

# Taxation (Remedial Provisions) Act 1996

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**An Act to make various remedial amendments to the Taxation Acts**

**BE IT ENACTED by the Parliament of New Zealand as follows:**

**1 Short Title**

This Act may be cited as the Taxation (Remedial Provisions) Act 1996.

**Part 1**  
**Amendments to Income Tax Act 1994**

*[Repealed]*

Part 1 (sections 2 to 32) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**2 Income Tax Act 1994**

*[Repealed]*

Part 1 (sections 2 to 32) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**3 Certain pensions, benefits, and other compensation exempt**

*[Repealed]*

Part 1 (sections 2 to 32) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**4 Meaning of term dividends**

*[Repealed]*

Part 1 (sections 2 to 32) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**5 Exclusion from term dividends**

*[Repealed]*

Part 1 (sections 2 to 32) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**6 Meaning of fringe benefit**

*[Repealed]*

Part 1 (sections 2 to 32) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**7 Election whether fringe benefit or dividend***[Repealed]*

Part 1 (sections 2 to 32) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**8 Expenditure incurred by superannuation funds***[Repealed]*

Part 1 (sections 2 to 32) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**9 New sections added***[Repealed]*

Part 1 (sections 2 to 32) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**10 Disposition of depreciable property***[Repealed]*

Part 1 (sections 2 to 32) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**11 Election to treat short term trade credit as financial arrangement***[Repealed]*

Part 1 (sections 2 to 32) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**12 Rules for calculating New Zealand group debt percentage***[Repealed]*

Part 1 (sections 2 to 32) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**13 Mode of elections***[Repealed]*

Part 1 (sections 2 to 32) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**14 Benefit given to associated person of employee***[Repealed]*

Part 1 (sections 2 to 32) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**15 Cross-border arrangements between associated persons***[Repealed]*

Part 1 (sections 2 to 32) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**16 Definition of specified exemption***[Repealed]*

Part 1 (sections 2 to 32) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**17 Low income rebate***[Repealed]*

Part 1 (sections 2 to 32) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

*Section Coming into Force on 1 April 1997**[Repealed]*

This heading was repealed, as from 2 September 1996, by section 34(1) Taxation (Tax Credits, Trading Stock, and Other Remedial Matters) Act 1998 (1998 No 107).

**18 Low income rebate***[Repealed]*

Subsection (3) was amended, as from 2 September 1996, by section 34(2) Taxation (Tax Credits, Trading Stock, and Other Remedial Matters) Act 1998 (1998 No 107) by substituting the expression “1998” for the expression “1997”.

Part 1 (sections 2 to 32) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

*Section Coming into Force on 1 April 1998**[Repealed]*

This heading was repealed, as from 2 September 1996, by section 34(3) Taxation (Tax Credits, Trading Stock, and Other Remedial Matters) Act 1998 (1998 No 107).

**19 Low income rebate***[Repealed]*

Subsection (3) was amended, as from 2 September 1996, by section 34(4) Taxation (Tax Credits, Trading Stock, and Other Remedial Matters) Act 1998 (1998 No 107) by substituting the expression “1999” for the expression “1998”.

Part 1 (sections 2 to 32) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

## **20 Special rules for holding companies**

*[Repealed]*

Part 1 (sections 2 to 32) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

## **21 Limits on refunds of tax**

*[Repealed]*

Part 1 (sections 2 to 32) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

## **22 Refund of income tax not to exceed amount of credit balance**

*[Repealed]*

Part 1 (sections 2 to 32) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

## **23 Debits arising to imputation credit account**

*[Repealed]*

Part 1 (sections 2 to 32) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

## **24 Consequential changes**

*[Repealed]*

Part 1 (sections 2 to 32) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

## **25 Non-resident withholding tax imposed**

*[Repealed]*

Part 1 (sections 2 to 32) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

## **26 Non-resident withholding tax on dividends not paid in money**

*[Repealed]*

Part 1 (sections 2 to 32) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**27 Liability to make deduction in respect of foreign withholding payment dividend**

*[Repealed]*

Part 1 (sections 2 to 32) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**28 Refund for overpayment and to company in loss**

*[Repealed]*

Part 1 (sections 2 to 32) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**29 Dividend withholding payments and consolidated groups**

*[Repealed]*

Part 1 (sections 2 to 32) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**30 Definitions**

*[Repealed]*

Subsection (1)(j) and (k) were repealed, as from 12 October 2001, by section 77 New Zealand Superannuation Act 2001 (2001 No 84).

Part 1 (sections 2 to 32) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**31 References to income year in particular provisions**

*[Repealed]*

Part 1 (sections 2 to 32) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**32 References to particular regimes in former Act, etc**

*[Repealed]*

Part 1 (sections 2 to 32) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

## **Part 2**

### **Amendments to Income Tax Act 1976**

**33 Income Tax Act 1976**

The Income Tax Act 1976, in respect of matters to which it applied before its repeal by section YB 3 of the Income Tax Act 1994, is amended by this Part.



### 34 Interpretation

(1) In section 2,—

(a) The following is added after the definition of **petroleum mining company**:

“**Portable guaranteed retirement income** means guaranteed retirement income paid or payable overseas under section 17 or section 19 of the Social Welfare (Transitional Provisions) Act 1990”:

(b) The following is added after the definition of **portable guaranteed retirement income** as added by paragraph

(a):

“**Portable national superannuation** means national superannuation paid or payable overseas under section 17 or section 19 of the Social Welfare (Transitional Provisions) Act 1990”:

(c) In the definition of **portable New Zealand superannuation**, “or section 19” is added after “section 17”:

(d) In the definition of **portable veteran’s pension**, “or section 19” is added after “section 17”:

(e) In the definition of **lease**, “, and for the purposes of sections 107A, 108 to 108O, 111, 113A and 117, includes a licence to occupy” is added after “created”.

(2) Subsection (1)(a) and (d) are deemed to have come into force on 1 April 1990.

(3) Subsection (1)(b) is deemed to have come into force on 1 April 1992.

(4) Subsection (1)(c) is deemed to have come into force on 1 April 1994.

(5) Subsection (1)(e) is deemed to apply to the tax on the income derived in the 1993–94 or 1994–95 income years.

### 35 Annual depreciation deduction

(1) After section 108(1), the following are added:

“(1A) For the purposes of sections 107A, 108 to 108O, 111, 113A, and 117 of this Act, a lessee of land is deemed to own a fixture on or an improvement to the land for the period during which the land is leased to the lessee if—

“(a) The lessee incurs expenditure in erecting the fixture or making the improvement during that period; and

“(b) The fixture or improvement is the property of the lessor.

- “(1B) For the purposes of sections 107A, 108 to 108O, 111, 113A, and 117 of this Act,—
- “(a) The lessor is deemed not to own the fixture or improvement for the period during which the land is leased to the lessee; and
  - “(b) The lessor is deemed not to own the fixture or improvement after that period except where the lessor incurs a cost in respect of it at the end of that period.
- “(1C) For the purposes of subsection (1B), a lessor includes a subsequent lessor who purchases the land from the original lessor during that period.
- “(1D) For the purposes of sections 107A, 108 to 108O, 111, 113A, and 117, where on the transfer of a lessee’s interest in a lease of land—
- “(a) The transferee pays an amount to the lessee in respect of a fixture or improvement erected by the lessee or a preceding lessee; and
  - “(b) That fixture or improvement has been depreciated by the lessee,—
- the transferee is deemed to own the fixture or improvement.
- “(1E) For the purposes of sections 107A, 108 to 108O, 111, 113A, and 117 of this Act, a purchaser of depreciable property is deemed to own the property before title to the property passes to the purchaser if—
- “(a) The purchaser enters into an unconditional contract to purchase the property; and
  - “(b) The contract is subject to the Sale of Goods Act 1908; and
  - “(c) Title to the property does not pass until the purchase price is paid in full; and
  - “(d) The purchaser takes possession of the property before title to that property passes.
- “(1F) Where subsection (1E) applies, the purchaser is deemed to own, and the vendor is deemed not to own, the property from the later of the time that—
- “(a) The purchaser enters into the contract; and
  - “(b) The purchaser takes possession of the property—
- until title to the property passes to the purchaser or the property is repossessed by the vendor.

- “(1G) Subsection (1E) and subsection (1F) do not apply to hire purchase assets that are the subject of a hire purchase agreement.”.
- (2) Section 108(1B) of the Income Tax Act 1976 does not operate to deny a lessor a depreciation deduction for the 1993–94 or 1994–95 income year if the lessor has claimed a depreciation deduction in respect of the property in a return of income for the relevant income year provided to the Commissioner before 21 May 1996.
- (3) Subject to subsection (2), this section is deemed to apply to the tax on income derived in the 1993–94 or 1994–95 income year.

### **36 Gain or loss from disposition of depreciable property**

- (1) After section 117(10)(a)(vi), the following is added:
- “(vii) Cessation of deemed ownership of a fixture or improvement to which section 108(1A) applies.”.
- (2) After section 117(8), the following are added:
- “(8A) Where a purchaser has purchased depreciable property to which section 108(1E) of this Act applies and the vendor of that property repossesses it because of partial or total failure of consideration, the purchaser is deemed to have disposed of the property on the date of repossession for a consideration equal to the cost of the property less the net amount paid to the vendor for the property under the contract.
- “(8B) In subsection (8A), **net amount paid** means the amount paid under a contract by a purchaser to a vendor less any amount refunded by the vendor to the purchaser.”.
- (3) This section is deemed to apply with respect to the tax on income derived in the 1993–94 or 1994–95 income year.

### **37 Deductions where superannuation fund invests in another fund**

- (1) After section 228(2C), the following are added:
- “(2D) Where the first superannuation fund has incurred expenditure of the type referred to in subsection (2C) and there is no balance of the assessable income, referred to in subsection (2C)(d), of the second superannuation fund in the same in-

come year from which it may be deducted, the expenditure may be carried forward by the first superannuation fund to a later income year.

- “(2E) If the balance of assessable income of the second superannuation fund in that later income year extends, in whole or in part, to the expenditure referred to in subsection (2D) of the first superannuation fund, the expenditure may, at the election of the first superannuation fund, be treated as if it were expenditure incurred by the second superannuation fund in gaining or producing assessable income in that later income year to the extent of the balance of assessable income.
- “(2F) If the balance of the assessable income of the second superannuation fund is not sufficient in that later income year for all of the expenditure referred to in subsection (2D) of the first superannuation fund to be deducted in that later income year, that part of the expenditure (in this subsection referred to as the **remaining expenditure**) may be carried forward to successive income years until all of that expenditure has been deducted and when that balance extends, in whole or in part, to the remaining expenditure, the remaining expenditure or the extent to which that balance extends in the relevant succeeding income year, may, at the election of the first superannuation fund, be treated as if it were expenditure incurred by the second superannuation fund in gaining or producing assessable income in the year to which the election refers.
- “(2G) If expenditure incurred in one or more income years is carried forward under subsection (2D) or subsection (2F) and an election is made by the first superannuation fund in a later income year to treat that expenditure in the manner referred to in that subsection, the expenditure must be deducted sequentially in accordance with the income years in which that expenditure was incurred by the first superannuation fund.
- “(2H) Subsection (2C)(d) and (e) apply if the first superannuation fund makes an election under subsection (2E) or (2F).
- “(2I) Subsections (2D), (2E), (2F), (2G) and (2H) apply only if—
- “(a) The first superannuation fund has funds invested in all or some of the second superannuation fund when the first superannuation fund incurs expenditure of the type referred to in subsection (2C); and

- “(b) The first superannuation fund continues to have funds invested in all or some of the second superannuation fund when the expenditure of the first superannuation fund is deducted from the assessable income of the second superannuation fund.”.
- (2) This section is deemed to have come into force on 1 April 1990.

**38 Definition of specified exemption**

- (1) In section 336E(1)(d), “to a married person under clause 1(d) of the First Schedule to the Social Welfare (Transitional Provisions) Act 1990, or,” is added after “rate payable”.
- (2) In section 336BA(1)(c), “to a married person under clause 1(d) of the First Schedule to the Social Welfare (Transitional Provisions) Act 1990, or,” is added after “rate payable”.
- (3) Subsection (1) is deemed to apply to income years commencing on or after 1 April 1992.
- (4) Subsection (2) is deemed to apply to the income year commencing on 1 April 1991.

**Part 3**

**Amendments to Tax Administration Act  
1994**

**39 Tax Administration Act 1994**

The Tax Administration Act 1994 is amended by this Part.

**40 Commencement**

- (1) This Part, except section 41, is deemed to have come into force on 1 April 1995.
- (2) Section 41 applies to the 1996-97 and subsequent income years.

**41 Records of specified charitable, benevolent, philanthropic, or cultural bodies**

Section 32 is replaced by:

“32

- (1) All gift-exempt bodies must keep in New Zealand sufficient records in the English language to enable the Commissioner to determine both the sources of donations made to them and the application, within New Zealand or within a country or territory outside New Zealand, of their funds.
- “(2) Notwithstanding subsection (1), the Commissioner, in writing, may authorise a gift-exempt body to keep those records in a language other than English if the gift-exempt body applies in writing to the Commissioner for the authorisation.”.

#### **42 Certain rights of objection not conferred**

In section 125—

- (a) In paragraph (d), “section CB 5(g)” is replaced with “section CB 5(1)(g)”:
- (b) Paragraph (j)(iii) is replaced by:  
“(iii) Any of sections CF 6, HK 7, HK 11, HK 18, HK 24, HK 26, IB 1, LC 1 to LC 3, LC 7, LC 13 to LC 15, MD 1, and OB 2 of the Income Tax Act 1994 and sections 33, 89, and 184 of the Tax Administration Act 1994.”:
- (c) In paragraph (j)(iv), “106 to 111” is replaced with “106, 107, 109 to 111”.

#### **43 Commissioner and Department**

Section 228 is replaced by:

“228

The person who, on 1 April 1995, holds office as Commissioner of Inland Revenue is deemed to have been appointed Commissioner of Inland Revenue under section 6A.”.

#### **44 Consequential changes**

- (1) In section 81(1)(b), “or a Deputy Commissioner, or a Regional Controller, or a District Commissioner,” is replaced with “or an officer of the Department,”.

- (2) Wherever they occur in section 110(1) and (2), “a Regional Controller or a District Commissioner” and “Regional Controller or District Commissioner” are replaced with “an officer of the Department”.
- (3) Wherever they occur in section 118, “a District Commissioner” and “District Commissioner” are replaced with “an officer of the Department”.
- (4) Wherever it occurs in section 229(4) and (5), “a Deputy Commissioner of Inland Revenue” is replaced with “an officer of the Department”.
- (5) In section 229(6), “a District Commissioner of Inland Revenue” is replaced with “an officer of the Department”.

#### **Part 4**

#### **Amendment to Student Loan Scheme Act 1992**

##### **45 Part to be read with Student Loan Scheme Act 1992**

- (1) This Part of this Act shall be read together with and deemed part of the Student Loan Scheme Act 1992 (in this Part referred to as the principal Act).
- (2) This Part comes into force on the day on which this Act receives the Royal assent.

##### **46 Special deduction rates**

Section 21 of the principal Act is amended by repealing subsection (1), and substituting the following subsection:

- “(1) If a borrower wishes to vary the standard deduction rate, the borrower may apply by notice in writing to the Commissioner for the issue of a special repayment deduction rate certificate that takes into account the greater of—
- “(a) The borrower’s estimated repayment obligation for the income year; or
  - “(b) Some other amount required by the borrower.”.

**Part 5**  
**Amendments to Goods and Services Tax**  
**Amendment Act (No 2) 1995**

**47 Goods and Services Tax Amendment Act (No 2) 1995**

The Goods and Services Tax Amendment Act (No 2) 1995 is amended by this Part.

**48 Interpretation**

(1) Section 2(5) (as it relates to the amendment of section 2(1) of the Goods and Services Tax Act 1985) is replaced by:

“(5) Subsection (2) of this section does not apply where—

“(a) There is a supply by way of sale under an unconditional contract entered into before 21 June 1995 or a conditional contract entered into before 21 June 1995 that became unconditional before that date; and

“(b) No return was furnished on or before 21 June 1995 for the taxable period in which payment for the supply was made.”.

(2) This section is deemed to have come into force on 21 June 1995.

**49 Meaning of term supply**

(1) Section 3(3) (as it relates to the amendment of section 5 of the Goods and Services Tax Act 1985 ) is replaced by:

“(3) Notwithstanding subsection (2)(b)(i) of this section, this section does not apply where—

“(a) There is a supply by way of sale under an unconditional contract entered into before 11 August 1995 or a conditional contract entered into before 11 August 1995 that became unconditional before that date; and

“(b) No return was furnished on or before 11 August 1995 for the taxable period in which payment was made.”.

(2) This section is deemed to have come into force on 11 August 1995.



**Part 6**  
**Amendments to Goods and Services Tax**  
**Act 1985**

*[Repealed]*

Part 6 (sections 50 to 54) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**50 Goods and Services Tax Act 1985**

*[Repealed]*

Part 6 (sections 50 to 54) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**51 District Commissioner**

*[Repealed]*

Part 6 (sections 50 to 54) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**52 Meaning of term supply**

*[Repealed]*

Part 6 (sections 50 to 54) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**53 Imposition of goods and services tax on imports**

*[Repealed]*

Part 6 (sections 50 to 54) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**54 Consequentials**

*[Repealed]*

Part 6 (sections 50 to 54) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**Part 7**  
**Consequential amendments to Taxation**  
**(Core Provisions) Act 1996**

**55 Taxation (Core Provisions) Act 1996**

The Taxation (Core Provisions) Act 1996 is amended by this Part.

**56 Commencement**

This Part comes into force on 1 April 1997.

**57 Expenditure incurred by superannuation funds**

In section 100 (DI 3(2)(d)), “does not exceed the following amount:” is replaced with “does not exceed the following amount (referred to in this section as ‘the deduction balance’):”.

**58 Expenditure incurred by superannuation funds**

In section 100, the following is added after section DI 3(2):

- “(3) Where the first superannuation fund has incurred expenditure of the type referred to in subsection (2) and the deduction balance in the income year in which the expenditure is incurred does not exceed the expenditure incurred, the expenditure not so deducted by the second superannuation fund in that year may be carried forward by the first superannuation fund to the succeeding income year.
- “(4) If the deduction balance in the succeeding income year extends, in whole or in part, to the expenditure carried forward under subsection (3), the expenditure may, at the election of the first superannuation fund, be treated as if it were expenditure incurred by the second superannuation fund in gaining or producing gross income in that later income year to the extent of the deduction balance.
- “(5) When the deduction balance in a succeeding income year is less than the expenditure carried forward under subsection (3), the expenditure not deducted (in this subsection referred to as ‘the remaining expenditure’) may be carried forward to succeeding income years until all of that expenditure is deducted.
- “(6) When the deduction balance extends, in whole or in part, to the remaining expenditure, the remaining expenditure (or the extent to which the deduction balance extends in the succeeding income year) may at the election of the first superannuation fund be treated as if it is expenditure incurred by the second superannuation fund in gaining or producing gross income in the income year to which the election refers.

- “(7) If expenditure incurred in one or more income years is carried forward under subsection (3) or subsection (5) and an election is made by the first superannuation fund in a later income year to treat that expenditure in the manner referred to in that subsection, the expenditure must be deducted sequentially in accordance with the income years in which that expenditure was incurred by the first superannuation fund.
- “(8) Subsection (2)(d) and (e) apply if the first superannuation fund makes an election under subsection (4), (5), or (6).
- “(9) Subsections (3) to (8) apply only if—
- “(a) The first superannuation fund has funds invested in all or part of the second superannuation fund when the first superannuation fund incurs expenditure of the type referred to in subsection (2); and
  - “(b) The first superannuation fund has at all times between the time referred to in paragraph (a) and the time when the expenditure of the first superannuation fund is deducted from the gross income of the second superannuation fund its funds invested in whole or in part in the second superannuation fund.”.

## **59 Non-resident withholding tax imposed**

In section 375, section NG 2(1)(a) is replaced by:

- “(a) At the rate of 30% of so much of that non-resident withholding income that consists of dividends, other than investment society dividends or supplementary dividends payable as a result of Part LE, to the extent the dividends are neither fully imputed nor fully dividend withholding payment credited.”.

## **60 Definitions**

In Schedule 1, paragraph (a)(i) of the definition of **expenditure on account of an employee** is replaced by:

- “(i) The whole or part of a payment that is exempt income under section CB 12(1)(a) or (2).”.