

Taxation (GST and Miscellaneous Provisions) Act 2000

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Commencement see section 2

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The Parliament of New Zealand enacts as follows:**1 Title**

This Act is the Taxation (GST and Miscellaneous Provisions) Act 2000.

2 Commencement

This Act comes into force on the day on which it receives the Royal assent.

Part 1

Amendments to Income Tax Act 1994

Part 1 (sections 3 to 58) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

3 Income Tax Act 1994

[Repealed]

Part 1 (sections 3 to 58) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

4 Satisfaction of income tax liability

[Repealed]

Part 1 (sections 3 to 58) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

5 Non-profit bodies' and charities' exempt income

[Repealed]

Subsection (2) was amended, by section 268(2) Taxation (Taxpayer Assessment and Miscellaneous Provisions) Act 2001 (2001 No 85) by substituting the expression "1997-98" for the expression "1995-96", with application as from 10 October 2000.

Part 1 (sections 3 to 58) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

6 New section CD 7 inserted

[Repealed]

Part 1 (sections 3 to 58) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

7 Exclusions from term dividends

[Repealed]

Part 1 (sections 3 to 58) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

8 Amount of dividend includes credits and certain foreign tax

[Repealed]

Part 1 (sections 3 to 58) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

9 New section DI 3A inserted*[Repealed]*

Part 1 (sections 3 to 58) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

10 New section DJ 19 inserted*[Repealed]*

Part 1 (sections 3 to 58) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

11 Year in which non-competitive levies and premiums under Accident Insurance Act 1998 payable*[Repealed]*

Part 1 (sections 3 to 58) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

12 Accounting for goods and services tax*[Repealed]*

Part 1 (sections 3 to 58) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

13 New section ED 6A inserted*[Repealed]*

Part 1 (sections 3 to 58) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

14 Disposal of trading stock on sale of business*[Repealed]*

Part 1 (sections 3 to 58) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

15 Rules for non-market transactions*[Repealed]*

Part 1 (sections 3 to 58) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

16 Section EH 18 replaced*[Repealed]*

Part 1 (sections 3 to 58) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

- 17 Sale for no consideration or for consideration less than market price**
[Repealed]
Part 1 (sections 3 to 58) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).
- 18 New section EN 8 inserted**
[Repealed]
Part 1 (sections 3 to 58) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).
- 19 New section EO 6 inserted**
[Repealed]
Part 1 (sections 3 to 58) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).
- 20 Interpretation**
[Repealed]
Part 1 (sections 3 to 58) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).
- 21 Agreements purporting to alter incidence of tax to be void**
[Repealed]
Part 1 (sections 3 to 58) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).
- 22 New sections GC 14B to GC 14E inserted**
[Repealed]
Part 1 (sections 3 to 58) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).
- 23 Taxable income to be calculated generally as if group were single company**
[Repealed]
Part 1 (sections 3 to 58) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

24 Group investment funds*[Repealed]*

Subsection (2) was amended, by section 268(2) Taxation (Taxpayer Assessment and Miscellaneous Provisions) Act 2001 (2001 No 85) by substituting the expression “1997-98” for the expression “1995-96”, with application as from 10 October 2000.

Part 1 (sections 3 to 58) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

25 New section HF 2 inserted*[Repealed]*

Part 1 (sections 3 to 58) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

26 Interpretation*[Repealed]*

Subsection (2) was amended, by section 268(2) Taxation (Taxpayer Assessment and Miscellaneous Provisions) Act 2001 (2001 No 85) by substituting the expression “1997-98” for the expression “1995-96”, with application as from 10 October 2000.

Part 1 (sections 3 to 58) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

27 Trustee income*[Repealed]*

Subsection (2) was amended, by section 268(2) Taxation (Taxpayer Assessment and Miscellaneous Provisions) Act 2001 (2001 No 85) by substituting the expression “1997-98” for the expression “1995-96”, with application as from 10 October 2000.

Part 1 (sections 3 to 58) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

28 Rebate for gifts of money*[Repealed]*

Part 1 (sections 3 to 58) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

29 Allowance of credit of tax in end of year assessment*[Repealed]*

Part 1 (sections 3 to 58) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

30 Credit of tax by instalments*[Repealed]*

Part 1 (sections 3 to 58) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

31 Commissioner to deliver credit of tax by instalments*[Repealed]*

Part 1 (sections 3 to 58) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

32 Credits in respect of tax paid in a country or territory outside New Zealand*[Repealed]*

Part 1 (sections 3 to 58) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

33 New section LC 1A inserted*[Repealed]*

Part 1 (sections 3 to 58) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

34 Section LC 3 replaced*[Repealed]*

Part 1 (sections 3 to 58) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

35 Information for credit to be furnished within 4 years*[Repealed]*

Part 1 (sections 3 to 58) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

36 Ascertainment of New Zealand income tax liability on foreign source income*[Repealed]*

Part 1 (sections 3 to 58) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

37 Tax deductions to be credited against tax assessed*[Repealed]*

Part 1 (sections 3 to 58) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

38 Lost tax deduction certificates*[Repealed]*

Part 1 (sections 3 to 58) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

39 Tax deductions for which no certificate issued*[Repealed]*

Part 1 (sections 3 to 58) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

40 Special rules for holding companies*[Repealed]*

Part 1 (sections 3 to 58) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

41 Amount of provisional tax payable*[Repealed]*

Part 1 (sections 3 to 58) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

42 Election to be a provisional taxpayer*[Repealed]*

Part 1 (sections 3 to 58) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

43 Amount of provisional tax instalments in transitional year*[Repealed]*

Part 1 (sections 3 to 58) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

44 New section MB 9A inserted*[Repealed]*

Part 1 (sections 3 to 58) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

45 Credits arising to imputation credit account*[Repealed]*

Part 1 (sections 3 to 58) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

46 Debits arising to imputation credit account*[Repealed]*

Part 1 (sections 3 to 58) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

47 Assessment and payment of tax*[Repealed]*

Part 1 (sections 3 to 58) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

48 Application of RWT rules*[Repealed]*

Part 1 (sections 3 to 58) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

49 Certificates of exemption*[Repealed]*

Part 1 (sections 3 to 58) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

50 Definitions*[Repealed]*

Subsection (23) was amended, by section 268(2) Taxation (Taxpayer Assessment and Miscellaneous Provisions) Act 2001 (2001 No 85) by substituting the expression “1997-98” for the expression “1995-96”, with application as from 10 October 2000.

Part 1 (sections 3 to 58) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**51 Meaning of source deduction
payment—shareholder-employees of close
companies***[Repealed]*

Part 1 (sections 3 to 58) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

52 Modifications to measurement of voting and market value interests in cases of continuity provisions*[Repealed]*

Part 1 (sections 3 to 58) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

53 Further definitions of associated persons*[Repealed]*

Part 1 (sections 3 to 58) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

54 Classes of income deemed to be derived from New Zealand*[Repealed]*

Part 1 (sections 3 to 58) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

55 References to income years in particular provisions*[Repealed]*

Part 1 (sections 3 to 58) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

56 References to particular regimes in former Act, etc*[Repealed]*

Part 1 (sections 3 to 58) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

57 Schedule 13—Months for payment of provisional tax and terminal tax*[Repealed]*

Part 1 (sections 3 to 58) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

58 Schedule 18—State enterprises*[Repealed]*

Part 1 (sections 3 to 58) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

Part 2

Amendments to Tax Administration Act 1994

59 Tax Administration Act 1994

This Part amends the Tax Administration Act 1994.

60 Interpretation

- (1) This section amends section 3(1).
 - (2) In paragraph (c) of the definition of **new provisional taxpayer**, “assessable income” is replaced by “gross income”.
 - (3) The definition of **new provisional taxpayer** is repealed.
 - (4) In the definition of **tax**, the following is added after paragraph (b):
 - “(c) for the purpose of sections 6, 6A and 6B, includes any revenue collected under, entitlements arising from or repayment obligations required by, the Inland Revenue Acts:
 - “(d) for the purpose of sections 176 and 177, means—
 - “(i) a tax, levy or duty of any type imposed by a tax law, regardless of how the tax, levy or duty is described:
 - “(ii) an amount deemed by a tax law to be a tax, levy or duty:
 - “(iii) any other amount payable to the Commissioner under a tax law, including:
 - “(A) a dividend withholding payment:
 - “(B) an amount imposed under section 157 of this Act or payable under section 43 of the Goods and Services Tax Act 1985:
 - “(C) an amount payable by a payer, as defined in section 153 of the Child Support Act 1991, under Part X of that Act:
 - “(D) a repayment deduction, as defined in section 2 of the Student Loan Scheme Act 1992, or an amount required to be deducted in accordance with section 46 of that Act:
 - “(iv) a tax prescribed in section 173D:
 - “(v) interest imposed under Part VII:
 - “(vi) a civil penalty:
- but does not include—

- “(vii) the approved issuer levy, as defined in section 86F of the Stamp and Cheque Duties Act 1971:
- “(viii) financial support, as defined in section 2(1) of the Child Support Act 1991:
- “(ix) a repayment obligation, as defined in section 2 of the Student Loan Scheme Act 1992.”
- (5) Subsection (2) applies to the 1998-99 and 1999-2000 income years.
- (6) Subsection (3) applies on the first day of the 2000-2001 income year.
- (7) In subsection (4)—
- (a) new paragraph (c) applies on and after 1 October 1996:
- (b) new paragraph (d) applies to applications for relief made on or after 1 April 2001 under either section 176 or section 177.

Subsection (7)(b) was substituted by section 76(2) Taxation (Beneficiary Income of Minors, Services-Related Payments and Remedial Matters) Act 2001 (2001 No 4) with application as from 10 October 2000.

61 Annual income tax returns not required

- (1) After section 33A(1)(b)(ix), the following is inserted:
- “(ixa) salary or wages from employment as a casual agricultural employee, if the employee has used the ‘CAE’ tax code; and.”
- (2) In section 33A(1)(g), “year.” is replaced by “year; and”, and the following is added:
- “(h) is not eligible to receive a full base interest write-off or a base interest reduction under sections 39 and 40 of the Student Loan Scheme Act 1992 respectively.”
- (3) Subsection (1) applies on and after 1 April 1999.
- (4) Subsection (2) applies to base interest write-offs and base interest reductions made in respect of the 1999-2000 and subsequent income years.

62 Returns by person claiming housekeeper or charitable rebates

- (1) Section 41A(2) is replaced by:
- “(2) The total amount of the refunds, including refunds made that were subject to an application under subsection (6AA), must not be more than the annual amount of the rebates allowed.”

- (2) In section 41A(6), “in the 6 months from 1 April to 30 September” is replaced by “in the period from 1 April to 31 December”.
- (3) In section 41A(6), “in the period from 1 April to 31 December” is replaced by “in the 6 months from 1 April to 30 September”.
- (4) After section 41A(6), the following is inserted:
“(6AA) Despite subsection (6), the Commissioner may, in special circumstances, accept an application for a refund—
“(a) before the end of the income year to which the application relates; or
“(b) after the period during which a taxpayer may make an application.
“(6AB) For the purpose of subsection (6AA), special circumstances include—
“(a) a taxpayer leaving New Zealand, permanently or for a significant length of time:
“(b) a trustee of a deceased person’s estate who wishes to wind up the estate.”
- (5) Subsections (1) and (4) apply to qualifying payments and gifts made in the 1999-2000 and subsequent income years.
- (6) Subsection (2) applies to rebate applications made in respect of the 1999-2000 income year.
- (7) Subsection (3) applies to rebate applications made in respect of the 2000-2001 and subsequent income years.

63 Notification required that taxpayer not subject to this Part

- (1) Section 80B(2) is replaced by:
“(2) The information required under subsection (1) must be received by the Commissioner no later than—
“(a) for a person to whom section NC 17(2)(a) of the Income Tax Act 1994 applies, the 7 February next following the income year to which the income statement refers:
“(b) for a person to whom section NC 17(2)(b) of the Income Tax Act 1994 applies, the 7 April next following the income year to which the income statement refers.”
- (2) In section 80B(3), “section NC 17” is replaced by “section NC 17(2)”.

- (3) Subsections (1) and (2) apply to the 1999-2000 and subsequent income years.

64 Natural person to request income statement

- (1) Section 80C(2) is replaced by:
- “(2) A request required under subsection (1) must be received by the Commissioner no later than—
- “(a) for a person to whom section NC 17(2)(a) of the Income Tax Act 1994 applies, the 7 February next following the income year to which the income statement refers:
- “(b) for a person to whom section NC 17(2)(b) of the Income Tax Act 1994 applies, the 7 April next following the income year to which the income statement refers.”
- (2) In section 80C(3), “section NC 17” is replaced by “section NC 17(2)”.
- (3) Subsections (1) and (2) apply to the 1999-2000 and subsequent income years.

65 Commissioner must issue income statement

- (1) In section 80D(2), “annual” is omitted.
- (2) Subsection (1) applies on and after the date this Act receives the Royal assent.

66 Taxpayer obligations and assessment on receipt of income statement

- (1) Section 80F(2) is replaced by:
- “(2) A person must inform the Commissioner by the later of—
- “(a) for a person to whom section NC 17(2)(a) of the Income Tax Act 1994 applies—
- “(i) the 7 February next following the income year to which the income statement relates; and
- “(ii) the date that occurs 2 months after the date of issue of the income statement:
- “(b) for a person to whom section NC 17(2)(b) of the Income Tax Act 1994 applies—
- “(i) the 7 April next following the income year to which the income statement relates; and

- “(ii) the date that occurs 2 months after the date of issue of the income statement.”
- (2) In section 80F(3), “section NC 17” is replaced by “section NC 17(2)”.
- (3) Subsections (1) and (2) apply to the 1999-2000 and subsequent income years.

67 Income statement deemed general assessment

- (1) Section 80H(3)(a) is replaced by:
- “(a) for a person to whom section NC 17(2)(a) of the Income Tax Act 1994 applies, the 7 February next following the income year to which the income statement relates; or
- “(ab) for a person to whom section NC 17(2)(b) of the Income Tax Act 1994 applies, the 7 April next following the income year to which the income statement relates; or.”
- (2) Section 80H(4) is replaced by:
- “(4) A general assessment under subsection (1) is deemed to have been made on the date that is 2 months after the date an income statement is issued if—
- “(a) for a person to whom section NC 17(2)(a) of the Income Tax Act 1994 applies, the income statement is issued after the 7 December next following the income year to which the income statement relates and on or before the date the person’s tax is payable under section NC 17(3);
- “(b) for a person to whom section NC 17(2)(b) of the Income Tax Act 1994 applies, the income statement is issued after the 7 February next following the income year to which the income statement relates and on or before the date the person’s tax is payable under section NC 17(3).”
- (3) In section 80H(5), “section NC 17” is replaced by “section NC 17(2)”.
- (4) After section 80H(5), the following is added:
- “(6) If a person is first issued with an income statement for an income year after their terminal tax date or the date their income tax is payable under section NC 17(3), a general assessment under subsection (1) is—

- “(a) treated as having been made on the date that is 2 months after the date the first income statement is issued; and
 - “(b) treated as reflecting the tax position taken in the last income statement issued by the Commissioner in that 2-month period.”
- (5) Subsections (1) to (4) apply to income statements issued for the 1999-2000 and subsequent income years.

68 Determinations in relation to financial arrangements

- (1) In section 90(1), in paragraph (c) and the proviso, “EH 1(5)” is replaced by “EH 1(6)”.
- (2) In section 90(1)(d), “(5)(a)” is replaced by “(6)(a)”.
- (3) In section 90(1)(e), “EH 1(6)” is replaced by “EH 1(7)”.
- (4) In section 90(1)(f), “EH 1(7)” is replaced by “EH 1(8)”.
- (5) Subsections (1) to (4) apply on and after 20 May 1999.

69 Amount of provisional tax based on 1997-98 or earlier income year

- (1) Section 119A is repealed.
- (2) Subsection (1) applies on the date on which this Act receives the Royal assent.

70 Instalments of and due dates for provisional tax

- (1) In section 120K(1), the income tax liability of a provisional taxpayer is replaced by a provisional taxpayer’s residual income tax.
- (2) In section 120K(3), the portion before paragraph (a) is replaced by:
- “(3) Other than in a transitional year, a new provisional taxpayer’s residual income tax for an income year is to be treated for the purpose of this Part as being due and payable—.”
- (3) Section 120K(4) is replaced by:
- “(4) A provisional taxpayer’s residual income tax for an income year is due and payable in one instalment on the taxpayer’s terminal tax date if—
- “(a) the provisional taxpayer is a natural person, other than in the person’s capacity as a trustee; and

- “(b) the provisional taxpayer’s residual income tax is less than \$30,000 in the income year; and
- “(c) the provisional taxpayer has not provided an estimate of the person’s residual income tax under section MB 3 of the Income Tax Act 1994; and
- “(d) the provisional taxpayer has not, at any time during the income year, held a valid certificate of exemption issued under section NF 9(12) of the Income Tax Act 1994.”
- (4) Section 120K(4A) is replaced by:
- “(4A) Other than a natural person to whom subsection (4) applies, a provisional taxpayer’s residual income tax for a transitional year is due and payable as follows:
- “(a) on the instalment date or dates occurring after the new provisional taxpayer’s first business day in accordance with section MB 5A of the Income Tax Act 1994:
- “(b) subject to paragraph (c), the amount payable on the instalment dates determined in paragraph (a) is calculated according to the formula:
- $$\frac{4 \times \text{RIT}}{m}$$
- where—
- RIT is the residual income tax for the transitional year; and
- m is the number of months in the transitional year:
- “(c) the amount payable on a final instalment date is determined in accordance with section MB 5A of the Income Tax Act 1994, being the residual income tax for the income year less any amount of residual income tax treated as due on an instalment date determined under paragraph (b).”
- (5) After section 120K(4A), the following is inserted:
- “(4AB) A new provisional taxpayer’s residual income tax for a transitional year is due and payable as follows:
- “(a) on the instalment date or dates occurring after the new provisional taxpayer’s first business day in accordance with section MB 5A of the Income Tax Act 1994, other than a date that is not more than 30 days after the new provisional taxpayer’s first business day:

“(b) subject to paragraph (c), the amount payable on the instalment dates determined in paragraph (a) is calculated according to the formula:

$$\frac{4 \times \text{RIT}}{m}$$

where—

RIT is the residual income tax for the transitional year; and

m is the number of months in the transitional year:

“(c) the amount payable on a final instalment date is determined in accordance with section MB 5A of the Income Tax Act 1994, being the residual income tax for the income year less any amount of residual income tax treated as due on an instalment date determined under paragraph (b).”

- (6) Subsections (1) and (3) apply to the 1997-98 and subsequent income years.
- (7) Subsection (2) applies to the 2000-2001 and subsequent income years.
- (8) Subsections (4) and (5) applies to the 1998-99 and subsequent income years.

Subsection (6) was amended, by section 268(3) Taxation (Taxpayer Assessment and Miscellaneous Provisions) Act 2001 (2001 No 85) by substituting the expression “and (3)” for the expression “, (3) and (4)”, with application as from 10 October 2000.

Subsection (8) was amended, by section 268(4) of that Act, by substituting the expression “Subsections (4) and (5)” for the expression “Subsection (5)”, with application as from 10 October 2000.

71 Application of Part 8

- (1) In section 124A(3), “Part IIIA” is replaced by “Part III”.
- (2) Subsection (1) applies on and after 20 May 1999.

72 Late payment penalty

- (1) In section 139B(2)(b), “2%” is replaced by “1%”.
- (2) Subsection (1) applies to late payment penalties imposed on and after 1 April 2001.

73 Late payment penalty and provisional tax

- (1) In section 139C(2), in the definition of **provisional tax payable**, paragraph (a) is replaced by:
- “(a) in respect of an instalment date and a taxpayer to whom section MB 5 of the Income Tax Act 1994 applies, means the lesser of:
- “(i) the amount calculated as payable under section MB 5; and
 - “(ii) the amount calculated as payable under section MB 5 if the taxpayer’s residual income tax is substituted for the amount of provisional tax payable under section MB 2, or sections MB 2AA or MB 2AB:
- “(aa) in respect of an instalment date and a taxpayer to whom section MB 5A of the Income Tax Act 1994 applies, means the lesser of—
- “(i) the amount calculated as payable under section MB 5A; and
 - “(ii) the amount calculated as payable under section MB 5A if the taxpayer’s residual income tax is substituted for item p of the formulae in section MB 5A(5) and MB 5A(7).”
- (2) Subsection (1) applies to the 1998-99 and subsequent income years.

74 Tax shortfalls

- (1) In section 141(7)(c), “section OD 8” is replaced by “section OD 8(1)”.
- (2) Subsection (1) applies on and after the date this Act receives the Royal assent.

75 Absolute liability offences

- (1) After section 143(1)(b), the following is inserted:
- “(ba) does not provide a tax invoice as required by section 24 of the Goods and Services Tax Act 1985; or.”
- (2) Subsection (1) applies on and after the date this Act receives the Royal assent.

76 Relief in cases of serious hardship

- (1) Section 176(6) and 176(7) are repealed.
- (2) Subsection (1) applies on 1 April 2001.

77 Discretion to grant relief from income tax or fringe benefit tax in cases of financial hardship

- (1) In section 177(1), “in writing” is omitted.
- (2) After section 177(1), the following is inserted:
“(1A) An application for relief by way of remission must be in writing.”
- (3) Subsections (1) and (2) apply to applications for relief made on and after the date this Act receives the Royal assent.

78 Section 177 replaced

- (1) Section 177 is replaced by:
“**177 Discretion to grant relief in cases of financial hardship**
“(1) A taxpayer, or a person on a taxpayer’s behalf, may apply for relief if the taxpayer—
“(a) is, or is likely to become, liable for payment of tax; and
“(b) is at the time of applying, in financial difficulties.
“(2) An application for relief by way of remission must be in writing.
“(3) If subsection (1) applies, the Commissioner may, if the Commissioner considers it necessary or desirable to do so to maximise the net present value, calculated on the date of the application, of recovery or likely recovery from the taxpayer of the tax, or part of the tax, grant relief to the taxpayer by—
“(a) remitting all or part of the tax; or
“(b) entering into an arrangement with the taxpayer for the payment of all or part of the tax in one or more payments; or
“(c) applying both paragraphs (a) and (b).
“(4) The Commissioner may, if the Commissioner thinks fit, issue an amended assessment to give effect to any action taken under subsection (3).
“(5) The Commissioner may cancel all or part of the relief granted under this section if—

- “(a) the Commissioner has reason to believe that the information provided by the taxpayer to enable the Commissioner to apply this section is misleading in any respect such that the Commissioner considers that it was inappropriate for all or part of the relief to have been granted; or
 - “(b) the Commissioner receives further information relating to the taxpayer’s affairs, as they were on the date on which relief was granted, such that the Commissioner considers that it was inappropriate for all or part of the relief to have been granted.
- “(6) If subsection (5) applies, the taxpayer is liable for the payment of the tax as if relief had never been granted.
- “(7) A Commissioner’s decision to grant or cancel relief may not be objected to or challenged.”
- (2) Subsection (1) applies to applications for relief made on or after 1 April 2001.

79 Cancellation of interest

- (1) In section 183C(4) and 183C(5), “15th” is replaced by “30th”.
- (2) Subsection (1) applies to statements of account issued on or after 1 April 2001.

80 Refund of tax paid in excess made by direct credit to bank account

- (1) Section 184A(5) is replaced by:
- “(5) In this section, **tax** means—
- “(a) an amount defined as tax in section 3(1)(a):
 - “(b) a refund allowed under section 41A:
 - “(c) the approved issuer levy, as defined in section 86F of the Stamp and Cheque Duties Act 1971:
 - “(d) cheque duty, as provided for in section 77 of the Stamp and Cheque Duties Act 1971:
 - “(e) financial support, as defined in section 2 of the Child Support Act 1991:
 - “(f) a repayment obligation, as defined in section 2 of the Student Loan Scheme Act 1992, if the borrower has elected a refund under section 56(1A) of that Act.”

- (2) Subsection (1) applies on and after 1 April 2000.

Subsection (2) was substituted, as from 10 October 2000, by section 76(3) Taxation (Beneficiary Income of Minors, Services-Related Payments and Remedial Matters) Act 2001 (2001 No 4).

Part 3

Amendments to Goods and Services Tax Act 1985

81 Goods and Services Tax Act 1985

This Part amends the Goods and Services Tax Act 1985.

82 Interpretation

- (1) This section amends section 2.
- (2) In subsection (1), in the portion before **associated persons**, “sections 12 and 13” is replaced by “section 12”.
- (3) The definitions of **associated persons** and **input tax** are repealed.
- (4) The definition of **due date** is replaced by:
“**due date**, in relation to the payment of tax by a registered person, means the last day for payment determined by either section 19C(1) or 23(1) for that registered person.”
- (5) After the definition of **local authority**, the following is inserted:
“**member** includes a partner, a joint venturer, a trustee, or a member of an unincorporated body.”
- (6) After the definition of **output tax**, the following is inserted:
“**partnership** and partner have the meanings set out in the Partnership Act 1908.”
- (7) In the definition of **resident**, paragraph (b) is replaced by:
“(b) a person who is an unincorporated body is deemed to be resident in New Zealand if the body has its centre of administrative management in New Zealand.”
- (8) The definition of **taxable supply** is replaced by:
“**taxable supply** means a supply of goods and services in New Zealand that is charged with tax under section 8 and includes a supply that section 11, 11A or 11B requires to be charged at the rate of 0%.”

(9) After the definition of **unconditional gift**, the following is inserted:

“**unincorporated body** means an unincorporated body of persons, including a partnership, a joint venture, and the trustees of a trust.”

(10) Subsection (2) applies on and after 1 October 1996.

(11) Subsection (3) applies on the date this Act receives the Royal assent.

(12) Subsections (4) to (9) apply on and after the date this Act receives the Royal assent.

83 New section 2A inserted

(1) After section 2, the following is inserted:

“2A Meaning of associated persons

“(1) In this Act, **associated persons** or persons associated with each other are—

“(a) two companies if a group of persons—

“(i) has voting interests in each of those companies of 50% or more when added together; or

“(ii) has market value interests in each of those companies of 50% or more when added together and a market value circumstance exists in respect of either company; or

“(iii) has control of each of those companies by any other means whatsoever:

“(b) a company and a person other than a company if the person has—

“(i) a voting interest in the company of 25% or more; or

“(ii) a market value interest in the company of 25% or more and a market value circumstance exists in respect of the company:

“(c) two persons who are relatives:

“(d) a partnership and a partner in the partnership:

“(e) a partnership and a person if the person is associated with a partner in the partnership:

“(f) a trustee of a trust and a person who has benefited or is eligible to benefit under the trust, except if, in relation to a supply of goods and services—

- “(i) the trustee is a charitable or non-profit body with wholly or principally charitable, benevolent, philanthropic or cultural purposes; and
 - “(ii) the supply is made in carrying out these purposes:
 - “(g) a trustee of a trust and a settlor of the trust:
 - “(h) a trustee of a trust and a trustee of another trust if the same person is a settlor of both trusts:
 - “(i) a person (person A) and another person (person B) if—
 - “(i) person B is associated with a third person (person C) under any one of paragraphs (a) to (h); and
 - “(ii) person C is associated with person A under any one of paragraphs (a) to (h).
- “(2) For the purpose of subsection (1)(a), **group of persons** has the meaning set out in section OB 1 of the Income Tax Act 1994.
- “(3) For the purpose of subsection (1)(a) and (1)(b)—
- “(a) **market value circumstance** has the meaning set out in section OB 1 of the Income Tax Act 1994, as if the reference to ‘this Act’ in paragraph (a)(v) of the definition were to ‘the Goods and Services Tax Act 1985’:
 - “(b) **market value interest** has the meaning set out in paragraph (a) of the definition of **market value interest** in section OB 1 of the Income Tax Act 1994:
 - “(c) **voting interest** has the meaning set out in paragraph (a) of the definition of **voting interest** in section OB 1 of the Income Tax Act 1994.
- “(4) For the purpose of subsection (1)(a) and (1)(b), if a person (person A) and another person (person B) are **associated persons** under any of subsection (1)(c) to (1)(i), person A is treated as holding anything held by person B.
- “(5) For the purpose of subsection (1)(c), **relative**, in relation to a person (person A), means another person (person B) connected with person A by blood relationship, marriage or adoption and includes a trustee of a trust under which person B has benefited or is eligible to benefit.
- “(6) In subsection (5)—
- “(a) persons are connected by blood relationship if they are within the second degree of relationship:
 - “(b) persons are connected by marriage if—

- “(i) one person is married to the other or to a person who is connected by blood relationship to the other; or
 - “(ii) the persons are in a relationship in the nature of marriage:
 - “(c) persons are connected by adoption if one has been adopted as the child of the other or as a child of a person who is within the first degree of relationship to the other.
- “(7) For the purpose of subsection (1)(g) and (1)(h), **settlor** has the meaning set out in section OB 1 of the Income Tax Act 1994.
- “(8) Subsection (1)(i) does not apply if 2 persons (persons A and B) are both associated with a third person (person C) under subsection (1)(c).”
- (2) Subsection (1) applies on and after the date this Act receives the Royal assent.

84 Meaning of term financial services

- (1) Section 3(1)(k) is replaced by:
- “(k) the provision or assignment of a futures contract through a defined market or at arm’s length if—
- “(i) the contract does not provide for the delivery of a commodity; or
 - “(ii) the contract provides for the delivery of a commodity and the supply of the commodity is an exempt supply; or
 - “(iii) the contract provides for the delivery of money:
- “(kaa) the provision of a financial option.”
- (2) Section 3(4) is replaced by:
- “(4) Despite this section, **financial services** does not include—
- “(a) the assignment or other transfer of a right to receive payment in relation to a taxable supply if, as a result of the assignment or transfer, output tax for the supply would not be or become attributable to a taxable period for the purpose of section 20(4);
 - “(b) debt collection services provided by a person other than the creditor whose debt is being collected.”

- (3) Subsections (1) and (2) apply on and after the date this Act receives the Royal assent.

85 New section 3A inserted

- (1) After section 3, the following is inserted:

“3A Meaning of input tax

- “(1) **Input tax**, in relation to a registered person, means—
- “(a) tax charged under section 8(1) on the supply of goods and services made to that person, being goods and services acquired for the principal purpose of making taxable supplies:
 - “(b) tax levied under section 12(1) of this Act on goods entered for home consumption under the Customs and Excise Act 1996 by that person, being goods applied or acquired for the principal purpose of making taxable supplies:
 - “(c) an amount determined under subsection (3) after applying subsection (2).
- “(2) In the case of a supply by way of sale to a registered person of secondhand goods situated in New Zealand, the amount of input tax is determined under subsection (3) if—
- “(a) the supply is not a taxable supply; and
 - “(b) the goods are not supplied by a supplier who—
 - “(i) is not resident in New Zealand; and
 - “(ii) has previously supplied the goods to a registered person who has entered them for home consumption under the Customs and Excise Act 1996; and
 - “(c) the goods are acquired for the principal purpose of making taxable supplies.
- “(3) The amount of input tax is—
- “(a) if the supplier and the recipient are associated persons, the lesser of—
 - “(i) the tax included in the original cost of the goods to the supplier; and
 - “(ii) the tax fraction of the purchase price; and
 - “(iii) the tax fraction of the open market value of the supply; or
 - “(b) if the supplier and the recipient are associated persons and the supplier is deemed to have made a supply of

- the goods under section 5(3) that has been valued under section 10(7A), the lesser of—
- “(i) the tax fraction of the open market value of the deemed supply under section 5(3); and
 - “(ii) the tax fraction of the purchase price; and
 - “(iii) the tax fraction of the open market value of the supply; or
- “(c) if the supplier and the recipient are associated persons and the supplier is deemed to have made a supply of the goods under section 5(3) that has been valued under section 10(8), the lesser of—
- “(i) the tax fraction of the valuation under section 10(8) of the deemed supply under section 5(3); and
 - “(ii) the tax fraction of the purchase price; and
 - “(iii) the tax fraction of the open market value of the supply; or
- “(d) if the supplier and the recipient are not associated persons and the supply is not the only matter to which the consideration relates, the lesser of—
- “(i) the tax fraction of the purchase price; and
 - “(ii) the tax fraction of the open market value of the supply; or
- “(e) in all other cases, the tax fraction of the consideration in money for the supply.
- “(4) For the purpose of subsection (1)(b), **applied** does not include—
- “(a) the delivery or the arranging of the delivery of the goods to a person in New Zealand; or
 - “(b) the making of the delivery of the goods to a person in New Zealand more easily achieved.
- “(5) For the purpose of subsection (3), **tax fraction** means the tax fraction that applies at the time of supply.”
- (2) Subsection (1) applies to supplies made on and after the date this Act receives the Royal assent.

86 Meaning of term supply

- (1) Section 5(3A) is repealed.
- (2) In the proviso to section 5(7)(a), “533,” is omitted.

- (3) Section 5(7)(b) is replaced by:
- “(b) the Chatham Islands Council is treated as supplying goods and services to a person if an amount of council dues, as defined in section 2 of the Chatham Islands Council Act 1995, is payable by the person to the Chatham Islands Council.”
- (4) After section 5(11C), the following is inserted:
- “(11D) Subsections (11E) to (11I) apply to a token, stamp or voucher that gives the recipient the right to receive goods and services.
- “(11E) The issue of a token, stamp or voucher is treated as a supply of goods and services.
- “(11F) The redemption of a token, stamp or voucher is not treated as a supply of goods and services.
- “(11G) Despite subsection (11F), the supplier of a token, stamp or voucher with a face value may treat the redemption of the token, stamp or voucher instead of the issue as a supply of goods and services if—
- “(a) it is not practical to treat the issue as a supply of goods and services; and
- “(b) the issuer of the token, stamp or voucher and the supplier of the goods or services that are specified in the token, stamp or voucher agree.
- “(11H) Subsection (11G) does not apply to the extent that the consideration that is received for the supply is more than the face value of the token, stamp or voucher.
- “(11I) Subsection (11G) does not apply to the supply of—
- “(a) a postage stamp, as defined in section 2(1) of the Postal Services Act 1998; or
- “(b) a token, stamp or voucher that gives the recipient the right to receive services described in section 11A(2).”
- (5) In section 5(13), the portion before the proviso is replaced by:
- “(13) For the purpose of this Act, except for subsection (13B) and section 20(3), if a registered person receives a payment under a contract of insurance, whether or not the person is a party to the contract, the payment is, to the extent that it relates to a loss incurred in the course or furtherance of the registered person’s taxable activity, deemed to be consideration received for a supply of services performed by the registered person—

- “(a) on the day the registered person receives the payment;
and
“(b) in the course or furtherance of the registered person’s
taxable activity:”.
- (6) In the proviso to section 5(13), “indemnity” is omitted.
- (7)
- (8) Section 5(13B)(b) is replaced by:
“(b) a deduction under section 20(3)(d) has been allowed to the
insurer for the payment to which the recovered amount re-
lates—.”
- (9) Section 5(14), is replaced by:
“(14) If a supply is charged with tax under section 8, but section 11,
11A or 11B requires part of the supply to be charged at the
rate of 0%, that part of the supply is treated as being a separate
supply.”
- (10) In section 5(17), “section 21(5) of this Act” is replaced by
“section 21F”.
- (11) Subsection (1) applies on the date this Act receives the Royal
assent.
- (12) Subsections (2) and (4) to (10) apply on and after the date this
Act receives the Royal assent.
- (13) Subsection (3) applies on and after 1 November 1995.
Subsection (7) was repealed, on 10 October 2000, by section 76(4) Taxation
(Beneficiary Income of Minors, Services-Related Payments and Remedial Mat-
ters) Act 2001 (2001 No 4).

87 Meaning of term taxable activity

- (1) Section 6(2) is replaced by:
“(2) Anything done in connection with the beginning or ending,
including a premature ending, of a taxable activity is treated
as being carried out in the course or furtherance of the taxable
activity.”
- (2) Subsection (1) applies on and after the date this Act receives
the Royal assent.

88 Time of supply

- (1) After section 9(2), the following is inserted:

- “(2A) Despite subsection (1), a supply to which section 5(11G) applies is treated as taking place at the time the token, stamp or voucher is redeemed.
- “(2B) If section 5(11H) applies, the excess consideration is treated as consideration in money for a supply that takes place at the time the token, stamp or voucher is issued.”
- (2) In section 9(6), “section 21(2) of this Act” is replaced by “section 21C”.
- (3) After section 9(7), the following is added:
- “(8) Despite subsection (1), if a local authority makes a supply to which section 5(7)(a) applies, the supply is treated as taking place on the earlier of the following dates:
- “(a) the date on which an instalment notice is issued if the instalment notice requires payment of an instalment by a particular date:
- “(b) the date on which payment is required by the instalment notice:
- “(c) the date on which payment is received.”
- (4) Subsections (1) to (3) apply on and after the date this Act receives the Royal assent.

89 Value of supply of goods and services

- (1) Section 10(3) is replaced by:
- “(3) Subject to subsections (3A) and (8), the consideration for a supply is treated as being the open market value of the supply if—
- “(a) the supply is made by a person for no consideration or for a consideration that is less than the open market value of the supply; and
- “(b) the supplier and the recipient are associated persons; and
- “(c) the supply is not a fringe benefit that the supplier has, or is deemed to have, provided or granted under the FBT rules of the Income Tax Act 1994 to the recipient, being a person employed under a contract of service by the supplier.”
- (2) In section 10(3A)—
- (a) “registered person” is replaced by “person”:

- (b) paragraph (b) is replaced by:
- “(b) either—
- “(i) is entitled to make a deduction under section 20(3) in respect of the supply, determined as if section 3A(3)(a) did not apply and as if there were consideration for the supply; or
- “(ii) would have been entitled to make a deduction under section 20(3) in respect of the supply, determined as if section 3A(3)(a) did not apply and as if there were consideration for the supply, if the supplier had been a registered person and had complied with the requirements of this Act.”
- (3) In section 10(4), “the proviso to section 11(1) of this Act” is replaced by “section 11(3)”.
- (4) Section 10(5) is replaced by:
- “(5) Despite subsection (2), if a supply of goods and services is made under a credit contract, the consideration in money for the supply is treated as being the higher of the cash price of the goods and services and the price the supplier would have charged the purchaser if the purchaser had paid in full at the time the credit contract was entered into.
- “(5A) In subsection (5), **credit contract** and **cash price** have the meanings set out in the Credit Contracts Act 1981.”
- (5) In section 10(7), “section 21(3) of this Act” is replaced by “section 21(1)”.
- (6) After section 10(7), the following is inserted:
- “(7A) If goods and services are deemed to be supplied by a person under section 5(3), the consideration in money for the supply is treated as being the open market value of the supply.”
- (7) In section 10(8), “or section 21(1) of this Act, the consideration in money for that supply” is replaced by “and the goods and services were acquired before 1 October 1986 or, where goods and services are treated as being supplied under section 21, the consideration in money for either supply”.
- (8) In section 10(15A), “Notwithstanding anything in subsection (16) or subsection (17) of this section, where” is replaced by “If”.

- (9) Section 10(16), 10(16A), 10(17), 10(17A) and 10(20) are repealed.
- (10) Subsections (1) to (8) apply on and after the date this Act receives the Royal assent.
- (11) Subsection (9) applies on the date this Act receives the Royal assent.

90 Section 11 replaced

- (1) Section 11 is replaced by:

“11 Zero-rating of goods

- “(1) A supply of goods that is chargeable with tax under section 8 must be charged at the rate of 0% in the following situations:
 - “(a) the supplier has entered the goods for export under the Customs and Excise Act 1996 and the goods have been exported by the supplier; or
 - “(b) the goods have been deemed to be entered for export under the Customs and Excise Act 1996 and the goods have been exported by the supplier; or
 - “(c) the supplier has satisfied the Commissioner that the goods have been exported by the supplier to a place outside New Zealand; or
 - “(d) subject to subsection (4), the supplier will enter the goods for export under the Customs and Excise Act 1996 in the course of, or as a condition of, making the supply, and will export the goods; or
 - “(e) subject to subsection (4), the goods will be deemed to be entered for export under the Customs and Excise Act 1996 and will be exported by the supplier in the course of, or as a condition of, making the supply; or
 - “(f) goods that would otherwise have been exported are destroyed, die or cease to exist in circumstances beyond the control of either the supplier or the recipient; or
 - “(g) subject to subsection (6), the goods are supplied by a supplier who is licensed under section 12 of the Customs and Excise Act 1996, if—
 - “(i) the supplier has been licensed by the Chief Executive of the New Zealand Customs Service to operate a sealed bag system; and

- “(ii) the goods are supplied in accordance with the sealed bag system; and
- “(iii) the goods are entered, or are deemed to be entered, for export under the Customs and Excise Act 1996; or
- “(h) the goods and services are supplied—
 - “(i) by a supplier who is licensed under section 12 of the Customs and Excise Act 1996; and
 - “(ii) within an area licensed under section 12 of the Customs and Excise Act 1996 as a customs controlled area for the processing of persons arriving in or departing from New Zealand; and
 - “(iii) to either—
 - “(A) an inbound air traveller; or
 - “(B) an outbound air traveller who picks up the goods upon returning to New Zealand; or
- “(i) subject to subsection (7), the supply of a boat or an aircraft by way of sale to a recipient who exports the boat or aircraft under its own power to a place outside New Zealand; or
- “(j) the goods are not situated in New Zealand at the time of supply and are not to be entered into New Zealand for home consumption under the Customs and Excise Act 1996 by the supplier of the goods; or
- “(k) the goods have been supplied in the course of repairing, renovating, modifying or treating goods to which section 11A(1)(h) or 11A(1)(i) applies and the goods supplied—
 - “(i) are wrought into, affixed to, attached to or otherwise form part of those other goods; or
 - “(ii) are consumable goods that become unusable or worthless as a direct result of being used in the repair, renovation, modification or treatment process; or
- “(l) the goods have been supplied for use as stores for consumption outside New Zealand on an aircraft going to a destination outside New Zealand or on a fishing ship going outside New Zealand fisheries waters or on a foreign-going ship; or

- “(m) the supply to a registered person of a taxable activity, or part of a taxable activity, that is a going concern at the time of the supply, if—
 - “(i) the supply is agreed by the supplier and the recipient, in writing, to be the supply of a going concern; and
 - “(ii) the supplier and the recipient intend that the supply is of a taxable activity, or part of a taxable activity, that is capable of being carried on as a going concern by the recipient; or
- “(n) the supply of new fine metal, being the first supply of the new fine metal after its refining, by the refiner to a dealer in fine metal, for the purpose of supplying the fine metal for use as an investment item.
- “(2) For the purpose of subsection (1)(n), if a person is both a refiner of and a dealer in fine metal, the new fine metal is treated as having been supplied to the dealer at a time immediately before the making of an exempt supply of the new fine metal.
- “(3) Subsection (1)(a) to (1)(l) do not apply to a supply of goods by a registered person if—
 - “(a) the registered person, or another person associated with the registered person, has deducted, under section 20(3), input tax as defined in section 3A(1)(c) in respect of the goods; or
 - “(b) the goods have been or will be reimported into New Zealand by the supplier.
- “(4) If subsection (1)(d) or (1)(e) applies and the goods are not exported by the supplier within 28 days beginning on the day of the time of supply or a longer period that the Commissioner has allowed under subsection (5), the supply of the goods must be charged with tax at the rate specified in section 8 despite subsection (1)(d) and (1)(e) but subject to subsection (1)(a), (1)(b) and subsection (5).
- “(5) The Commissioner may extend the 28-day period before a supply of goods is charged with tax at the rate specified in section 8 if the Commissioner has determined, after the supplier has applied in writing, that—
 - “(a) circumstances beyond the control of the supplier and the recipient have prevented, or will prevent, the export of

- the goods within 28 days beginning on the day of the time of supply; or
- “(b) due to the nature of the supply, it is not practicable for the supplier to export the goods, or a class of the goods, within 28 days beginning on the day of the time of supply.
- “(6) If subsection (1)(g) applies and the goods cannot be evidenced, as specified by the Chief Executive of the New Zealand Customs Service in accordance with the sealed bag system, as being exported within 28 days beginning on the day of the time of supply, despite subsection (1)(g), the supply must be charged with tax at the rate specified in section 8.
- “(7) Subsection (1)(i) applies to the supply of a boat or an aircraft, if—
- “(a) the boat or aircraft is exported within 60 days beginning on the date on which the recipient or the recipient’s agent takes physical possession of it, or within a longer period as the Commissioner may allow under subsection (8); and
- “(b) the vendor or the purchaser provides the Commissioner with such documentation and undertakings as the Commissioner may require in relation to—
- “(i) records of the sale of the supply; and
- “(ii) limitations on dealings in and the uses to which the boat or aircraft will be put before export; and
- “(iii) the proposed and actual date of export.
- “(8) The Commissioner may extend the 60-day period if the Commissioner is satisfied, upon the written application of the supplier, that circumstances beyond the control of the supplier and the recipient have prevented, or will prevent, the export of the boat or aircraft within the period.
- “(9) For the purpose of this section—
- “**aircraft** has the meaning set out in section 2 of the Civil Aviation Act 1990
- “**fishing ship** has the meaning set out in section 2 of the Maritime Transport Act 1994
- “**foreign-going ship** means a ship, other than a **pleasure craft** or a **fishing ship**, as those terms are defined in section 2 of the

Maritime Transport Act 1994, going to a destination outside New Zealand

“**New Zealand fisheries waters** has the meaning set out in section 2 of the Fisheries Act 1996

“**sealed bag system** means a system under which a supplier—

- “(a) is licensed to operate an export warehouse; and
- “(b) may, with the authorisation of the Chief Executive of the New Zealand Customs Service, and subject to any conditions that the Chief Executive may specify, supply goods in a sealed bag to individuals intending to travel overseas within 5 days beginning on the day of the time of supply; and
- “(c) must provide evidence that the goods have been exported from New Zealand within 5 days beginning on the day of the time of supply, and if conditions have been specified by the Chief Executive of the New Zealand Customs Service, in accordance with those conditions.

“**11A Zero-rating of services**

- “(1) A supply of services that is chargeable with tax under section 8 must be charged at the rate of 0% in the following situations:
 - “(a) the services, not being ancillary transport activities such as loading, unloading and handling, are the transport of passengers or goods—
 - “(i) from a place outside New Zealand to another place outside New Zealand; or
 - “(ii) from a place in New Zealand to a place outside New Zealand; or
 - “(iii) from a place outside New Zealand to a place in New Zealand; or
 - “(b) the services are the transport of passengers from a place in New Zealand to another place in New Zealand to the extent that the transport is by **aircraft**, as defined in section 2 of the Civil Aviation Act 1990, and is **international carriage** for the purpose of the Carriage by Air Act 1967; or
 - “(c) the services, including ancillary transport activities such as loading, unloading and handling, are the transport of

- goods from a place in New Zealand to another place in New Zealand to the extent that the services are supplied by the same supplier as part of the supply of services to which paragraph (a)(ii) or (a)(iii) applies; or
- “(d) the services are the insuring, or the arranging of the insurance, or the arranging of the transport of passengers or goods to which any one of paragraphs (a) to (c) applies; or
 - “(e) the services are supplied directly in connection with land situated outside New Zealand or any improvement to the land; or
 - “(f) the services are supplied directly in connection with moveable personal property, other than choses in action, situated outside New Zealand when the services are performed; or
 - “(g) the services are supplied to overseas postal organisations for the delivery in New Zealand of postal articles mailed outside New Zealand; or
 - “(h) the services are supplied directly in connection with goods supplied from outside New Zealand and whose destination is outside New Zealand, including stores for craft, only if the goods are not removed from the ship or aircraft in which they arrived while the ship or aircraft is in New Zealand; or
 - “(i) the services are supplied directly in connection with goods referred to in section 116 of the Customs and Excise Act 1996; or
 - “(j) the services are physically performed outside New Zealand or are the arranging of services that are physically performed outside New Zealand; or
 - “(k) subject to subsection (2), the services are supplied to a person who is not resident in New Zealand and who is outside New Zealand at the time the services are performed, not being services which are—
 - “(i) supplied directly in connection with—
 - “(A) land situated in New Zealand or any improvement to the land; or
 - “(B) moveable personal property, other than choses in action or goods to which para-

- graph (h) or (i) applies, situated in New Zealand at the time the services are performed; or
- “(ii) the acceptance of an obligation to refrain from carrying on a taxable activity, to the extent that the activity would have occurred within New Zealand; or
 - “(l) subject to subsection (2), the services are the supply of information to a person who is not resident in New Zealand and who is outside New Zealand at the time the services are performed, if the services are supplied directly in connection with moveable personal property situated in New Zealand at the time the services are performed; or
 - “(m) the services are supplied directly in connection with goods to which any one of section 11(1)(a) to 11(1)(e) applies if supplied to a person who is not resident in New Zealand and who is outside New Zealand at the time the services are performed; or
 - “(n) subject to subsection (4), the services are—
 - “(i) the filing, prosecution, granting, maintenance, transfer, assignment, licensing or enforcement of intellectual property rights, including patents, designs, trade marks, copyrights, plant variety rights, know-how, confidential information, trade secrets or similar rights; or
 - “(ii) other services in respect of rights listed in subparagraph (i), including services involved in the making of searches, the giving of advice, opposing a grant or seeking the revocation of the rights, or opposing steps taken to enforce the rights; or
 - “(o) the services are the acceptance of an obligation to refrain from pursuing or exercising in whole or in part rights listed in paragraph (n) to the extent that the rights are for use outside New Zealand; or
 - “(p) the services are the acceptance of an obligation to refrain from carrying on a taxable activity if the activity would have occurred outside New Zealand.

- “(2) Subsection (1)(k) and (1)(l) do not apply to a supply of services under an agreement that is entered into, whether directly or indirectly, with a person (person A) who is not resident in New Zealand if—
- “(a) the performance of the services is, or it is reasonably foreseeable at the time the agreement is entered into that the performance of the services will be, received in New Zealand by another person (person B), including—
 - “(i) an employee of person A; or
 - “(ii) if person A is a company, a director of the company; and
 - “(b) it is reasonably foreseeable, at the time the agreement is entered into, that person B will not receive the performance of the services in the course of making taxable or exempt supplies.
- “(3) For the purpose of subsection (1)(k) and (1)(l), and subsection (1)(n) as modified by subsection (4)(b), **outside New Zealand**, for a company or an unincorporated body that is not resident, includes a minor presence in New Zealand, or a presence that is not effectively connected with the supply.
- “(4) Subsection (1)(n) applies only to the extent that—
- “(a) the rights are for use outside New Zealand; or
 - “(b) the services are supplied to a person who is not resident in New Zealand and who is outside New Zealand when the services are performed.

“**11B Zero-rating of supply by territorial authority**

- “(1) A supply of services that is chargeable with tax under section 8 must be charged at the rate of 0% if the supplier is a territorial authority and the consideration for the supply is proceeds from the local authorities petroleum tax paid to the supplier under section 198 of the Local Government Act 1974.
- “(2) For the purpose of subsection (1)—
- “**territorial authority** has the meaning set out in section 2 of the Local Government Act 1974
 - “**local authorities petroleum tax** is local authorities petroleum tax levied in accordance with Part XI of the Local Government Act 1974.”

- (2) Subsection (1) applies on and after the date this Act receives the Royal assent.

91 Imposition of goods and services tax on imports

- (1) In section 12(4)(a), “Part VIII (except for sections 106, 107, 108, 110, 112, 113, 114)” is replaced by “Part VIII (except for sections 107, 108, 109, 111, 112, 113, 114, 115, 117, 118)”.
- (2) In the proviso to section 12(4)(c), “if the person is entitled to make an input tax deduction under section 20(3) in respect of the goods” is inserted after “taxable activity”.
- (3) Section 12(4)(e) and 12(4)(f) is replaced by:
“(e) reference numbers 40, 45, 70, 75, 80, 81 and 82 of Part II of the First Schedule of the Tariff Act 1988 if—
“(i) the goods are entitled to be entered under any of these reference numbers; or
“(ii) the goods are entitled to be entered duty free under Part I of the First Schedule of the Tariff Act 1988, but would have been entitled to be entered under any of these reference numbers if the goods had been dutiable under Part I of the First Schedule of the Tariff Act 1988.”
- (4) Subsection (1) applies on and after 1 October 1996.
- (5) Subsections (2) and (3) apply on and after the date this Act receives the Royal assent.

92 Exempt supplies

- (1) In section 14(a)(i), “subparagraph” is replaced by “paragraph”.
- (2) In section 14(a)(i), “section 11(2) of this Act” is replaced by “section 11A”.
- (3) After section 14(ca), the following is inserted:
“(cb) the supply of property by way of lease that is to be used for the principal purpose of accommodation in a dwelling by any person, other than a registered person in the course or furtherance of a taxable activity:”.
- (4) In section 14(e), “section 11(1)” is replaced by “section 11”.
- (5) In section 14, the following is added as subsections (2) and (3):

- “(2) A supplier and a recipient may agree, in writing, that a supply under subsection (1)(cb) is not an exempt supply if—
- “(a) the lease was entered into before 16 May 2000; and
 - “(b) the supplier has, before 16 May 2000, treated a supply under the lease as being a taxable supply.
- “(3) Penalty or default interest imposed under a contract for the supply of goods and services is treated as being consideration for an exempt supply.”
- (6) Subsection (1) applies to supplies made on or after 19 December 1989.
- (7) Subsections (2) to (5) apply on and after the date this Act receives the Royal assent.

93 Taxable periods

- (1) In section 15(6)(a), “Any cessation of” is replaced by “any ending of, including a premature ending of”.
- (2) Subsection (1) applies on and after the date this Act receives the Royal assent.

94 Change in registered person’s taxable period

- (1) After section 15A(1), the following is inserted:
- “(1AA) The Commissioner may, on written application by a registered person who falls within any one of categories A, B or D, direct that the registered person be placed within category C after considering the following factors:
- “(a) the person’s history of filing and paying tax;
 - “(b) the person’s record keeping practices;
 - “(c) whether the person has been placed within category C before;
 - “(d) the nature and volume of the person’s taxable supplies.”
- (2) Subsection (1) applies on and after the date this Act receives the Royal assent.

95 Accounting basis

- (1) Section 19(1) is replaced by:
- “(1) Subject to sections 19A to 19D, every registered person must account for tax payable on an invoice basis for the purpose of section 20.”

- (2) Subsection (1) applies on and after the date this Act receives the Royal assent.

96 Requirements for accounting on payments basis

- (1) Section 19A(1)(a)(ii) is replaced by:
“(ii) a local authority specified in an Order in Council made under section 19AB; or.”
- (2) In section 19A(1)(b)(i), “\$1,000,000” is replaced by “\$1,300,000”.
- (3) In section 19A(3)(a), “Any cessation of” is replaced by “any ending of, including a premature ending of”.
- (4) Subsection (1) applies on and after 1 July 2001.
- (5) Subsection (2) applies on and after 1 October 2000.
- (6) Subsection (3) applies on and after the date this Act receives the Royal assent.

97 New section 19AB inserted

- (1) After section 19A, the following is inserted:
“**19AB Local authorities accounting on payments basis on and after 1 July 2001**
The Governor-General may, by Order in Council, specify—
“(a) a local authority that may continue to account for tax payable on a payments basis under section 19 on and after 1 July 2001; and
“(b) the period for which the local authority may continue to account for tax payable on a payments basis under section 19.”
- (2) Subsection (1) applies on and after the date this Act receives the Royal assent.

98 New section 19D inserted

- (1) After section 19C, the following is inserted:
“**19D Invoice basis for supplies over \$225,000**
“(1) A registered person who makes a supply of goods and services for a consideration of more than \$225,000 must account for tax payable on an invoice basis for that supply.

- “(2) Subsection (1) does not apply if the supply of goods and services is a **short term agreement for the sale and purchase of property or services**, as that term is defined in section OB 1 of the Income Tax Act 1994, except the reference to ‘93 days’ is to be read as being to ‘1 year’.
- “(3) For the purpose of subsection (1), the Commissioner may treat a registered person as having made a supply of goods and services for a consideration of more than \$225,000 if—
- “(a) the person has made more than one supply and the sum of the consideration for each supply is more than \$225,000 irrespective of whether each supply is one to which subsection (2) applies; and
 - “(b) the Commissioner considers that the person made more than one supply to avoid the application of subsection (1).”
- (2) Subsection (1) applies on and after the date this Act receives the Royal assent.

99 Calculation of tax payable

- (1) In section 20(3)(a)(i) and 20(3)(a)(ia), “paragraph (c) of the definition of the term **input tax** in section 2(1) of this Act applies” is replaced by “section 3A(1)(c) of the **input tax** definition applies”.
- (2) In section 20(3)(d), “indemnify” is omitted.
- (3) In subparagraph (iii) of the proviso to section 20(3)(d), “section 11 of this Act” is replaced by “section 11, 11A or 11B”.
- (4) After section 20(3)(d), the following is inserted:
“(db) an amount equal to the tax fraction of the payment of a recovered amount to which section 5(13B) applies; and.”
- (5) After subparagraph (iv) of the proviso to section 20(3)(d), the following is inserted:
“(iva) does not apply if the payment is made to a person who, on the date the payment is made, is not a registered person and is not resident in New Zealand.”
- (6) In section 20(3)(e), “section 21(5) of this Act” is replaced by “sections 21E, 21F, 21G and 21H”.
- (7) Section 20(3)(ea), 20(3A), 20(3AB) and 20(3B) are repealed.
- (8) Section 20(4) is replaced by:

- “(4) For the purpose of subsection (3), output tax in relation to a supply made by a registered person must be attributed to a taxable period—
- “(a) in the case of a registered person who is required to account for tax payable on an invoice or a hybrid basis under section 19, if the supply is made or is deemed to be made during the taxable period; or
 - “(b) in the case of a registered person who is required to account for tax payable on a payments basis under section 19—
 - “(i) to the extent that payment for the supply has been received during the taxable period, if the supply is a supply of goods and services which is deemed to take place under any one of sections 9(1), 9(3)(a), 9(3)(aa), 9(6), 9(8), 25(2)(a), or 25(4); or
 - “(ii) if the supply of goods and services is made or deemed to be made during the taxable period by the registered person, unless the supply is one to which subparagraph (i) applies, in which case, that subparagraph applies.”
- (9) In section 20(5), “of this section and section 83(2) of this Act” is omitted.
- (10) Subsections (1) to (6), (8) and (9) apply on and after the date this Act receives the Royal assent.
- (11) Subsection (7) applies on the date this Act receives the Royal assent.

100 Section 21 replaced

- (1) Section 21 is replaced by:

“21 Supplies of goods and services other than for making taxable supplies

- “(1) Subject to section 5(3), a registered person is treated as supplying goods and services in the course or furtherance of their taxable activity if—
- “(a) the person acquires or produces the goods and services for the principal purpose of making taxable supplies but applies the goods and services for a purpose other than that of making taxable supplies; or

- “(b) the person applies the goods and services for the principal purpose of making taxable supplies and also applies the goods and services for a purpose other than that of making taxable supplies; or
 - “(c) the person acquires or produces goods and services before 1 October 1986 for the principal purpose of making supplies that would have been taxable supplies if they had made on or after 1 October 1986 but applies the goods and services for a purpose other than that of making taxable supplies on or after 1 October 1986; or
 - “(d) the person acquires or produces goods and services before 1 October 1986 and applies the goods and services both for a purpose of making supplies that would have been taxable supplies if they had been made on or after 1 October 1986 and for another purpose before 1 October 1986 but applies the goods and services for the purpose other than that of making taxable supplies on and after 1 October 1986.
- “(2) Subsection (1)(c) does not apply if the goods or services are applied wholly for the purpose other than that of making taxable supplies before 1 October 1986 and continue to be applied wholly for that purpose on and after 1 October 1986.
- “(3) Subsection (1) does not apply—
- “(a) to a supply of services provided by an employee on and after 1 October 1986:
 - “(b) if the goods and services were acquired before 1 October 1986 and are no longer used for the principal purpose of making taxable supplies because of a legislative amendment.
- “(4) Subsection (1) does not apply to goods and services to the extent that they are applied for a purpose of making exempt supplies if at the start of a taxable period the registered person has reasonable grounds for believing that the total value of all exempt supplies the person will make in the 12 months after the start of the taxable period will not be more than the lesser of:
- “(a) \$90,000; or
 - “(b) 5% of the total consideration for all taxable and exempt supplies to be made in the 12-month period.

- “(5) If a person is required to account for tax payable on a payments basis under section 19, for the purpose of determining the total value of all exempt supplies to be made in a 12-month period, an exempt supply is treated as having taken place during the period—
- “(a) to the extent that payment for the supply is expected to be received during the period, if the supply would be deemed to take place under any one of sections 9(1), 9(3)(a), 9(3)(aa), 9(6), 25(2)(a) or 25(4), as if the supply were taxable; or
 - “(b) as if the supply would be made or deemed to have been made during the period by the person had the supply been charged with tax under section 8, not being a supply to which paragraph (a) applies.

“21A Methods of allocating between taxable and other supplies

- “(1) A registered person must determine the extent to which goods and services are applied for the purpose of making supplies other than taxable supplies according to:
- “(a) actual use; or
 - “(b) an alternative method approved by the Commissioner if the method results in allocated amounts that are fair and reasonable.
- “(2) A registered person must determine the extent to which goods and services are applied for the purpose of making exempt supplies by either applying subsection (1) or using the formula:
- $$\frac{\text{Total value of exempt supplies for taxable period}}{\text{Total value of all supplies for taxable period}}$$

“21B Methods of allocation for replacement goods and services

- “(1) If a person applies section 21C(1)(a) and acquires or produces goods and services in replacement of goods and services that have an existing pattern of use, the person may allocate an amount to supplies other than taxable supplies based on the use of the goods and services, before replacement, in the 12 months before the date of acquisition or production.
- “(2) A person must allocate the amount on the date of acquisition or production.

- “(3) If a person applies section 21C(1)(a) and acquires goods and services in replacement of goods and services that do not have an existing pattern of use, the person must—
- “(a) on the date of acquisition, allocate an amount to supplies other than taxable supplies provisionally; and
 - “(b) 12 months after the date of purchase or acquisition, recalculate the provisional allocation if it differs from the actual use of the goods and services over the 12-month period.

“21C Attribution of output tax

- “(1) A registered person to whom section 21(1) applies must attribute output tax to one of the following times:
- “(a) in the first taxable period in which goods and services are applied for a purpose other than that of making taxable supplies; or
 - “(b) in each taxable period in which goods and services are applied for a purpose other than that of making taxable supplies; or
 - “(c) in each year in which goods and services are applied for a purpose other than that of making taxable supplies.
- “(2) A registered person who applies subsection (1)(a) must make output tax attributions to reflect further changes in use of 20% or more.
- “(3) If subsection (1)(a) or (1)(c) applies, a registered person must reduce the output tax attributable by the amount of the output tax attributed to earlier taxable periods for the supply of the goods and services.
- “(4) A person may change the time the person attributes output tax only with the Commissioner’s approval.

“21D Attribution of output tax in contemplation of sale of goods and services

Despite section 21(1), a registered person is not treated as supplying goods and services in the course or furtherance of their taxable activity if—

- “(a) the goods or services are sold after the person has attributed output tax at the time specified in section 21C(1)(a); and

- “(b) the Commissioner considers that the person applied the goods or services for a purpose other than that of making taxable supplies and attributed output tax under section 21C(1)(a) in contemplation of the sale of the goods or services.

“21E Application of section 21F

“(1) Section 21F applies if—

- “(a) a person acquires goods and services on or after 1 October 1986 for the principal purpose other than that of making taxable supplies; and
- “(b) the goods and services are applied in a taxable period for a purpose of making taxable supplies either by the person or, if the person is a member of a partnership, by the partnership; and
- “(c) either subsection (2) or subsection (3) applies.

“(2) This subsection applies if—

- “(a) tax has been charged under section 8(1) on the supply of the goods and services made to the person; or
- “(b) tax has been levied under section 12(1) on the goods that have been entered for home consumption under the Customs and Excise Act 1996 by the person.

“(3) This subsection applies if—

- “(a) the goods are secondhand goods that are supplied to the person by way of sale and the goods—
 - “(i) have always been situated in New Zealand; or
 - “(ii) have had tax levied on them under section 12(1) of the Customs and Excise Act 1996; and
- “(b) the supply is not a taxable supply; and
- “(c) the person has not supplied the goods to another registered person who has entered them for home consumption under the Customs and Excise Act 1996.

“(4) For the purpose of subsection (1)(a), goods and services are treated as if they were acquired for the principal purpose other than that of making taxable supplies if—

- “(a) sections 21 and 21I have treated the goods and services as being supplied; or
- “(b) section 5(3) has deemed the goods and services as being supplied by a person who ceases to be a registered per-

son and the goods or services are subsequently applied by the person, or by a partnership of which the person is a partner, for a purpose of making taxable supplies.

“21F Deductions from output tax for goods and services applied for making taxable supplies

- “(1) For the purpose of this Act, the goods and services referred to in section 21E are treated as being supplied in the taxable period to the person or partnership, and the Commissioner must, to the extent that the goods and services are applied, allow the person or partnership to make a deduction under section 20(3) for the tax fraction of the lesser of—
- “(a) the cost of the goods and services, including any tax charged or input tax deduction claimed for the goods and services; and
 - “(b) the open market value of the supply of the goods and services.
- “(2) Subsection (1) does not apply to a supply of services provided by an employee.
- “(3) If subsection (1) applies to goods that are capital assets with a cost of less than \$18,000, the person or partnership may make a single deduction in the taxable period during which the goods are applied for a purpose of making taxable supplies.

“21G Timing of deduction under section 21F

- “(1) A person to whom section 21F applies may make the deduction at either of the following times:
- “(a) in each taxable period in which goods and services are applied for a purpose of making taxable supplies; or
 - “(b) in each year in which goods and services are applied for a purpose of making taxable supplies.
- “(2) If a person makes a deduction at the time allowed by subsection (1)(b), the person must reduce the amount of the deduction allowed under section 21F by the amount of deductions made in earlier taxable periods in relation to the supply.
- “(3) A person may change the time at which the person makes a deduction only with the Commissioner’s approval.

“21H Application to make single deduction under section 21F

- “(1) Despite section 21G(1), a person to whom section 21F applies may apply to the Commissioner to make a single deduction in the taxable period in which goods and services are wholly applied for a purpose of making taxable supplies.
- “(2) Subsection (1) applies only to goods and services that cost \$18,000 or more.
- “(3) When determining whether to allow a person to make a single deduction, the Commissioner must take the following factors into account:
- “(a) the nature of the goods or services:
 - “(b) whether it is practical to require a deduction at either of the times specified in section 21F(1):
 - “(c) whether the person has previously made an attribution under section 21C(1)(a):
 - “(d) whether the person has previously made a single adjustment under section 21, as it was before the enactment of the Taxation (GST and Miscellaneous Provisions) Act 2000:
 - “(e) whether the person has previously made a single deduction under either—
 - “(i) section 21G; or
 - “(ii) section 21(5), as it was before the enactment of the Taxation (GST and Miscellaneous Provisions) Act 2000.
- “(4) If the Commissioner allows the person to make a single deduction and the goods and services are subsequently applied for a purpose other than that of making taxable supplies, the person must apply section 21C(1)(a) in the taxable period in which the change occurs.

“21I Fringe benefits and entertainment expenses

- “(1) If a registered person has or is deemed to have provided or granted a fringe benefit to another person under the FBT rules of the Income Tax Act 1994, the providing or granting of the fringe benefit is treated as being a supply of goods and services made by the registered person in the course or furtherance of their taxable activity.
- “(2) Subsection (1) does not apply to the extent that—

- “(a) the other person paid an amount for the receipt or enjoyment of the fringe benefit; or
 - “(b) the fringe benefit arose by virtue of an exempt supply under section 14; or
 - “(c) the fringe benefit arose by virtue of a supply that is charged with tax at the rate of 0% under section 11, 11A, or 11B; or
 - “(d) the fringe benefit is, or is deemed to be, provided or granted by a registered person in the course of making exempt supplies.
- “(3) Despite sections 9 and 21C, the supply of goods and services is treated as taking place at the time the registered person is liable under sections ND 9, ND 10, ND 11, ND 13 or ND 14 of the Income Tax Act 1994 to pay to the Commissioner fringe benefit tax calculated under the FBT rules.
- “(4) If section DG 1 of the Income Tax Act 1994 applies to limit the deduction allowable under that Act for expenditure, loss or depreciation allowance incurred by or allowed to a registered person in the course of or furtherance of a taxable activity with respect to **entertainment**, as defined by section DG 1—
- “(a) the registered person is treated as having supplied entertainment for a consideration in money equal to the amount of the allowable deduction prevented by section DG 1; and
 - “(b) the time of the supply is treated as being the earlier of—
 - “(i) the date on which the person furnishes a return of income under section 37 of the Tax Administration Act 1994 for the income year for which the expenditure or loss is incurred or allowance allowed; and
 - “(ii) the date by which the person must furnish a return of income under section 37 of the Tax Administration Act 1994 for the income year for which the expenditure or loss is incurred or allowance allowed.
- “(5) For the purpose of subsection (4), expenditure does not include an entertainment allowance to an employee or a reimbursing payment that is exempt income under section CB 12 of the Income Tax Act 1994.”

- (2) Subsection (1) (except for new sections 21E and 21F(1)) applies to goods and services treated as being supplied on and after the date this Act receives the Royal assent.
- (3) New sections 21E and 21F(1) apply on and after 1 October 1986 unless a claim for a deduction under section 20(3) of the Goods and Services Tax Act 1985 has been made, whether in a return or by using the disputes procedures of Part 4A of the Tax Administration Act 1994, before 16 May 2000 and the Commissioner of Inland Revenue—
 - (a) has not been notified of the claim, other than by way of inclusion in the registered person’s return, and on this basis has not queried the claim in writing before 16 May 2000; or
 - (b) has not queried the claim in writing before 16 May 2000 but has agreed in writing to the claim before 16 May 2000; or
 - (c) has queried or considered the claim in writing before 16 May 2000 but has agreed in writing to the claim before 16 May 2000.

101 Payment of tax

- (1) Section 23(2) is repealed.
- (2) Subsection (1) applies on the date this Act receives the Royal assent.

102 Tax invoices

- (1) In section 24(4), “\$200” is replaced by “\$1,000”.
- (2) In the proviso to section 24(4), “section 11 of this Act” is replaced by “section 11, 11A or 11B”.
- (3) Subsection (1) applies on and after 1 October 2000.
- (4) Subsection (2) applies on and after the date this Act receives the Royal assent.

103 Bad debts

- (1) The second proviso to section 26(1) is repealed.
- (2) After section 26(1), the following is inserted:
“(1AA) Subsection (1) also applies if a registered person sells a debt to a third party and then reacquires the debt.

“(1AB) A registered person who is required to account for tax payable on a payments basis under either section 19 or section 19A must apply this section only to supplies made by the person to which any one of sections 9(2)(b), 9(3)(b) and 26A applies.”

- (3) Subsection (1) applies on the date this Act receives the Royal assent.
- (4) Subsection (2) applies on and after the date this Act receives the Royal assent.

104 New section 26A inserted

- (1) After section 26, the following is inserted:

“26A Factored debts

A registered person who sells a debt to a third party must pay tax on the remaining book value of the debt on the date that the debt is sold if the registered person accounts for tax payable on a payments basis.”

- (2) Subsection (1) applies on and after the date this Act receives the Royal assent.

105 Assessment of tax

- (1) Section 27(1)(ea) is repealed.
- (2) Subsection (1) applies on the date this Act receives the Royal assent.

106 Recovery of tax

- (1) In section 42(2)(a), “an individual” is replaced by “an individual, whether or not a member of an unincorporated body”.
- (2)
- (3)
- (4) Subsections (1) to (3) apply on and after the date this Act receives the Royal assent.

Subsections (2) and (3) were repealed, on 10 October 2000, by section 76(4) Taxation (Beneficiary Income of Minors, Services-Related Payments and Remedial Matters) Act 2001 (2001 No 4).

107 Commissioner’s right to withhold payments

- (1) After section 46(6), the following is added:

- “(7) Subsection (8) applies if an **incapacitated person**, as defined in section 58(1), has—
- “(a) not paid tax in respect of a taxable period; or
 - “(b) not paid, in whole or in part, an amount required by any other Inland Revenue Act.
- “(8) The Commissioner may set off, against the unpaid tax or unpaid amount, any deduction allowed under section 20(3) by virtue of section 58(1C).
- “(9) Any amount set off under subsection (8) is treated as being a payment received from the incapacitated person.”
- (2) Subsection (1) applies on and after the date this Act receives the Royal assent.

108 Relief from tax where new start grant made in respect of drought relief

- (1) In section 48A(2)(c)(ii) and 48A(3)(b)(i), “(including its termination)” is replaced by “, including its ending, whether premature or otherwise”.
- (2) Subsection (1) applies on and after the date this Act receives the Royal assent.

109 Persons making supplies in course of taxable activity to be registered

- (1) In section 51(1)(a), “\$30,000” is replaced by “\$40,000”.
- (2) In section 51(1)(c), “Any cessation of” is replaced by “any ending of, including a premature ending of”.
- (3) Subsection (1) applies on and after 1 October 2000.
- (4) Subsection (2) applies on and after the date this Act receives the Royal assent.

110 Group of companies

- (1) After section 55(4), the following is inserted:
- “(4A) The appointment of a **specified agent**, as defined in section 58(1), does not affect the membership of a group of companies.”
- (2) In section 55(7)(dc), “section 21(5) of this Act” is replaced by “section 21E”.

- (3) Subsections (1) and (2) apply on and after the date this Act receives the Royal assent.

111 Unincorporated bodies

- (1) Section 57(1) is repealed.
- (2) In section 57(2), “a body” is replaced by “an unincorporated body”.
- (3) In section 57(2)(e), “subsection (3) of this section” is replaced by “subsections (3) to (3B)”.
- (4) Section 57(3) is replaced by:
- “(3) Despite this section, a member is jointly and severally liable with other members for all tax payable by the unincorporated body during the taxable periods, or part of taxable periods as the case may be, the person is a member of the body, even if the person is no longer a member of the body.
- “(3A) When an individual member dies, the member’s estate is severally liable in due course of administration for tax payable by the unincorporated body to the extent that it remains unpaid, whether or not the individual was a member on the date of their death.
- “(3B) For the purpose of subsections (3) and (3A), a member does not stop being a member of the unincorporated body until the date on which the Commissioner receives written notice of a change in membership of the body.”
- (5) In section 57(4), “a body” is replaced by “an unincorporated body”.
- (6) In section 57(5) and 57(6), “any body” is replaced by “an unincorporated body”.
- (7) In section 57(6), “subsection (3) of this section” is replaced by “subsections (3) to (3B)”.
- (8) Subsection (1) applies on the date this Act receives the Royal assent.
- (9) Subsections (2) to (7) apply on and after the date this Act receives the Royal assent.

112 Personal representative, liquidator, receiver, etc

- (1) In section 58(1)—

- (a) “In this section,” is replaced by “In this section and sections 46 and 55”:
- (b) in the definition of **agency period**, paragraph (b) is replaced by:
 - “(b) the date on which there is no longer a person acting as a specified agent in relation to the incapacitated person.”
- (2) Section 58(1A) is replaced by:
 - “(1A) Despite sections 5(2) and 60, a person who becomes a specified agent is treated as being a registered person carrying on the taxable activity of the incapacitated person during the agency period, and the incapacitated person is not treated as carrying on the taxable activity during the period.
 - “(1B) If a person becomes a specified agent and has been appointed to carry on part of the incapacitated person’s taxable activity only, subsection (1A) applies only to the part of the taxable activity the person has been appointed to carry on.
 - “(1C) Subject to section 46(8), a specified agent may deduct an amount under section 20(3) relating to supplies made before the agency period if the incapacitated person is entitled to, and has not previously deducted, the amount.
 - “(1D) A specified agent is not personally liable for any liabilities incurred under this Act by the incapacitated person on or before the date the agency period starts.”
- (3) Subsections (1) and (2) apply on and after the date this Act receives the Royal assent.

113 Agents and auctioneers

- (1) In section 60(6), “section 11 of this Act” is replaced by “section 11, 11A or 11B”.
- (2) After section 60(6), the following is added:
 - “(7) Despite subsection (1), a supply of goods, being goods to which section 12(1) applies, that have been imported by an agent who is acting for and on behalf of the principal, is treated as being a supply made by the agent and not by the principal if—
 - “(a) the principal is not resident in New Zealand and is not a registered person; and

- “(b) the agent is resident in New Zealand and is a registered person at the time the goods are imported; and
 - “(c) the principal and agent agree that the supply was made by the agent and not by the principal.”
- (3) Subsections (1) and (2) apply on and after the date this Act receives the Royal assent.

114 Section 61 replaced

- (1) Section 61 is replaced by:

“61 Liability for tax payable by company left with insufficient assets

Section HK 11 of the Income Tax Act 1994, with any necessary modifications, applies for the purpose of this Act as if the terms **income tax** or **tax** read **goods and services tax**.”

- (2) Subsection (1) applies on and after the date this Act receives the Royal assent.

115 Company amalgamations

- (1) In section 61A(2)(f), “section 21 of this Act” is replaced by “sections 21 to 21H”.
- (2) In section 61A(4)(b), “subsection (3B) or subsection (4) of section 21 of this Act” is replaced by “section 21I(3) or 21I(4)”.
- (3) Subsections (1) and (2) apply on and after the date this Act receives the Royal assent.

116 Section 76 replaced

- (1) Section 76 is replaced by:

“76 Avoidance

“(1) A tax avoidance arrangement entered into by a person is void against the Commissioner for tax purposes.

“(2) A tax avoidance arrangement is one that directly or indirectly—

“(a) has tax avoidance as its purpose or effect; or

“(b) has tax avoidance as one of its purposes or effects, whether or not another purpose or effect relates to ordinary business or family dealings, if the purpose or effect is not merely incidental.

- “(3) If a tax avoidance arrangement is void against the Commissioner, the Commissioner may adjust the amount of tax payable by, or the amount of tax refundable to, a registered person affected by the arrangement, whether or not the registered person is a party to the arrangement, in the manner the Commissioner considers appropriate to counteract any tax advantage obtained by the registered person from or under the arrangement.
- “(4) For the purpose of subsection (3), the Commissioner may, in addition to any other treatment the Commissioner considers appropriate, treat—
- “(a) a person who is not a registered person and who is a party to or has participated in an arrangement as being a registered person:
 - “(b) a supply of goods and services, whether or not a taxable supply, that is affected by or is part of an arrangement as being made to or by a registered person:
 - “(c) a supply of goods and services as occurring in a taxable period that, but for an arrangement affected by this section, would have occurred in the taxable period in which the supply was made:
 - “(d) a supply of goods and services as having been made, or consideration for the supply as having been given, at open market value.
- “(5) Subsection (6) applies if—
- “(a) a person (person A) enters into an arrangement on or after 22 August 1985 whereby a taxable activity formerly carried on by person A is carried on, in whole or in part, by another person (person B) or other persons; and
 - “(b) either—
 - “(i) person A and person B are associated persons; or
 - “(ii) person A and the other persons are associated persons.
- “(6) For the purpose of sections 15(3), 15(4), 19A(1) and 51(1), the value of the supplies made in the course of carrying on all taxable activities in a 12-month period starting on the first day of any month by person A and person B or person A and the other persons is, to the extent that the value relates to supplies arising from the taxable activity formerly carried on by person A,

each to be treated as being equal to the aggregate of the value of the taxable supplies made by all persons for that period.

- “(7) The Commissioner may, having regard to the circumstances of the case and if the Commissioner considers it equitable to do so, determine that subsection (6) does not apply to person A, person B or the other persons.
- “(8) For the purpose of this section—
- “**arrangement** means a contract, agreement, plan or understanding, whether enforceable or unenforceable, including all steps and transactions by which it is carried into effect
- “**tax avoidance** includes—
- “(a) a reduction in the liability of a registered person to pay tax:
- “(b) a postponement in the liability of a registered person to pay tax:
- “(c) an increase in the entitlement of a registered person to a refund of tax:
- “(d) an earlier entitlement of a registered person to a refund of tax:
- “(e) a reduction in the total consideration payable by a person for a supply of goods and services.”
- (2) Subsection (1) applies on and after the date this Act receives the Royal assent.

117 Adjustments to tax payable for persons furnishing returns on payments basis following change in rate of tax

- (1) In section 78B(2A)(a)(iii), 78B(2A)(aa)(ii) and 78B(2A)(b), “paragraph (c) of the definition of the term **input tax** in section 2(1) of this Act applies” is replaced by “section 3A(1)(c) of the definition applies”.
- (2) Subsection (1) applies on and after the date this Act receives the Royal assent.

118 Change in accounting basis coinciding with or occurring after change in rate of tax

- (1) In section 78C(2)(a)(i), “paragraph (c) of the definition of the term **input tax** in section 2(1) of this Act” is replaced by “section 3A(1)(c) of the **input tax** definition applies”.

- (2) Subsection (1) applies on and after the date this Act receives the Royal assent.

119 Alteration of agreed price in relation to supply mistakenly believed to be of a going concern

- (1) In section 78E, “section 11(1)(c) of this Act” is replaced by “section 11(1)(m)” in all places where it occurs.
- (2) Subsection (1) applies on and after the date this Act receives the Royal assent.

120 Registration of persons liable to be registered on 1 October 1986

- (1) Section 82 is repealed.
- (2) Subsection (1) applies on the date this Act receives the Royal assent.

121 Deduction for sales tax

- (1) Section 83 is repealed.
- (2) Subsection (1) applies on the date this Act receives the Royal assent.

122 Supplies prior to 1 October 1986

- (1) In section 84(3), “section 21 of this Act” is replaced by “sections 21 to 21H” in all places where it occurs.
- (2) Subsection (1) applies on and after the date this Act receives the Royal assent.

Part 4

Amendments to Income Tax Act 1976

123 Income Tax Act 1976

This Part amends the Income Tax Act 1976.

124 Exclusions from term dividends

- (1) After section 4A(1)(i), the following is inserted:
“(iaa) any amount distributed by a group investment fund to a trustee company on behalf of, or as agent for, an investor in the fund

that relates to management fees to which section 211A applies.”.

- (2) Subsection (1) applies to amounts distributed on and after 1 April 1993.

125 Non-market dispositions

- (1) Section 64J(3) is replaced by:

“(3) A financial arrangement is treated as having been sold and purchased or transferred and realised at its market price on the date of its sale or transfer if the sale or transfer, including a transfer by way of distribution to shareholders, is not for consideration in money or is for a consideration that is less than the market price or true value of the financial arrangement.

“(4) If there is no market price, the financial arrangement is treated as having been sold and realised at the price the Commissioner determines.

“(5) The market price, or price, of a financial arrangement is the market price, or price, for both seller and purchaser or transferor and transferee.”

- (2) Subsection (1) applies to a financial arrangement that is sold or transferred on or after the implementation date (as defined in section 64B of the Income Tax Act 1976) and before the end of the 1994-95 income year.

- (3) Despite subsection (2), subsection (1) does not apply to a financial arrangement that is transferred if the transferor has filed a return of income on or before 16 May 2000 claiming a deduction under the accruals rules in relation to the financial arrangement.

126 New section 199A inserted

- (1) After section 199, the following is inserted:

“199A Application of section 199 to New Zealand Dairy Board

- “(1) This section applies in respect of distributions made by the New Zealand Dairy Board, established under the Dairy Board Act 1961, in relation to the income years from 1988-89 to 1994-95 (both income years inclusive).

- “(2) For the purpose of section 199(1), in paragraph (a) of the definition of **rebate**, ‘a distribution of profits of the association’ is to be read as ‘a distribution from the association’.”
- (2) Subsection (1) applies on and after the date this Act receives the Royal assent.

127 Group investment funds

- (1) In section 211A(1)—
- (a) the following is inserted after the definition of **investor**:
“**management fees** means fees charged for the management of a fund, or any commission, other recompense or remuneration paid out of a fund for management or agency services”;
- (b) the following is inserted after the definition of **protected amount**:
“**trustee company** has the meaning set out in section 2 of the Trustee Companies Act 1967.”
- (2) After section 211A(3), the following is inserted:
- “(3A) The trustees of a group investment fund may elect to deduct expenditure incurred in paying management fees to a trustee company on behalf of, or as agent for, its investors.
- “(3B) The trustees of the fund are treated as having incurred the expenditure on the date on which an investor incurs the management fee.
- “(3C) A trustee makes an election by deducting expenditure in their return of income.
- “(3D) An election to deduct expenditure is irrevocable.
- “(3E) The expenditure allowed as a deduction to the trustees of the fund is treated as not having been incurred by the investor.”
- (3) Subsections (1) and (2) apply to management fees charged on and after 1 April 1993.

128 Interpretation

- (1) In section 226(1), in the definition of **beneficiary income**, the portion after paragraph (b) is replaced by:
“but does not include gross income derived by a trustee of the trust in any income year during which the trust is a superannuation fund or any management fees to which section 211A applies.”

- (2) Subsection (1) applies to management fees charged on and after 1 April 1993.

129 Schedule 14—State-Owned Enterprises

- (1) In Schedule 14, “Housing New Zealand Limited” is inserted after “Housing Corporation of New Zealand”.
- (2) Subsection (1) applies from 1 July 1992 to 31 March 1995 (both dates inclusive).

Part 5
Amendments to Estate and Gift Duties
Act 1968

130 Estate and Gift Duties Act 1968

This Part amends the Estate and Gift Duties Act 1968.

131 New sections 75BA to 75BC inserted

- (1) After section 75B, the following is inserted:

“75BA Exemption for gifts of financial arrangements under accrual rules in Income Tax Act 1994 (Part EH, Division 2)

- “(1) In this section—

“(a) **accrual rules** is defined in section OB 1 of the Income Tax Act 1994:

“(b) **financial arrangement** means an arrangement defined in section EH 22 of the Income Tax Act 1994.

- “(2) If section EH 49(1) of the Income Tax Act 1994 applies and the transfer of the financial arrangement is by way of gift, the transfer is not a gift under this Act.

“75BB Exemption for gifts of financial arrangements under accruals rules in Income Tax Act 1994 (Part EH, Division 1)

- “(1) In this section, **accruals rules** and **financial arrangement** are defined in section EH 14 of the Income Tax Act 1994.

- “(2) If section EH 16(3) of the Income Tax Act 1994 applies and the transfer of the financial arrangement is by way of gift, the transfer is not a gift under this Act.

“75BC Exemption for gifts of financial arrangements under accruals rules in Income Tax Act 1976

- “(1) In this section, **financial arrangement** is defined in section 64B of the Income Tax Act 1976.
- “(2) If section 64J(3) of the Income Tax Act 1976 applies and the transfer of the financial arrangement is by way of gift, the transfer is not a gift under this Act.”
- (2) In subsection (1)—
- (a) new section 75BA applies on and after 20 May 1999:
 - (b) new section 75BB applies for the period on and after the implementation date (as defined in section EZ 45 of the Income Tax Act 2004):
 - (c) new section 75BC applies on and after the implementation date (as defined in section 64B of the Income Tax Act 1976) until the end of the 1994-95 income year.

Subsection (2)(b) was amended, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35) by substituting the words “section EZ 45 of the Income Tax Act 2004” for the words “section EH 14 of the Income Tax Act 1994”.

Legislative history

- 4 October 2000 Divided from the Taxation (Annual Rates, GST and Miscellaneous Provisions) Bill as reported from the Finance and Expenditure Committee (Bill 27-2), (Bill 27-3A)
- 5 October 2000 Third reading
-