s Bay: 15
 (b) the districts of Taranua, Masterton, Carterton, South Wairarapa, Manawatu, and Rangitikei
- (4) In the definition of **ancillary tax**, after paragraph (h), insert:
 (hb) multinational top-up tax: 20
- (5) Insert, in appropriate alphabetical order:
applied global anti-base erosion rules means the global anti-base erosion model rules as applied by **section HP 3** (Application of global anti-base erosion model rules) 20
- (6) Insert, in appropriate alphabetical order:
building includes, for the purposes of **subpart EE** (Depreciation), part of a building, to the extent to which it is ~~unit titled~~ a unit in a unit title development under the Unit Titles Act 2010 25
- (7) Repeal the definition of **charitable trust**.
- (7B) Insert, in appropriate alphabetical order:
co-owner is defined in **section CW 3C** (Certain partitions or subdivisions of land) for the purposes of that section and **section CB 15E** (Disposals of land subject to section CW 3C) 30
- (8) In the definition of **council-controlled organisation**, replace paragraph (a)(vii) and (viii) with:
 (vii) New Zealand Local Government Insurance Corporation and any subsidiaries it has; but 35
- (8B) Insert, in appropriate alphabetical order:

- de minimis trust** is defined in **section HC 40** (*De minimis trust*)
- (8C) Replace the definition of **diminished value** with:
diminished value is defined in **section DO 9B** (*Meaning of diminished value*) for the purposes of **section DB 46** (*Avoiding, remedying, or mitigating effects of discharge of contaminant or making of noise*), and sections DO 4, DO 5, DO 11, DO 12, DO 13, DP 3, DP 4, DZ 17, DZ 18 and schedule 20 (*which relate to improvements to land and aquacultural business*)
- (8D) Insert, in appropriate alphabetical order:
diminishing value equivalent method is defined in **section DB 46** (*Avoiding, remedying, or mitigating effects of discharge of contaminant or making of noise*) for the purposes of that section
- (9) Insert, in appropriate alphabetical order:
disabled beneficiary is defined in **section HC 39(53)** (*Trustee income: disabled beneficiary trusts*)
- (10) Insert, in appropriate alphabetical order:
disabled beneficiary trust is defined in **section HC 39(42)** (*Trustee income: disabled beneficiary trusts*)
- (10B) Insert, in appropriate alphabetical order:
exempt housing provider is defined in section DH 5 (*Key terms*)
- (10C) Insert, in appropriate alphabetical order:
Fonterra is defined in **section CZ 41(4)** (*Distributions to supplying shareholders of Fonterra: 2022–23 to 2024–25 income years*) for the purposes of that section
- (11) Insert, in appropriate alphabetical order:
global anti-base erosion model rules means the model rules—
- (a) set out in *Tax Challenges Arising from the Digitalisation of the Economy – Global Anti-Base Erosion Model Rules (Pillar Two): Inclusive Framework on BEPS*, which is a document—
 - (i) approved by the OECD/G20 Inclusive Framework on BEPS on 14 December 2021; and
 - (ii) published by the OECD; and
 - (b) as amended from time to time, except any amendments to the definition of **minimum rate** in Article 10.1.1 of the model rules referred to in **paragraph (a)**
- (11B) Insert, in appropriate alphabetical order:

legacy superannuation fund means a scheme that previously qualified as a widely-held superannuation fund and is either—

- (a) a restricted workplace savings scheme as designated by the Financial Markets Conduct (Designation of Restricted Schemes) Order 2016; or
- (b) treated as a registered scheme that is a superannuation fund by section 59A(1)(b) of the National Provident Fund Restructuring Act 1990

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(11C) Insert, in appropriate alphabetical order:

lending person means a person—

- (a) whose main business activity is lending funds or leasing personal property to persons who are not associated with the person; or
- (b) who is a member of a group whose main business activity is lending funds or leasing personal property to persons who are not associated with any member of the group

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(12) Insert, in appropriate alphabetical order:

multinational top-up tax means tax payable under **subpart HP** (Taxation of members of certain multinational groups)

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(12B) Insert, in appropriate alphabetical order:

North Island adverse weather event means any of the following weather events:

- (a) heavy rainfall commencing on 26 January 2023 and ending on 3 February 2023 in the Northland, Auckland, Waikato, and Bay of Plenty regions:
- (b) Cyclone Gabrielle, which crossed the North Island of New Zealand during the period commencing on 12 February 2023 and ending on 16 February 2023:
- (c) severe weather in the Nelson-Tasman region that resulted in a state of emergency being declared under the Civil Defence Emergency Management Act 2002, beginning on 17 August 2022 and ending on 31 August 2022

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(13) Replace the definition of **North Island flooding events** with:

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North Island flooding events—

- (a) means flooding and other damage that occurred in an affected area caused by any of the following weather events:
 - (i) Cyclone Hale, which crossed the North Island of New Zealand during the period commencing on 8 January 2023 and ending on 12 January 2023:
 - (ii) heavy rainfall commencing on 26 January 2023 and ending on 3 February 2023 in the Northland, Auckland, Waikato, and Bay of Plenty regions:

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- (iii) Cyclone Gabrielle, which crossed the North Island of New Zealand during the period commencing on 12 February 2023 and ending on 16 February 2023; and
- (b) includes circumstances where damage caused by any of the events listed in **paragraph (a)** is exacerbated by a subsequent weather event 5
- (13B) Insert, in appropriate alphabetical order:
projected qualifying non-transaction shareholding is defined in **section CZ 41(4)** (Distributions to supplying shareholders of Fonterra: 2022–23 to 2024–25 income years) for the purposes of that section
- (13C) Replace the definition of **projected transactions shareholding** with: 10
projected transactions shareholding—
- (a) is defined in section CD 34B(7) (Distributions to members of co-operative companies) for the purposes of that section:
- (b) is defined in **section CZ 41(4)** (Distributions to supplying shareholders of Fonterra: 2022–23 to 2024–25 income years) for the purposes of that section 15
- (13D) Insert, in appropriate alphabetical order:
qualifying non-transaction shares is defined in **section CZ 41(4)** (Distributions to supplying shareholders of Fonterra: 2022–23 to 2024–25 income years) for the purposes of that section 20
- (13E) In the definition of **reimbursement payment**, replace “DF 4 and LB 7” with “DF 4, LB 7, and **RD 20B**”.
- (13F) Insert, in appropriate alphabetical order:
reportable income is defined in section 22D(3) of the Tax Administration Act 1994 25
- (14) In the definition of **residential land**, paragraph (a)(i), replace “farmland,” with “farmland”.
- (15) In the definition of **schedular income**, after paragraph (k), insert:
- (l) income to which **section RD 20B** (Payments of accident compensation~~Accident compensation earnings-related payments~~ for period of more than 1 year) applies: 30
- (m) income to which **section RD 20C** (Payments of recalculated main benefit~~for period of more than 1 year~~) applies
- (15B) Insert, in appropriate alphabetical order:
securitisation trust, for an income year, means a trust that, from the establishment of the trust to the end of the relevant income year, only has one beneficiary and that beneficiary is a company, and at all times during the income year— 35
- (a) operates to do 1 or more of the following:

- (i) guarantee liabilities of a financial institution (**person A**), who transferred some or all of their assets to the trust:
 - (ii) guarantee liabilities of a company, incorporated in and resident in New Zealand, that is a member of a wholly-owned group of companies that includes person A: 5
 - (iii) raise funds by issuing securities backed by its assets:
 - (iv) raise funds by borrowing money backed by its assets; and
 - (b) has interests in assets for the sole purpose of carrying out the trust's operations described in **paragraph (a)**; and
 - (c) receives only funds that— 10
 - (i) are used to acquire assets as described in **paragraph (b)**:
 - (ii) are derived from assets described in **paragraph (b)**:
 - (iii) are incidental to the trust's sole purpose described in **paragraph (b)**; and
 - (d) derives no exempt income; and 15
 - (e) is a New Zealand resident; and
 - (f) meets at least one of the following requirements:
 - (i) the beneficiary of the trust is a lending person:
 - (ii) the trust has its assets included in financial statements that are prepared using IFRSs. 20
- (15C) Insert, in appropriate alphabetical order:
securitisation trust beneficiary means a beneficiary of a securitisation trust
- (15D) Insert, in appropriate alphabetical order:
straight-line equivalent method is defined in **section DB 46** (Avoiding, remedying, or mitigating effects of discharge of contaminant or making of noise) for the purposes of that section 25
- (15E) Insert, in appropriate alphabetical order:
supplying shareholder is defined in **section CZ 41(4)** (Distributions to supplying shareholders of Fonterra: 2022–23 to 2024–25 income years) for the purposes of that section 30
- (15F) Replace the definition of **trading transactions** with:
trading transactions—
 - (a) is defined in section CD 34B(8) (Distributions to members of co-operative companies) for the purposes of that section:
 - (b) is defined in section **CZ 41(4)** (Distributions to supplying shareholders of Fonterra: 2022–23 to 2024–25 income years) for the purposes of that section 35
- (15G) Replace the definition of **transaction shares** with:

- transaction shares**—
- (a) is defined in section CD 34B(5) (Distributions to members of co-operative companies) for the purposes of that section:
- (b) is defined in **section CZ 41(4)** (Distributions to supplying shareholders of Fonterra: 2022–23 to 2024–25 income years) for the purposes of that section 5
- (16) In the definition of **trust rules**,—
- (a) in paragraph (ab), after “CW 54,”, insert “**CX 58, CX 58B**,”;
- (b) in paragraph (g), replace “LE 4, LE 5, LF 2, LF 3” with “LE 4 to LE 5”.
- (16B) **Subsections (2B), (8C), (8D), and (15D)** apply for the 2008–09 and later income years. However, **subsections (2B), (8C), (8D), and (15D)** do not apply to a person in relation to a tax position taken by the person— 10
- (a) in the period that starts on the first day of the 2008–09 income year and ends on the day after this Act receives the Royal assent; and
- (b) in relation to a deduction allowed for expenditure incurred to avoid, remedy, or mitigate the effects of discharge of contaminant or the making of noise; and 15
- (c) relying on section DB 46 as it was before the amendments made by **subsections (2B), (8C), (8D), and (15D)** and **sections 21B and 21E**.
- (17) **Subsections (9), (10), and (16)** apply for the 2024–25 and later income years. 20
- (18) **Subsection (14)** applies—
- (a) for purposes of the rules related to the bright-line test for residential land, if the person acquires an estate or interest in the land on or after 27 March 2021. However, **subsection (14)** does not apply if the person makes an offer for the acquisition of the land, on or before 23 March 2021, that is irrevocable before 27 March 2021 and the person acquires an estate or interest in the land on or after 27 March 2021 as a result of that offer. Further, **subsection (14)** does not apply to— 25
- (i) a person’s disposal of a freehold estate in residential land that the person acquired as the owner of a leasehold estate with a perpetual right of renewal, if the person was granted the leasehold estate before 27 March 2021: 30
- (ii) a person’s disposal of an estate or interest in residential land that the person acquired as the result of the completion of a land development or subdivision, if before 27 March 2021 the person entered into the agreement under which they acquired the estate or interest upon the completion of the land development or subdivision: 35
- (b) for other purposes, for the 2021–22 and later income years. 40

- (19) **Subsection (15)** applies for accident compensation earnings-related payments, personal service rehabilitation payments, and payments of main benefit, made on or after 1 April 2024.

60 Section YB 8 amended (Trustee and settlor)

- (1) In section YB 8(2), replace “charitable trust” with “tax charity”. 5
- (2) In section YB 8, list of defined terms, delete “charitable trust” and insert “tax charity”.

61 Section YD 4 amended (Classes of income treated as having New Zealand source)

Replace section YD 4(17D), other than the heading, with: 10

(17D) Income of a non-resident that may be taxed in New Zealand under a double tax agreement and does not have a source under subsections (15) to (17) has a source in New Zealand, ~~except if~~ unless the income is—

- (a) a dividend from a share in a foreign company that is not revenue account property: 15
- (b) technical services fees that are treated in the same way as royalties under a double tax agreement:
- (c) a royalty or interest payment connected attributable, under a double tax agreement, to a permanent establishment outside New Zealand.

62 Schedule 1 amended (Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits) 20

(1A) In schedule 1, part A, clause 1, replace “2 to 10” with “2 to 14”.

- (1) In schedule 1, part A, clause 3, —
- (a) replace “clause 4, 5 or 6” with “clause 4, 5, 6, ~~or 6B, or 6C~~”: 25
- (b) replace “0.33” with “0.39”.

(1B) In schedule 1, part A, clause 6, replace paragraph (c) with:

- (c) a widely-held superannuation fund:
- (d) a legacy superannuation fund.

(2) After schedule 1, part A, clause 6, insert:

6B Taxable income: trustees of certain trusts and estates disabled beneficiary trusts 30

To the extent to which a trustee does not have a basic rate under clause 4, the basic rate of income tax on each dollar of the trustee’s taxable income is 0.33 if the trustee is a trustee of — ~~For a trustee of a disabled beneficiary trust, the basic rate of income tax on each dollar of the trustee’s taxable income is the rate given by~~ **section HC 39(2)** (Trustee income: disabled beneficiary trusts). 35

- (a) a disabled beneficiary trust:

	(b) <u>an estate referred to in section HC 8B (Trustee income in income year of person’s death and following 3 income years):</u>	
	(c) <u>a lines trust:</u>	
	(d) <u>a de minimis trust.</u>	
6C	Taxable income: trustees of certain estates	5
	For a trustee of an estate and an income year referred to in section HC 8B (Trustee income within 12 months after person’s death), the basic rate of income tax on each dollar of the trustee’s taxable income for the income year is the rate given by that section.	
(3)	In schedule 1, part A, after clause 12, insert:	10
13	Schedular taxable income: accident compensation earnings-related payments for period of more than 1 year	
	The basic rate of income tax for a person on each dollar of the person’s schedular taxable income that is income from a payment to which section RD 20B (Payments of accident compensation earnings-related payments for periods of more than 1 year) applies is the tax rate given by section RD 20B(3) for the payment and the tax year in which the person derives the payment.	15
14	Schedular taxable income: <u>recalculated main benefit payments for period of more than 1 year</u>	20
	The basic rate of income tax for a person on each dollar of the person’s schedular taxable income that is income from a payment to which section RD 20C (Payments of <u>recalculated main benefit for period of more than 1 year</u>) applies is the rate of income tax given by section RD 20C(3) for the payment and the tax year in which the person derives the payment.	25
(4)	Subsections (1) and (2) apply for the 2024–25 and later income years.	
(5)	Subsection (3) applies for accident compensation earnings-related payments, <u>personal service rehabilitation payments</u> , and payments of main benefit, made on or after 1 April 2024.	
63	<u>New schedule 25B inserted and amended (Items modifying global anti-base erosion model rules)</u>	30
(1)	After schedule 25, insert the schedule 25B set out in Schedule 1 of this Act.	
(2)	<u>In schedule 25B (as inserted by subsection (1)), replace the shoulder reference with “ss DB 1, HP 3, LJ 3, OB 7BB, OP 11BA”.</u>	
(3)	<u>In schedule 25B (as inserted by subsection (1)), after item 1, insert:</u>	35
1B	<u>The following Articles are inserted after Article 2.1.6:</u>	
	<u>2.1.7 A Parent Entity located in New Zealand that is a member of an MNE Group that includes an Ultimate Parent Entity located in New Zealand</u>	

	<u>shall apply the provisions of Articles 2.1.1 to 2.1.5 with respect to a Low-Taxed Constituent Entity that is located in New Zealand. For this purpose, an Ultimate Parent Entity shall be treated as owning all Ownership Interests in itself.</u>	
	<u>2.1.8 Article 2.1.7 does not apply to a Parent Entity of an MNE Group that is in the initial phase of its international activity (see Article 9.3.2).</u>	5
(4)	<u>In schedule 25B (as inserted by subsection (1)), after item 6, insert:</u>	
6B	<u>In Article 9.3.2, in the words before the paragraphs, “Article 9.3” is replaced with “Articles 2.1 and 9.3”.</u>	
(5)	<u>Subsection (1) applies for fiscal years, as defined in Article 10.1.1 of the global anti-base erosion model rules, starting on or after 1 January 2025.</u>	10
(6)	<u>Subsections (3) and (4) apply for fiscal years, as defined in Article 10.1.1 of the global anti-base erosion model rules, starting on or after 1 January 2026.</u>	
64	Schedule 32 amended (Recipients of charitable or other public benefit gifts)	15
(1)	This section amends schedule 32.	
(2)	Insert, in appropriate alphabetical order:	
	(a) “Butterfly Trust”:	
	(b) “Develop Together”:	
	(c) “Ekal Vidyalaya Foundation of New Zealand”:	20
	(d) “Pasifika Safe Shelter Trust”:	
	(e) “The Limapela Foundation”:	
	(f) “The Make My Name Count NZ Charitable Trust”.	
(2B)	<u>Insert, in appropriate alphabetical order, “Emergency Alliance”.</u>	
(3)	Delete—	25
	(a) “Akha Rescue Ministry Charitable Trust”:	
	(b) “Astha Childrens Home (Nepal/New Zealand)”:	
	(c) “Bangladesh Flood Appeal Trust”:	
	(d) “Nelson Mandela Trust (New Zealand)”:	
	(e) “Operation Hope (Aid Ship to Africa)”:	30
	(f) “The Bougainville Library Trust”:	
	(g) “The Mutima Charitable Trust”.	
(4)	Delete “The Make My Name Count NZ Charitable Trust” and “Ekal Vidyalaya Foundation of New Zealand”.	
64B	Schedule 35 amended (Public purpose Crown-controlled companies)	35
(1)	<u>This section amends schedule 35.</u>	

- (2) Delete “Crown Asset Management Limited”.
 (3) Delete “Ōtākaro Limited”.
 (4) Insert “Rau Paenga Limited”.

Part 3

Amendments to Tax Administration Act 1994

5

65 Amendments to Tax Administration Act 1994

This Part amends the Tax Administration Act 1994.

66 Section 3 amended (Interpretation)

- (1) This section amends section 3(1).
- (2) In the definition of **civil penalty**, after paragraph (cb), insert: 10
 (cbb) a penalty under **section 139AAB**, 139AB, or 139AC; or
- (3) In the definition of **civil penalty**, replace **paragraph (cbb)** (as inserted by **subsection (2)**) with:
 (cbb) a penalty under **section 139AAB or 139ABB**, 139AB, **139ABB**, or 139AC; or 15
- (3B) In the definition of **civil penalty**, paragraph (cc), replace “142H, 142I, 142J, or 142K” with “142H or 142I”.
- (3C) In the definition of **civil penalty**, paragraph (cc) (as amended by **subsection (3B)**), replace “142H or 142I” with “142H, 142I, 142J, or 142K”.
- (4) In the definition of **gift-exempt body**, replace paragraph (b) with: 20
 (b) a charitable entity registered under the Charities Act 2005; or
 (e) any other person who has or is eligible to receive RWT-exempt status under section 32E(2)(k) or (l), for a tax year in which they have or are eligible to receive that status
- (4B) In the definition of **individual**, replace “22, 33, 37, 38,” with “4A, 22, 33, 37,”. 25
- (5) Insert, in appropriate alphabetical order:
multinational top-up tax return means a return required under **section 78J**
- (6) In the definition of **qualifying individual**, replace “4A, 22,” with “22, 38, 89C,”.

66B Section 22 amended (Keeping of business and other records)

30

In section 22(2), words after paragraph (n), after “(as applicable),”, insert “or (for paragraph (lf)) the calendar year,”.

- 66C Section 22D amended (Key terms)**
- (1) In section 22D(1), words before the paragraphs, replace “22, 33, 37, 38,” with “4A, 22, 33, 37.”.
- (2) In section 22D(2), words before the paragraphs, replace “4A, 22,” with “22, 38, 89C.”. 5
- (3) **Subsections (1) and (2)** apply for the 2018–19 and later income years.
- 66D Section 22H amended (Finalising accounts)**
- (1) Replace section 22H(4)(a) with:
- (a) the date set out in section 37(1):
- (2) **Subsection (1)** applies for the 2018–19 and later income years. 10
- 66E Section 24HB amended (Schedular payments: tax obligations undertaken by nominated persons)**
- (1) In section 24HB(1), replace “tax affairs or social policy entitlements and obligations, or both” with “PAYE, FBT, and ESCT obligations”.
- (2) In section 24HB(3), replace “the payment” with “unpaid tax”. 15
- (3) In section 24HB(5), replace “tax year,” with “tax year in relation to the arrangement”.
- (4) In section 24HB(6), replace “Despite subsections (2) and (3), each” with “Each”.
- (5) In section 24HB(6), replace “tax payments” with “unpaid tax”. 20
- 67 Section 32E amended (Applications for RWT-exempt status)**
- In section 32E(1A), replace “trust” with “entity”.
- 67B Section 38 amended (Returns to annual balance date)**
- (1) In section 38(1), delete “(other than an individual referred to in subsection (1C))”. 25
- (2) Replace section 38(1C) with:
- (1C) Subsection (1) does not apply to a qualifying individual whose final account for the tax year is treated under section 22I(1)(b) as an assessment.
- (3) **Subsections (1) and (2)** apply for the 2018–19 and later income years.
- 67C Section 59BA amended (Annual return for trusts)** 30
- (1) Replace section 59BA(3)(b) with:
- (b) the trust is a foreign trust:
- (2) Replace section 59BA(3)(b) (as replaced by **subsection (1)**) with:
- (b) the trust is a foreign trust:
- (bb) the trust is a foreign exemption trust: 35

- (3) **Subsection (1)** applies for the 2021–22 and later income years.
- (4) **Subsection (2)** applies for the 2023–24 and later income years.
- 67D Section 69B amended (Annual Maori authority credit account return required by Maori authority)**
- (1) In section 69B(1), replace “A Maori authority must” with “Subject to **subsection (3)**, a Maori authority must”. 5
- (2) After section 69B(2), insert:
- (3) Subsection (1) does not apply to a Maori authority that is a member of a consolidated imputation group if the ICA for the Maori authority has a nil balance at all times during the relevant tax year. 10
- (3) **Subsections (1) and (2)** apply for the 2020–21 and later tax years.
- 68 Section 78G amended (Country-by-country report from large multinational group)**
- (1) Replace section 78G(2) with:
- (2) The report for a period must be provided to the Commissioner— 15
- (a) in the prescribed electronic format; and
- (b) by the date that is 12 months after the end of the period.
- (2) **Subsection (1)** applies for periods—
- (a) set by the Commissioner under section 78G of the Tax Administration Act 1994; and 20
- (b) starting on or after the earliest date declared under ~~section HP 4~~ of the Income Tax Act 2007 for the implementation in New Zealand of a component of the applied global anti-base erosion rules set out in **subsection (2)** of that section¹ January 2025.
- 69 New sections 78H to 78J inserted** 25
- (1) After section 78G, insert:
- 78H Registration for purposes of applied global anti-base erosion rules**
- (1) The Commissioner may register an MNE group if it includes an entity—
- (a) to which the global anti-base erosion model rules apply; and
- (b) located in New Zealand under the applied global anti-base erosion rules. 30
- (2) The Commissioner must deregister an MNE group that has been registered under **subsection (1)** if the Commissioner is satisfied that the group no longer includes an entity that meets the requirements set out in **paragraphs (a) and (b)** of that subsection.
- (3) A constituent entity of an MNE group that is not registered under this section must apply to the Commissioner for registration of the MNE group by the date 35

- that is 6 months after the end of any fiscal year ending on or after ~~the commencement of this section~~ 1 January 2025 in which the constituent entity meets the requirements set out in **subsection (1)(a) and (b)**.
- (4) An application for registration of an MNE group under this section must be in the form prescribed by the Commissioner and contain— 5
- (a) the name of the ultimate parent entity of the MNE group; and
 - (b) the ultimate parent entity’s tax file number, if any; and
 - (c) any taxpayer identification numbers of the ultimate parent entity; and
 - (d) any other information required by the Commissioner.
- (5) If an MNE group ceases to include an entity that meets the requirements set out in **subsection (1)(a) and (b)**, a constituent entity of the group must notify the Commissioner of that fact by the date that is 6 months after the end of the fiscal year in which the group ceased to include an entity that meets those requirements. 10
- (6) An obligation of a constituent entity of an MNE group under this section may be met by another constituent entity of the MNE group that meets the requirements set out in **subsection (1)(a) and (b)**. 15
- 78I Pre-assessment annual information reporting requirements for purposes of applied global anti-base erosion rules**
- (1) A constituent entity of an MNE group must provide to the Commissioner, in the prescribed electronic format, the information set out in Article 8.1.4(a) to (e) of the global anti-base erosion model rules for the MNE group for each fiscal year in which the constituent entity is— 20
- (a) an entity to which the global anti-base erosion model rules apply; and
 - (b) located in New Zealand under the applied global anti-base erosion rules. 25
- (2) The information required to be provided under **subsection (1)** for a fiscal year must be provided to the Commissioner by,—
- (a) for the first fiscal year for which a member of the MNE group is required to provide a multinational top-up tax return, the date that is 18 months after the end of the fiscal year; or 30
 - (b) otherwise, the date that is 15 months after the end of the fiscal year.
- (3) **Subsection (1)** does not apply to a constituent entity of an MNE group for a fiscal year for which the information set out in Article 8.1.4(a) to (e) of the global anti-base erosion model rules for the MNE group has been provided by the relevant date set out in **subsection (4)**— 35
- (a) to a foreign competent authority that is obliged to exchange that information with the Commissioner; and
 - (b) by—
 - (i) the ultimate parent entity of the MNE group; or

- (ii) another constituent entity of the MNE group that has been appointed by the MNE group to provide that information on behalf of the MNE group.
- (4) The relevant date referred to in **subsection (3)** is,—
- (a) for the first fiscal year for which a member of the MNE group is required to provide a multinational top-up tax return, the date that is 18 months after the end of the fiscal year; or
- (b) otherwise, the date that is 15 months after the end of the fiscal year.
- (5) The exclusion in **subsection (3)** does not apply to a constituent entity of an MNE group for a fiscal year in which the ultimate parent entity of the MNE group is located in New Zealand under the applied global anti-base erosion rules.
- (6) A constituent entity to which the exclusion in **subsection (3)** applies must notify the Commissioner of—
- (a) the identity of the entity that is providing the relevant information for the fiscal year; and
- (b) the jurisdiction in which that entity is located under the global anti-base erosion model rules.
- (7) A notification under **subsection (6)** for a fiscal year must be given by,—
- (a) for the first fiscal year for which a member of the MNE group is required to provide a multinational top-up tax return, the date that is 18 months after the end of the fiscal year; or
- (b) otherwise, the date that is 15 months after the end of the fiscal year.
- (8) An obligation of a constituent entity of an MNE group under this section may be met by another constituent entity of the MNE group that—
- (a) is located in New Zealand under the applied global anti-base erosion rules; and
- (b) has been appointed for that purpose by the members of the MNE group located in New Zealand under the applied global anti-base erosion rules.
- 78J Annual multinational top-up tax return**
- (1) This section applies to a constituent entity located in New Zealand under the applied global anti-base erosion rules for a fiscal year in which the constituent entity is an entity to which the global anti-base erosion model rules apply.
- (2) The constituent entity must provide to the Commissioner a return for the fiscal year, in the form prescribed by the Commissioner, that shows—
- (a) whether or not the constituent entity has a multinational top-up tax liability for the fiscal year; and
- (b) the amount of multinational top-up tax payable by the constituent entity for the fiscal year, if any; and

	(c) any other information required by the Commissioner.	
(3)	The return for a fiscal year must be provided to the Commissioner by,—	
	(a) for the first fiscal year for which the constituent entity is required to provide a return under this section, the date that is 20 months after the end of the fiscal year; or	5
	(b) otherwise, the date that is 16 months after the end of the fiscal year.	
(4)	A return must contain a notice of the assessment required to be made under section 92BA .	
(2)	Sections 78I and 78J , as inserted by subsection (1) , apply for fiscal years, as defined in Article 10.1.1 of the global anti-base erosion model rules, starting on or after the earliest date declared under section HP 4 of the Income Tax Act 2007 for the implementation in New Zealand of a component of the applied global anti-base erosion rules set out in subsection (2) of that section 1 January 2025.	10
70	Section 79 amended (Other annual returns)	15
(1)	In section 79, replace “sections 33 and 41 to 44” with “sections 33, 41 to 44, and 59BA”.	
(2)	ReplaceIn section 79, replace “and 59BA” (as inserted by subsection (1)) with “59BA, and 78J ”.	
(3)	Subsection (1) applies for the 2021–22 and later income years.	20
71	Section 80 amended (Commissioner may require other returns to be made)	
(1)	In section 80, after “44,”, insert “59BA,”.	
(2)	In section 80, after “63,”, insert “ 78J ,”.	
(3)	Subsection (1) applies for the 2021–22 and later income years.	
71B	Section 89C amended (Notices of proposed adjustment required to be issued by Commissioner)	25
(1)	Replace section 89C(lba) and (lbab) with:	
	(lba) the assessment is of a penalty under section 139AAB , 139AB, 139AC, 142H, 142I, 142J, or 142K; or	
(2)	In section 89C(lba) (as replaced by subsection (1)), after “139AB,”, insert “ 139ABB ,”.	30
71C	Section 91AAS amended (Declaration of emergency event for purposes of family scheme income)	
(1)	In section 91AAS(1), delete “(i)”.	
(2)	In section 91AAS(2), replace “, for the purposes of section MB 13(2)(r)(ii) of the Income Tax Act 2007, equal to or less than 12 months and beginning” with “that begins”.	35

- (3) In section 91AAS(3), delete “, except that the total period relating to an event may not exceed 12 months”.

71D Section 91C amended (Taxation laws in respect of which binding rulings may be made)

After section 91C(1)(ec), insert:

- (ed) the applied global anti-base erosion rules, including commentary and guidance described in **section HP 3(3)(b)** of the Income Tax Act 2007;
or

72 New section 92BA inserted (Taxpayer assessment of multinational top-up tax)

Before section 92B, insert:

92BA Taxpayer assessment of multinational top-up tax

- (1) A taxpayer who is required to provide a multinational top-up tax return for a fiscal year must make an assessment of the amount of ~~multinational top-up~~ multinational top-up tax payable by the taxpayer for the fiscal year.
- (2) An assessment under this section is made on the date on which the taxpayer’s multinational top-up tax return is received at an office of the department.
- (3) This section does not apply to a taxpayer for a fiscal year if the Commissioner has made an assessment of the multinational top-up tax payable by the taxpayer for the fiscal year.

72B Section 94A amended (Assessment of shortfall penalties)

- (1) In section 94A(1), replace “142H or 142I” with “**139AAB**, 139AB, 139AC, 142H, 142I, 142J, or 142K”.
- (2) In section 94A(1) (as amended by **subsection (1)**), after “139AB,”, insert “**139ABB**.”

72C New sections 94BB to 94BD inserted

After section 94B, insert:

94BB Assessment of penalty for large multinational group failing to meet country-by-country reporting requirements

- (1) The Commissioner may make an assessment for an ultimate owner of a large multinational group of the amount of a penalty under **section 139AAB** that, in the Commissioner’s opinion, ought to be imposed, and the ultimate owner is liable to pay the penalty assessed.
- (2) Despite **subsection (1)**, this section does not apply in so far as the ultimate owner establishes in proceedings challenging the assessment that the assessment is excessive or that the ultimate owner is not chargeable with the penalty.

94BC Assessment of penalty for member of large multinational group failing to provide information

- (1) The Commissioner may make an assessment for a member of a large multinational group of the amount of a penalty under section 139AB that, in the Commissioner’s opinion, ought to be imposed, and the member is liable to pay the penalty assessed. 5
- (2) Despite **subsection (1)**, this section does not apply in so far as the member establishes in proceedings challenging the assessment that the assessment is excessive or that the member is not chargeable with the penalty.

94BD Assessment of penalty for trustee failing to register, or provide information for, foreign exemption trust 10

- (1) The Commissioner may make an assessment for a trustee of a foreign exemption trust of the amount of a penalty payable under section 139AC that, in the Commissioner’s opinion, ought to be imposed, and the trustee is liable to pay the penalty assessed. 15
- (2) Despite **subsection (1)**, this section does not apply in so far as the trustee establishes in proceedings challenging the assessment that the assessment is excessive or that the trustee is not chargeable with the penalty.

72D New section 94BCB inserted (Assessment of penalty for failing to register or provide information for purposes of applied global anti-base erosion rules) 20

After **section 94BC** (as inserted by **section 72C**), insert:

94BCB Assessment of penalty for failing to register or provide information for purposes of applied global anti-base erosion rules

- (1) The Commissioner may make an assessment for a taxpayer of the amount of a penalty under **section 139ABB** that, in the Commissioner’s opinion, ought to be imposed, and the taxpayer is liable to pay the penalty assessed. 25
- (2) Despite **subsection (1)**, this section does not apply in so far as the taxpayer establishes in proceedings challenging the assessment that the assessment is excessive or that the taxpayer is not chargeable with the penalty. 30

73 Section 120KBB amended (Interest for most standard method provisional taxpayers)

- (1) In section 120KBB(1)(a), delete “(for example: a person does not make a required payment, so section 120KE does not apply)”.
- (2) **Subsection (1)** applies for the 2022–23 and later income years. 35

73B Section 139A amended (Late filing penalty for certain returns)

- (1) In section 139A(1),—

- (a) replace “the annual” with “the return required to be provided under **section 78J**, the annual”:
- (b) delete “of this Act”.
- (2) After section 139A(2)(a)(i), insert:
- (ib) a multinational top-up tax return: 5
- (3) After section 139A(3), insert:
- (3B) The late filing penalty for a multinational top-up tax return is \$500.
- (4) In section 139A(5), words before the paragraphs, after “information”, insert “, or from a multinational top-up tax return,”.
- 74 New section 139AAB inserted (Penalty for large multinational group failing to meet country-by-country reporting requirements)** 10
- (1) After section 139AA, insert:
- 139AAB Penalty for large multinational group failing to meet country-by-country reporting requirements**
- (1) This section applies when a large multinational group with an ultimate owner that is a New Zealand resident fails to comply with the requirements of section 78G. 15
- (2) The ultimate owner is liable to pay a penalty under this section.
- (3) The penalty under this section is the amount specified by the Commissioner, which must not exceed \$100,000. 20
- (4) The due date for payment of a penalty imposed under this section is the later of—
- (a) 30 days after the date on which the Commissioner issues the notice of assessment for the penalty:
- (b) the date specified by the Commissioner in the notice of assessment as being the due date for payment of the penalty. 25
- (2) **Subsection (1)** applies for periods—
- (a) set by the Commissioner under section 78G of the Tax Administration Act 1994; and
- (b) starting on or after ~~the date on which this section comes into force.~~ the earliest of the following dates: 30
- (i) ~~the date on which this section comes into force;~~
- (ii) ~~the earliest date declared under **section HP 4** of the Income Tax Act 2007 for the implementation in New Zealand of a component of the applied global anti-base erosion rules set out in **subsection (2)** of that section.~~ 35

75 New section 139ABB inserted (Penalties for failing to register or provide information for purposes of applied global anti-base erosion rules)

After section 139AB, insert:

139ABB Penalties for failing to register or provide information for purposes of applied global anti-base erosion rules

- (1) A taxpayer is liable to pay a penalty under this section if—
 - (a) the taxpayer does not apply for registration as required under **section 78H**; or
 - (b) the taxpayer does not comply with the requirements of **section 78I or 78J**.
- (2) Subject to ~~subsection (3)~~, the penalty under this section is the amount specified by the Commissioner, which must not exceed \$100,000.
- (3) ~~The penalty under this section for not complying with the requirements of section 78J is \$500.~~
- (4) The due date for payment of a penalty imposed under this section is the later of—
 - (a) 30 days after the date on which the Commissioner issues the notice of assessment for the penalty;
 - (b) the date specified by the Commissioner in the notice of assessment as being the due date for payment of the penalty.

76 Section 141B amended (Unacceptable tax position)

- (1) In section 141B(2), after “in relation to”, insert “multinational top-up tax or”.
- (2) In section 141B(3)(b), words before the subparagraphs, before “where”, insert “except in the case of multinational top-up tax,”.
- (3) In section 141B(8)(b), before “the tax”, insert “except in the case of multinational top-up tax,”.
- (4) **Subsections (1), (2), and (3)** apply in relation to multinational top-up tax for fiscal years, as defined in Article 10.1.1 of the global anti-base erosion model rules, starting on or after 1 January 2027.

76B Section 142 amended (Due date for payment of late filing penalty)

- (1) In section 142(1), words before the paragraphs, after “information”, insert “, or a multinational top-up tax return,”.
- (2) After section 142(1A), insert:
 - (1AB) The due date for the payment of a late filing penalty for a multinational top-up tax return is the date specified by the Commissioner, which must not be less than 30 days after the day on which the Commissioner notifies the taxpayer that the penalty is payable.

76C Section 142K amended (When reporting requirements for sellers operating on digital platforms not met)

In section 142K(2)(c), words before the paragraphs, replace “they are required to provide to the reporting platform operator as a seller operating” with “the reporting platform operator requires them to provide to enable the reporting platform operator to meet its obligations as an operator”. 5

77 New section 226G inserted (Application of changes to commentary or guidance relating to global anti-base erosion model rules)

After section 226F, insert:

226G Application of changes to commentary or guidance relating to global anti-base erosion model rules 10

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister of Revenue, make regulations providing for—
- (a) the non-application of a change to—
- (i) the commentary to the global anti-base erosion model rules developed by the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting (the **Inclusive Framework**) and published by the OECD; or 15
- (ii) guidance on the interpretation or administration of the global anti-base erosion model rules issued by the Inclusive Framework and published by the OECD: 20
- (b) a period for which a change referred to in **paragraph (a)** does not apply.
- (2) A regulation may provide for the change, extension, limitation, suspension, or cancellation of an earlier regulation. 25
- (3) Regulations made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

77B Section 227F amended (Transitional provisions related to information disclosures)

- (1) Replace section 227F(1) with: 30
- (1) Sections 16 to 17K are sections 16 to 19, 21, and 21BA of this Act, as they read on 17 March 2019, in rewritten form and are intended to have the same effect. Subsection (3) overrides this subsection.
- (2) In section 227F(2), words before the paragraphs, replace “at the commencement of this Act” with “on 18 March 2019”. 35
- (3) In section 227F(2)(a), replace “section 13C of this Act” with “section 10 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019”.

- (4) In section 227F(3), replace “the commencement of this Act” with “18 March 2019”.

77C Schedule 7 amended (Disclosure rules)

In schedule 7, part C, subpart 1, after clause 23B(6)(e), insert:

- (f) Health New Zealand.

5

Part 4

Amendments to other enactments and revocations

Amendments to Goods and Services Tax Act 1985

78 Amendments to Goods and Services Tax Act 1985

Sections 79 to 83B amend the Goods and Services Tax Act 1985.

10

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

In section 10(15C), delete “section IA 6 of” in each place.

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

In section 11A(1)(r), replace “for the purposes of section IA 6 of” with “under”.

15

81 Section 19N amended (Supply correction information)

In section 19N(7)(a), after “paragraph (b)”, insert “or (c)”.

82 Section 20 amended (Calculation of tax payable)

(1A) In section 20(3C), words before the paragraphs, replace “or (3LB)” with “(3LB), or (3LC)”.

20

(1) In section 20(3J)(a)(iv)(B) replace “14(4)” with “6(3)(e)”.

(2) In section 20(3LB), replace “section 3(1)(b)” with “section 3A(1)(b)”.

(3) In section 20(3LC), words before the paragraphs, replace “A registered person” with “Despite subsection (3LB), a registered person”.

83 Section 25 amended (Adjustments for inaccuracies)

25

(1) In section 25(4), words before the paragraphs, replace “the credit note or debit note” with “the tax invoice”.

(2) In section 25(4), words before the paragraphs, replace “the tax invoice” with “the taxable supply information”.

83B Section 60C amended (Electronic marketplaces)

30

(1) After section 60C(3), insert:

(3B) **Subsection (3C)** applies when—

- (a) an operator of an electronic marketplace is treated for the purposes of this Act as the supplier of remote services; and
- (b) the operator collects an amount from the underlying supplier or deducts an amount from the payment made by the recipient of the services; and
- (c) the amount is used to meet the operator’s output tax liability for the supply. 5
- (3C) To the extent of the operator’s output tax liability for the supply, the collection of the amount does not give rise to consideration for a supply for the purposes of this Act.
- (2) In **section 60C(3B)** (as inserted by **subsection (1)**),— 10
- (a) in paragraph (a), replace “remote services ” with “remote services or distantly taxable goods”;
- (b) in paragraph (b), replace “recipient of the services” with “recipient of the goods or services”.
- (3) After **section 60C(3C)** (as inserted by **subsection (1)**), insert: 15
- (3D) For the purposes of the electronic marketplace rules set out in section 152 of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023, the Commissioner may determine the circumstances and the criteria required for a person to enter into an opt-out agreement under those rules. 20

Amendments to KiwiSaver Act 2006

84 Amendments to KiwiSaver Act 2006

Sections 85 and 86 amend the KiwiSaver Act 2006.

85 Section 4 amended (Interpretation)

In section 4(1), definition of **salary or wages**, paragraph (a)(v)(A), replace “section RD 5(1)(b)(iii), (6)(bd) to (bg), and (7)” with “section RD 5(1)(b)(iii) and (6)(bd) to (bg)”. 25

86 Section 220B amended (Information sharing)

After section 220B(1)(c), insert:

- (d) information relating to the administration of the estate of a person who is a deceased member of a scheme. 30

Amendments to Child Support Act 1991

87 Amendments to Child Support Act 1991

Sections 88 and 89 amend the Child Support Act 1991.

88 Section 87A amended (Four-year time bar for amendment of certain assessments)

Replace section 87A(2)(c) with:

- (c) an amended assessment is required to give effect to a decision, determination, or exemption made under Part 5A (which relates to exemptions for hospital patients, persons suffering from long-term periods of illness, prisoners, persons under 16 years, and victims of sex offences).

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89 Schedule 1 amended (Application, transitional, and savings provisions relating to amendments to Act made on or after 1 April 2015)

In Schedule 1,—

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- (a) insert the Part set out in **Schedule 2** of this Act as the last Part; and
(b) make all necessary consequential amendments.

Amendments to Income Tax Act 2004

89B Amendments to Income Tax Act 2004

Sections 89C and 89D amend the Income Tax Act 2004.

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89C Section DB 37 replaced (Avoiding, remedying, or mitigating effects of discharge of contaminant)

- (1) Replace section DB 37 with:

DB 37 Avoiding, remedying, or mitigating effects of discharge of contaminant

When this section applies

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- (1) This section applies if a person—

- (a) carries on a business in New Zealand; and
(b) the person incurs, in the business or in ending the operations of the business, expenditure that is—
(i) of a type listed in schedule 6B (Expenditure in avoiding, remedying, or mitigating detrimental effects of discharge of contaminant) and not in schedule 6B, part C; and
(ii) not incurred in relation to revenue account property other than land that is subject to section CB 6B (Disposal: land used for landfill, if notice of election); and
(c) no other provision allows a deduction for the expenditure.

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Amount and timing of deduction

- (2) The person is allowed for an income year a deduction for the expenditure of,—

- (a) if **paragraphs (b) and (c)** do not apply, an amount that is calculated using the formula—

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rate × value:

- (b) if the operations of the business for which the expenditure was incurred come to an end in the income year, the diminished value or adjusted value of the expenditure for the income year:
- (c) if an improvement to land described in schedule 6B on which the expenditure was incurred is destroyed, or is rendered useless for the purposes for which the expenditure was incurred, and **paragraph (b)** does not apply, the diminished value or adjusted value of the expenditure for the income year. 5
- Definition of items in formula*
- (3) The items in the formula in **subsection (2)(a)** are defined in **subsections (4) and (6)**. 10
- Rate*
- (4) **Rate** is—
- (a) 100% if the expenditure is of a type listed in schedule 6B, part A, item 1, or part B and neither **paragraph (b) nor (c)** applies: 15
- (b) the appropriate rate under **subsection (5)** if—
- (i) the expenditure is of a type listed in schedule 6B, part A, items 2 to 5; and
- (ii) **paragraph (c)** does not apply:
- (c) the rate for the type of expenditure, the income year, the valuation method adopted under **subsection (6)**, and the person, determined by the Commissioner under section 91AAN of the Tax Administration Act 1994 if such a rate is determined. 20
- Schedule 11 rates*
- (5) The rate for expenditure if the requirements of **subsection (4)(b)** are met is— 25
- (a) the rate set out in schedule 11, column 2 (Banded rates of depreciation) that is nearest to the rate calculated for the expenditure using the formula in **subsection (7)** if the person chooses to use the straight-line equivalent method:
- (b) the rate set out in schedule 11, column 1 that corresponds to the rate under **paragraph (a)** if the person chooses to use the diminishing value equivalent method. 30
- Value*
- (6) **Value** is—
- (a) the amount of the expenditure incurred if the person chooses to use the straight-line equivalent method: 35
- (b) the diminished value of the expenditure for the income year if the person chooses to use the diminishing value equivalent method.

	<i>Formula for rate for expenditure with assumed life</i>	
(7)	<u>The formula for the rate referred to in subsection (5)(a) for a kind of expenditure to which subsection (4)(b) applies is—</u> $100\% \div \text{assumed life.}$	
	<i>Definition of item in formula</i>	5
(8)	<u>In the formula in subsection (7), assumed life for expenditure and an income year is,—</u> <ul style="list-style-type: none">(a) <u>for expenditure associated with a business activity that does not require a resource consent, 35:</u>(b) <u>for expenditure associated with a business activity that requires a resource consent, the lesser of 35 and the number of years in the period of the resource consent that include or follow the time at which the expenditure is incurred.</u>	10
	<i>Adjusted value</i>	
(9)	<u>In this section, adjusted value means, where the person chooses to use the straight-line equivalent method, the amount calculated using the formula—</u> $\text{amount of expenditure} - \text{deductions allowed} + \text{income derived}$	15
	<i>Definition of items in formula</i>	
(10)	<u>In the formula in subsection (9),—</u> <ul style="list-style-type: none">(a) amount of expenditure is the total amount of the expenditure incurred:(b) deductions allowed is the total amount of the expenditure allowed as a deduction in previous income years:(c) income derived is the total amount of income derived under section CB 24B(8) (Environmental restoration accounts) in relation to the expenditure.	20 25
	<i>Diminishing value equivalent method</i>	
(11)	<u>In this section, diminishing value equivalent method means the method of calculating an amount of deduction under this section by subtracting, in each income year, a constant percentage of the diminished value of the expenditure from the diminished value of the expenditure.</u>	30
	<i>Straight-line equivalent method</i>	
(12)	<u>In this section, straight-line equivalent method means the method of calculating an amount of deduction under this section by subtracting, in each income year, a constant percentage of the amount of the expenditure incurred from the adjusted value of the expenditure.</u>	35

Link with subpart DA

- (13) This section overrides the capital limitation. The general permission must still be satisfied and the other general limitations still apply.

Defined in this Act: adjusted value, amount, business, capital limitation, deduction, diminished value, diminishing value equivalent method, general limitation, general permission, income, income year, New Zealand, revenue account property, straight-line equivalent method

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- (2) **Subsection (1)** applies for an income year starting on or after 10 June 2005. 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 10 June 2005 and ends on the day after the date of Royal assent of this Act; and

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(b) in relation to a deduction allowed for expenditure incurred to avoid, remedy, or mitigate the effects of discharge of contaminant; and

(c) relying on section DB 37 as it was before the amendments made by **subsection (1) and section 89D.**

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89D Section OB 1 amended (Definitions)

- (1) This section amends section OB 1.

- (2) Insert, in appropriate alphabetical order:

adjusted value is defined in **section DB 37** (Avoiding, remedying, or mitigating effects of discharge of contaminant) for the purposes of that section

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- (3) Insert, in appropriate alphabetical order:

diminishing value equivalent method is defined in **section DB 37** (Avoiding, remedying, or mitigating effects of discharge of contaminant) for the purposes of that section

- (4) Insert, in appropriate alphabetical order:

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straight-line equivalent method is defined in **section DB 37** (Avoiding, remedying, or mitigating effects of discharge of contaminant) for the purposes of that section

- (5) **Subsections (2), (3), and (4)** apply for an income year starting on or after 10 June 2005. However, **subsections (2), (3), and (4)** do not apply to a person in relation to a tax position taken by the person—

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(a) in the period that starts on 10 June 2005 and ends on the day after the date of Royal assent of this Act; and

(b) in relation to a deduction allowed for expenditure incurred to avoid, remedy, or mitigate the effects of discharge of contaminant; and

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(c) relying on section DB 37 as it was before the amendments made by **subsections (2), (3), and (4) and section 89C.**

*Amendments to Taxation (Annual Rates for 2021–22, GST, and Remedial
Matters) Act 2022*

**90 Amendments to Taxation (Annual Rates for 2021–22, GST, and Remedial
Matters) Act 2022**

(1) ~~This section amends~~**Sections 90B and 90C** amend the Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022. 5

(2) ~~In section 227(8),~~ replace “(7)” with “(7)(b)”.

**90B Section 48 amended (Section CB 6A replaced (Disposal within 10 years:
Bright-line test for residential land))**

In section 48(2), replace “Subsection (1) applies” with “Section CB 6A, as inserted by subsection (1), applies” and “subsection (1) does not apply” with “section CB 6A, as inserted by subsection (1), does not apply” in both places it appears. 10

90C Section 227 amended (Section 183ABAC amended (Remission of interest on terminal tax for 2020–21 tax year for provisional taxpayers affected by COVID-19)) 15

In section 227(8), replace “(7)” with “(7)(b)”.

*Amendments to Taxation (Annual Rates for 2022–23, Platform Economy,
and Remedial Matters) Act 2023*

**91 Amendments to Taxation (Annual Rates for 2022–23, Platform Economy,
and Remedial Matters) Act 2023** 20

(1) ~~This section amends~~**Sections 91B to 91Q** amend the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023.

(2) ~~In section 152(4), new section 60C(2BE), words before the paragraphs,~~ replace “as defined in section IA 6 of” with “under”. 25

91B Section 2 amended (Commencement)

In section 2(39),—

(a) replace “24,” with “**24B,**”:

(b) replace “and (7), 124(5),” with “and (7), **123(1A),** 124(5),”:

(c) delete “131,”:

(d) replace “136, 137(4),” with “**136B,** 137(4),”:

(e) replace “(23), (27), and (28),” with “(23), and (28),”:

(f) replace “(3), and (5), 146,” with “(3), and (5), **145B,** 146,”:

(g) replace “and (5), 153,” with “(5), and (**5B**), **152B,** 153,”. 30

91C	<u>Section 24 repealed (Section CX 1 amended (Goods and services tax))</u>	
	<u>Repeal section 24.</u>	
91D	<u>New section 24B inserted (New section CX 1B inserted (Treatment of flat-rate credits under platform economy rules))</u>	
	<u>After section 24, insert:</u>	5
24B	<u>New section CX 1B inserted (Treatment of flat-rate credits under platform economy rules)</u>	
	<u>After section CX 1, insert:</u>	
CX 1B	<u>Treatment of flat-rate credits under platform economy rules</u>	
	<u>For the purposes of the flat-rate credit as defined in section 2(1) of the Goods and Services Tax Act 1985, the amount of the credit is excluded income of the person receiving the credit, whether or not the person is a registered person.</u>	10
	<u>Defined in this Act: amount, excluded income, registered person</u>	
91E	<u>Section 121 amended (Section 2 amended (Interpretation))</u>	
	<u>In section 121(2), in the definition of electronic marketplace,—</u>	15
	(a) <u>in paragraph (a), replace “following supplies by electronic means through another person” with “following supplies through another person”:</u>	
	(b) <u>in paragraph (a)(ii), replace “remote services” with “remote service by electronic means”.</u>	20
91F	<u>Section 123 amended (Section 3A amended (Meaning of input tax))</u>	
	<u>In section 123, before subsection (1), insert:</u>	
(1A)	<u>After section 3A(1)(c), insert:</u>	
	(d) <u>an amount equal to the flat-rate credit that an operator of an electronic marketplace or listing intermediary passes on under section 8C(3)(b)(ii) to an underlying supplier.</u>	25
91G	<u>Section 130 amended (New section 8C inserted (Supplies of listed services))</u>	
(1)	<u>In section 130(1), after new section 8C(4), insert:</u>	
(4B)	<u>The amount of a flat-rate credit when passed on by an operator of an electronic marketplace to an underlying supplier does not constitute consideration for a supply of goods or services.</u>	30
(2)	<u>In section 130(1), after new section 8C(7), insert:</u>	
(7B)	<u>Subsection (7) does not apply to a supply of services connected to a listed service when the supply is made by a listing intermediary directly to a recipient, ignoring for this purpose the effect of section 60CB(3)(a) which treats a supply</u>	35

of other services by the listing intermediary to a recipient of listed services as instead being made to the operator of the marketplace.

91H Section 131 repealed (Section 9 amended (Time of supply))

Repeal section 131.

91I Section 134 replaced (Section 11A amended (Zero-rating of services))

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Replace section 134 with:

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

After section 11A(1)(jc), insert—

(jd) the services are a supply of services to which **section 60(1D)(a) and (b)** applies, being supplies made by an underlying supplier to a listing intermediary and by a listing intermediary to an operator of an electronic marketplace, including a supply referred to in **section 60CB(3)(a)**; or

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91J Section 136 repealed (Section 19K amended (Taxable supply information: supplies by registered person))

Repeal section 136.

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91K New section 136B inserted (New section 19NB inserted (Taxable supply information and supply correction information for listed services))

After section 136, insert:

136B New section 19NB inserted (Taxable supply information and supply correction information for listed services)

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After section 19N, insert:

19NB Taxable supply information and supply correction information for listed services

Despite sections 19K to 19N, in relation to a supply of listed services made by an operator of an electronic marketplace, taxable supply information and supply correction information, as applicable, must be provided to the recipient of the supply without the need for a request. For the avoidance of doubt, when **section 60CB(7)** applies to treat a listing intermediary as if they were the operator of an electronic marketplace, the responsibility for providing the information remains with the operator of the electronic marketplace.

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91L Section 137 amended (Section 20 amended (Calculation of tax payable))

(1) In section 137(23), new section 20(3N), replace “listed services.” with “listed services. For the purposes of calculation of the amount under this subsection, the special valuation rule in section 10(7D) is ignored.”

(2) Repeal section 137(27).

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91M New section 145B inserted (New section 25AAA inserted (Corrections of inaccuracies by marketplace operators))

After section 145, insert:

145B New section 25AAA inserted (Corrections of inaccuracies by marketplace operators)

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After section 25, insert:

25AAA Corrections of inaccuracies by marketplace operators

- (1) This section applies when an operator of an electronic marketplace—
- (a) is required to deduct input tax for a flat-rate credit to pass on under section 20(3)(de) to an underlying supplier; and
- (b) discovers, after having deducted the amount, that the amount is incorrect.
- (2) The operator of the electronic marketplace must correct the amount of input tax or output tax, as applicable, as follows:
- (a) if the amount of input tax is more than the correct amount, the operator must return an amount of output tax that is equal to the excess input tax;
- (b) if the amount of input tax is less than the correct amount, the operator must deduct input tax of an amount equal to the deficiency in the input tax.
- (3) The adjustments referred to in **subsection (2)(a) and (b)** must be made for the taxable period in which the inaccuracy is discovered.
- (4) For the purposes of **subsection (2)(a)**, if the requirement to pass on the flat-rate credit to the underlying supplier has been met, the amount of the excess may be offset in relation to another amount of flat-rate credit required to be passed on.
- (5) The operator of the electronic marketplace must pass on any amount of the deficiency referred to in **subsection (2)(b)** to the underlying supplier under section 8C(3)(b)(ii).

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91N Section 151 amended (Section 60 amended (Agents and auctioneers))

- (1) Replace section 151(1) with:
- (1) Replace section 60(1A)(b) with:
- (b) makes supplies for and on behalf of a non-resident principal of—
- (i) remote services to a person resident in New Zealand;
- (ii) distantly taxable goods;
- (iii) listed services.
- (2) After section 151(1), insert:
- (1B) After section 60(1C), insert:

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- (1D) For the purposes of **sections 60C and 60CB**, when a listing intermediary is interposed between an operator of an electronic marketplace and an underlying supplier, the operator, supplier, and listing intermediary must treat the supply as 3 separate supplies, being—
- (a) a supply from the underlying supplier to the listing intermediary: 5
 - (b) a supply from the listing intermediary to the operator:
 - (c) a supply from the operator to the recipient of the supply.
- (3) In section 151(2), replace “Subsection (1) applies” with “**Subsections (1) and (1B)** apply”.
- 910 Section 152 amended (Section 60C amended (Electronic marketplaces))** 10
- (1) In section 152(4), new section 60C(2BD)(a), replace “:” with “; and”.
 - (2) In section 152(4), new section 60C(2BE), words before the paragraphs, replace “as defined in section IA 6 of” with “under”.
 - (3) In section 152(4), replace new section 60C(2BF)(a) with:
 - (a) the underlying supplier is a person, other than a natural person, that does not meet the requirement in section 15(2)(a) for a 6-month taxable period; and 15
 - (4) After section 152(5), insert:
 - (5B) In **section 60C(3B)(a)**, replace “remote services or distantly taxable goods” with “remote services, distantly taxable goods, or listed services”. 20
 - (5) In section 152(6), replace “and (5)” with “(5), and **(5B)**”.
- 91P New section 152B inserted (New section 60CB inserted (Listing intermediaries and supply of listed services))**
- After section 152, insert:
- 152B New section 60CB inserted (Listing intermediaries and supply of listed services)** 25
- After section 60C, insert:
- 60CB Listing intermediaries and supply of listed services**
- (1) This section applies for the purposes of the rules related to the supply of listed services through an electronic marketplace when a listing intermediary is interposed between— 30
 - (a) the underlying supplier of the services; and
 - (b) the operator of the electronic marketplace.
 - (2) The supply of the listed services is treated as 3 separate supplies as follows:

- (a) a supply by the underlying supplier to the listing intermediary that is zero-rated under **section 11A(1)(jd)** if the underlying supplier is a registered person; and
- (b) a supply from the listing intermediary to the operator of the electronic marketplace that is zero-rated under **section 11A(1)(jd)**; and 5
- (c) a supply of listed services under section 8C by the operator to the recipient of the services, treating the operator as if they were the underlying supplier of the listed services.
- (3) When **subsection (2)** applies to a supply of listed services, a supply of other services by the listing intermediary to the recipient through the electronic marketplace is treated as 2 separate supplies as follows: 10
- (a) a supply from the listing intermediary to the operator of the electronic marketplace that is zero-rated under **section 11A(1)(jd)**; and
- (b) a supply by the operator, in the course or furtherance of its taxable activity, to the recipient. 15
- (4) In relation to a supply described in **subsection (2)(b) or (3)(a)**, the supply of listed services facilitated by a listing intermediary or a supply of other services by a listing intermediary does not create a requirement to provide taxable supply information.
- (5) For a supply described in **subsection (2)(c)**, the listing intermediary is treated for the purposes of the definition of **flat-rate credit** and sections 8C(3)(b)(ii) and (6), 20(3)(de) and (3N), **25AAA**, and 60H as if they were the operator of the electronic marketplace and must meet all the requirements placed on the operator in relation to the flat-rate credit under those provisions for that supply. 20 25
- (6) **Subsection (7)** applies, in relation to an operator of an electronic marketplace, when a listing intermediary resident in New Zealand—
- (a) enters into agreements with more than one operator of an electronic marketplace to list or advertise the listed services provided by an underlying supplier on those marketplaces; and 30
- (b) enables or facilitates the supply of the listed services through the use of an electronic system that can facilitate and manage automatically the bookings made by recipients of the services; and
- (c) has agreed with the operator of the electronic marketplace, recording their agreement in a document, that the listing intermediary is liable for the payment of tax in relation to the supplies of listed services on that electronic marketplace. 35
- (7) Despite **subsections (2) and (3)**, the listing intermediary is treated for the purposes of this section, the definition of **flat-rate credit**, and sections 8C, 20(3)(de) and (3N), **25AAA**, 60C(2)(ab), **(3B) and (3C)**, and 60H as if they were the operator of the electronic marketplace and must meet all the require- 40

ments placed on the operator. The operator has no liability under this Act in relation to the supply of the listed services other than the provision of taxable supply information and supply correction information, as applicable, to the recipient as required under **section 19NB**. For the avoidance of doubt, the operator is treated as the supplier for the provision of that information.

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(8) **A listing intermediary** means a registered person who—

(a) lists services referred to in section 8C(2)(a) on an electronic marketplace on behalf of the underlying supplier who makes those supplies through the electronic marketplace; and

(b) enters into an agreement with an operator of an electronic marketplace to list or advertise the listed services provided by the underlying supplier.

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91Q Section 153 amended (New section 60H inserted (Information requirements for underlying suppliers operating through electronic marketplaces))

In section 153(1), after new section 60H(1), insert:

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(1B) If a listing intermediary is treated as if they were the operator of the electronic marketplace under **section 60CB(5) or (7)**, the underlying supplier must also treat the listing intermediary as if they were the operator for the purposes of subsections (1), (2), and (4).

Amendment to Tax Administration (Regular Collection of Bulk Data) Regulations 2022

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91R Amendment to Tax Administration (Regular Collection of Bulk Data) Regulations 2022

(1) This section amends the Tax Administration (Regular Collection of Bulk Data) Regulations 2022.

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(2) Revoke regulation 13.

Revocations

92 Revocations

The following orders are revoked:

(a) COVID-19 Resurgence Support Payments Scheme (August 2021) Order 2021 (LI 2021/222):

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(b) COVID-19 Resurgence Support Payments Scheme (July 2021) Order 2021 (LI 2021/166):

(c) COVID-19 Resurgence Support Payments Scheme (March 2021) Order 2021 (LI 2021/33):

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(d) COVID-19 Support Payments Scheme (Omicron Outbreak) Order 2022 (SL 2022/45).

Schedule 1

New schedule 25B inserted into Income Tax Act 2007

s 63(1)

Schedule 25B		
Items modifying global anti-base erosion model rules		5
	ss HP 3, HP 4, OB 7BB, OP 11BA	
1	Each of the following formulations of wording are replaced by the words “New Zealand” in each place:	
	(a) “[insert name of implementing-jurisdiction]”:	
	(b) “[insert name of implementing-Jurisdiction]”:	10
	(c) “[insert name of implementing jurisdiction]”.	
2	The following Articles are inserted after Article 2.1.6:	
	2.1.7 A Parent Entity located in New Zealand that is a member of an MNE Group that includes an Ultimate Parent Entity located in New Zealand shall apply the provisions of Articles 2.1.1 to 2.1.5 with respect to a Low-Taxed Constituent Entity that is located in New Zealand. For this purpose, an Ultimate Parent Entity shall be treated as owning all Ownership Interests in itself.	15
	2.1.8 Article 2.1.7 does not apply to a Parent Entity of an MNE Group that is in the initial phase of its international activity (<i>see</i> Article 9.3.2).	20
3	Articles 2.4.1 and 2.4.2 are replaced with:	
	2.4.1 Constituent Entities of an MNE Group located in New Zealand shall, for a Fiscal Year, pay a tax in an amount equal to the least of the following amounts:	
	(a) the amount that is equal to the sum of the UTPR Top-up Tax Amount for the Fiscal Year allocated to New Zealand and any amount carried forward to the Fiscal Year under Article 2.4.2 :	25
	(b) the amount that results from multiplying the sum of the annual total deduction and available tax losses for the tax year corresponding to the Fiscal Year of all Constituent Entities of the MNE Group located in New Zealand by the basic rate of income tax set out in schedule 1, part A, clause 2 of the Income Tax Act 2007 (NZ) for the income year corresponding to that tax year:	30
	(c) the amount that results from multiplying the sum of the annual gross income for the tax year corresponding to the Fiscal Year of all Constituent Entities of the MNE Group located in New Zealand by the basic rate of income tax set out in schedule 1, part A, clause 2 of the Income Tax Act 2007 (NZ) for the income year corresponding to that tax year.	35

	2.4.2 If, for a Fiscal Year, the amount described in Article 2.4.1(a) exceeds the amount of the tax liability described in that Article, an amount equal to the excess is carried forward to the next Fiscal Year.	
4	Article 7.2.1(b)(i) is replaced with:	
	(i) is a tax resident in the UPE Jurisdiction, or has a fixed establishment in the UPE Jurisdiction, or both; and	5
5	Article 8.1 is disregarded.	
6	Article 8.3 is disregarded.	
7	In Article 9.3.2, in the words before the paragraphs, “Article 9.3” is replaced with “Articles 2.1 and 9.3”.	10
8	In Article 9.3.5, in the words before the paragraphs, the words “[<i>Optional provision</i>]” are disregarded.	
9	In Article 9.3.5(a), the words “[<i>Optional provision</i>]” are disregarded.	
10	Article 9.4 is disregarded.	
11	The following Article is inserted after Article 10.1.1:	15
	10.1.2 The terms annual gross income, annual total deduction, available tax loss, fixed establishment, income year, and tax year have the same meanings as in the Income Tax Act 2007 (NZ).	

Schedule 2

New Part 7 inserted into Schedule 1 of Child Support Act 1991

s 89

Part 7

Provisions relating to Taxation (Annual Rates for 2023–24,
Multinational Tax, and Remedial Matters) Act 2023 529 Amendment to section 87A (Four-year time bar for amendment of certain
assessments)

The amendment to section 87A made by **section 88** of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act **2023** 10 applies in respect of all child support years, whether ending before, on, or after 26 October 2021.

Legislative history

18 May 2023

Introduction (Bill 255–1), first reading and referral to Finance
and Expenditure Committee