

Taxation (Remedial Provisions) Act 1997

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An Act to make remedial amendments respecting tax to various 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 1997.

Part 1

Amendments to Income Tax Act 1994

Part 1 (sections 2 to 64) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).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[Repealed]

Part 1 (sections 2 to 64) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

3 Double tax agreements

[Repealed]

Section BH 1 is replaced by:

“BH 1 Double tax agreements”

Part 1 (sections 2 to 64) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

4 Certain pensions, benefits, and other compensation exempt

[Repealed]

Part 1 (sections 2 to 64) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

5 Certain compensation, benefits, and other payments are gross income

[Repealed]

Part 1 (sections 2 to 64) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

6 Meaning of term dividends

[Repealed]

Part 1 (sections 2 to 64) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

7 Branch equivalent income calculation*[Repealed]*

Part 1 (sections 2 to 64) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

8 Meaning of fringe benefit*[Repealed]*

Part 1 (sections 2 to 64) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

9 Interpretation of fringe benefit tax rules*[Repealed]*

Part 1 (sections 2 to 64) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

10 Patent expenses*[Repealed]*

Part 1 (sections 2 to 64) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

11 Expenditure on scientific research*[Repealed]*

Part 1 (sections 2 to 64) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

12 Formula for calculating depreciation deduction*[Repealed]*

Part 1 (sections 2 to 64) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

13 Fixed life intangible property*[Repealed]*

Part 1 (sections 2 to 64) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

14 Annual depreciation rate for fixed life intangible property*[Repealed]*

Part 1 (sections 2 to 64) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

15 Depreciation of depreciable property that can no longer be used

[Repealed]

Part 1 (sections 2 to 64) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

16 Election that property not be depreciable

[Repealed]

Part 1 (sections 2 to 64) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

17 Transfer of depreciable property between associated persons

[Repealed]

Part 1 (sections 2 to 64) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

18 Disposition of depreciable property

[Repealed]

Part 1 (sections 2 to 64) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

19 Sums received from sale of patent rights

[Repealed]

Part 1 (sections 2 to 64) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

20 Sums received from sale of patent rights

[Repealed]

Part 1 (sections 2 to 64) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

21 Sums received from sale of patent rights

[Repealed]

Part 1 (sections 2 to 64) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

22 Depreciation deduction for assets acquired by taxpayer from associated person before a certain date

[Repealed]

Part 1 (sections 2 to 64) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

23 Assignments or settlements of income

[Repealed]

Part 1 (sections 2 to 64) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

24 Depreciable property

[Repealed]

Part 1 (sections 2 to 64) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

25 Cross-border arrangement between associated persons

[Repealed]

Part 1 (sections 2 to 64) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

26 Dividends from qualifying company

[Repealed]

Part 1 (sections 2 to 64) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

27 Loss attributing qualifying companies

[Repealed]

Part 1 (sections 2 to 64) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

28 Minority shareholders in loss attributing qualifying companies

[Repealed]

Part 1 (sections 2 to 64) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

29 Revocation of loss attribution elections*[Repealed]*

Part 1 (sections 2 to 64) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

30 Loss carry forward and grouping by consolidated group and consolidated group members*[Repealed]*

Part 1 (sections 2 to 64) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

31 Loss carry forward and grouping by consolidated group and consolidated group members*[Repealed]*

Subsection (1) was amended, as from 23 September 1997, by section 57(2) Taxation (Remedial Provisions) Act 1998 (1998 No 7) by substituting the expression “30” for the expression “28”.

Part 1 (sections 2 to 64) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

32 Losses may be used to pay penalties*[Repealed]*

Part 1 (sections 2 to 64) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

33 Low income rebate*[Repealed]*

Part 1 (sections 2 to 64) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

34 Rebate in respect of gifts of money*[Repealed]*

Part 1 (sections 2 to 64) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

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

Part 1 (sections 2 to 64) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

36 Credit of tax for imputation credit*[Repealed]*

Part 1 (sections 2 to 64) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

37 Credit of tax for imputation credit*[Repealed]*

Subsection (1) was amended, as from 23 September 1997, by section 57(3) Taxation (Remedial Provisions) Act 1998 (1998 No 7) by substituting the expression “36” for the expression “33”.

Part 1 (sections 2 to 64) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

38 Credit of tax for imputation credit*[Repealed]*

Part 1 (sections 2 to 64) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

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

Part 1 (sections 2 to 64) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

40 Dividend paid without deduction in full of foreign tax*[Repealed]*

Part 1 (sections 2 to 64) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

41 Underlying foreign tax credits*[Repealed]*

Part 1 (sections 2 to 64) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

42 Amount of provisional tax payable*[Repealed]*

Part 1 (sections 2 to 64) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

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

Part 1 (sections 2 to 64) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

44 Estimated provisional tax*[Repealed]*

Part 1 (sections 2 to 64) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

45 Provisional tax payable in instalments*[Repealed]*

Part 1 (sections 2 to 64) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

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

Part 1 (sections 2 to 64) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

47 Assessment and payment of terminal tax*[Repealed]*

Part 1 (sections 2 to 64) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

48 Payment of tax*[Repealed]*

Part 1 (sections 2 to 64) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

49 Payment of tax deductions to Commissioner*[Repealed]*

Part 1 (sections 2 to 64) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

50 Bond, etc, in lieu of tax deductions in case of certain non-resident employees*[Repealed]*

Part 1 (sections 2 to 64) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

51 Specified superannuation contribution withholding tax payment date

[Repealed]

Part 1 (sections 2 to 64) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

52 Requirement for agents or trustees to make resident withholding tax deductions on receipt of payments

[Repealed]

Part 1 (sections 2 to 64) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

53 Non-resident withholding tax imposed

[Repealed]

Part 1 (sections 2 to 64) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

54 Non-resident withholding tax on dividends not paid in money

[Repealed]

Part 1 (sections 2 to 64) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

55 Definitions

[Repealed]

Part 1 (sections 2 to 64) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

56 Meaning of source deduction payment-shareholder-employees of close companies

[Repealed]

Part 1 (sections 2 to 64) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

57 Meaning of qualifying company

[Repealed]

Part 1 (sections 2 to 64) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

58 Modifications to measurement of voting and market interests*[Repealed]*

Part 1 (sections 2 to 64) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

59 Further definition of associated persons*[Repealed]*

Part 1 (sections 2 to 64) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

60 Source of dividends*[Repealed]*

Part 1 (sections 2 to 64) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

61 Amendments to Schedule 1 Part A*[Repealed]*

Part 1 (sections 2 to 64) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

62 Schedule replaced*[Repealed]*

Section 62 was repealed, by section 36(2) Taxation (Remedial Provisions) Act 1998 (1998 No 7) with application on 23 September 1997.

63 Schedule 17—depreciable intangible property*[Repealed]*

Part 1 (sections 2 to 64) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

64 Schedule 18 (State-Owned Enterprises)*[Repealed]*

Part 1 (sections 2 to 64) 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

65 Tax Administration Act 1994

The Tax Administration Act 1994 is amended by this Part.

66 Application

- (1) Sections 67, 68(1), 68(2), 68(4), 68(5), 69, 71, 82, 84, 85, 86, 88, 90, 92, 93, 94, 95, 96, 97, 101, 105, and 106 of this Act are deemed to have come into force on 1 April 1997 as they relate to—
- (a) Tax on taxable income in the 1997-98 or subsequent income years; and
 - (b) Supplies made in taxable periods commencing on or after 1 April 1997; and
 - (c) Gifts made on or after 1 April 1997; and
 - (d) Races run, lotteries drawn, dutiable games played by means of a gaming machine and casino wins to which the Gaming Duties Act 1971 applies that occur on or after 1 April 1997; and
 - (e) Instruments of conveyance executed, bills of exchange made, drawn or prepaid under sections 81, 82, or 83 of the Stamp and Cheque Duties Act 1971 and liable transactions entered into on or after 1 April 1997.
- (2) Sections 73, 74(1), 77 and 78 apply on and after 1 October 1996.
- (3) Sections 68(3), 68(6), 80, 83, 98 and 102 of this Act apply to the 1998-99 and subsequent income years.
- (4) Section 87 of this Act is deemed to have applied on and after 1 April 1995.

67 Interpretation

In section 3(1), the following is inserted before the definition of **accounting period**:

“**Acceptable interpretation**, in sections 141A and 141C of this Act means an interpretation that is not an unacceptable interpretation.”.

68 Interpretation

(1) In section 3(1), the definition of **civil penalty** is replaced by the following:

“**Civil penalty** means—

“(a) A late filing penalty; or

“(b) A late payment penalty; or

“(c) A shortfall penalty.”

(2) In section 3(1), the definition of **late payment penalty** is replaced by the following:

“**Late payment penalty** means,—

“(a) A civil penalty imposed under section 139B for not paying on time a tax calculated or assessed as payable under a tax law; and

“(b) For the purposes of sections 157, 183A, 183B, and 183D, includes:

“(i) Additional tax imposed on unpaid tax under section 139 of the Tax Administration Act 1994 for the 1996-97 or earlier income years:

“(ii) Additional tax imposed on any tax remaining unpaid under section 41 of the Goods and Services Tax Act 1985 in relation to supplies made in taxable periods which commenced before 1 April 1997:

“(iii) Interest on gift duty imposed under section 84 of the Estate and Gift Duties Act 1968 in relation to gifts made before 1 April 1997:

“(iv) A penalty imposed in relation to unpaid stamp duty under section 58 of the Stamp and Cheque Duties Act 1971 or any interest imposed under section 86E on unpaid credit card duty in relation to—

“(A) An instrument of conveyance executed; and

“(B) A bill of exchange made, drawn, or prepaid under sections 81 to 83 of that Act; and

“(C) A liable transaction entered into—

before 1 April 1997:

“(v) Interest on unpaid totalisator duty under section 8 of the Gaming Duties Act 1971 in relation to all betting profits required to be calculated under section 4 of the Gaming Duties Act 1971 before 1 April 1997:

“(vi) Interest on unpaid racing duty under section 12 of the Gaming Duties Act 1971 in relation to lotteries drawn before 1 April 1997:

“(vii) Interest on unpaid gaming machine duty under section 12F of the Gaming Duties Act 1971 in relation to dutiable games played by means of gaming machines before 1 April 1997:

“(viii) Interest on unpaid casino duty under section 12Q of the Gaming Duties Act 1971 in relation to casino wins before 1 April 1997”.

(3) In section 3(1), the definition of **tax position** is amended by adding the following:

“(k) The estimation of the provisional tax payable.”.

(4) In section 3(1), the definition of **tax shortfall** is replaced by the following:

“**Tax shortfall**, for a return period, means the difference between the tax effect of—

“(a) A taxpayer’s tax position for the return period; and

“(b) The correct tax position for that period,—

when the taxpayer’s tax position results in too little tax paid or payable by the taxpayer or another person or overstates a tax benefit, credit, or advantage of any type or description whatever by or benefiting (as the case may be) the taxpayer or another person”.

(5) In section 3(1), the definition of **taxpayer’s tax position** is replaced by the following:

“**Taxpayer’s tax position** means,—

“(a) Unless paragraph (b) applies, a tax position taken by a taxpayer in or in respect of—

“(i) A tax return; or

“(ii) A due date:

“(b) If—

“(i) The tax is income tax; and

“(ii) The taxpayer alters a tax position taken in a return before the earlier of—

“(A) The issue of an assessment in respect of the tax; and

“(B) The due date for payment of the tax—

the tax position the taxpayer takes in the last amended tax return received by the Commissioner before

the issue of the assessment or before the due date, whichever applies.”.

- (6) In section 3(1), the definition of **underestimation penalty** is repealed.

69 Construction of certain provisions

- (1) In section 4A(2)(c), “or paragraph (b)” is inserted after “paragraph (a)”.
- (2) In section 4A(2)(d), “or paragraph (b)” is inserted after “paragraph (a)”.
- (3) Section 4A(4) is replaced by:
- “(4) Where a taxpayer required to provide a return under any of sections NC 15, NF 4, NG 11, and NH 3 of the Income Tax Act 1994—
- “(a) Furnishes a return that shows a liability to pay tax under that section; and
 - “(b) The tax is required to be paid by a due date for a return period; and
 - “(c) The liability shown in the return is greater than the tax that the taxpayer paid by the due date—
the taxpayer’s tax position in respect of the due date is the tax paid and not the amount of tax shown as payable in the tax return.”.

70 Dates by which annual returns to be furnished

Section 37(3) is amended by omitting “in that behalf made in writing”.

71 Officers to maintain secrecy

After section 81(6), the following is added:

- “(7) In this section **tax or duty, taxes or duties, and tax and duty** include any financial support within the meaning of the Child Support Act 1991 and any amount payable under the Student Loan Scheme Act 1992.”.

72 Secrecy obligations not to prevent disclosure in arrangements for relief from double taxation and exchange of information

Section 88 is replaced by:

“88

Notwithstanding any obligation of secrecy imposed by any enactment, the Commissioner may disclose such information as is required to be disclosed under a double tax agreement to a person authorised to receive such information under the law of the territory in relation to which the double tax agreement has been made.”.

73 Determinations in relation to apportionment of interest costs

- (1) Section 90A(4) and (5) are repealed.
- (2) Subsection (1) is deemed to have come into force on 1 October 1996.

74 Taxation laws in respect of which binding rulings may be made

- (1) In section 91C(1)(e)(v), “or section EL 9(3)” is omitted.
- (2) After section 91C(1)(e)(v), the following is added:
“(vi) Section EL 9(3) of the Income Tax Act 1994 in relation to non-specified livestock; or”.
- (3) In section 91C(1)(e), after subparagraph (i), the following is inserted:
“(iA) Section 90A of this Act in relation to the extent (if any) to which a financial arrangement provides funds to the issuer for the purposes of Subpart FG of the Income Tax Act 1994; or”.
- (4) Subsection (3) is deemed to have come into force with respect to tax on assessable income derived in the 1996-97 income year and taxable income for the 1997-98 and subsequent income years.

75 Commissioner to make private rulings on request

- (1) In section 91E(3)(b), “, challenge,” is inserted after “objection”.

- (2) Subsection (1) is deemed to have come into force on 1 October 1996.
- (3) Section 91E(4)(d)(ii) is replaced by:
“(ii) Is being dealt with, or in the Commissioner’s opinion should be dealt with, by one or both competent authorities of the parties to a double tax agreement; or”.
- (4) Subsection (3) comes into force on the date on which this Act receives the Royal assent.

76 Commissioner may make product rulings

- (1) In section 91F(3)(b), “, challenge,” is inserted after “objection”.
- (2) Subsection (1) is deemed to have come into force on 1 October 1996.
- (3) Section 91F(4)(d) is replaced by:
“(d) The matter on which the ruling is sought is being dealt with, or in the Commissioner’s opinion should be dealt with, by one or both competent authorities of the parties to a double tax agreement; or”.
- (4) Subsection (3) comes into force on the date on which this Act receives the Royal assent.

77 Assessment of further income tax

- Section 101(3) is replaced by:
- “(3) An assessment made under this section shall be subject to challenge in the same manner as an assessment of income tax and Part VIIIA of this Act shall apply, so far as may be, to a challenge to an assessment made under this section as if the terms **income tax** and **tax** in that Part included the further income tax for which a company may be chargeable under section ME 9 of the Income Tax Act 1994.”.

78 Time bar for amendment of assessments

- (1) After section 107, the following is inserted:
“**107A**
(1) When any person has made returns and has been assessed for income tax for any year, it shall not be lawful for the Commissioner to alter the assessment so as to

increase its amount after the expiration of 4 years from the end of the year in which the notice of original assessment was issued.

“(2) Notwithstanding subsection (1), in any case where, in the opinion of the Commissioner, the returns so made are fraudulent or wilfully misleading or omit all mention of income which is of a particular nature or was derived from a particular source, and in respect of which a return is required to be made, it shall be lawful for the Commissioner to alter the assessment (being an assessment made on or after 1 April 1958) at any time so as to increase the amount of the assessment.

“(3) Subsections (1) and (2) apply to a return filed in the period between 1 October 1996 and 31 March 1997, and, for such a return, a reference to section 108 of this Act is deemed to be a reference to this section.”

(2) Subsection (1) is deemed to have come into force on 1 October 1996.

79 Transitional provision affecting assessments

(1) After section 109, the following is inserted:

“109A

A notice of assessment issued on or after 1 April 1995 and relating to return periods before that date shall be deemed to have been made under the Tax Administration Act 1994.”

(2) Subsection (1) is deemed to have come into force on 1 April 1995.

80 Commissioner may determine amount of provisional tax

(1) Section 119(1)(d) is replaced by:

“(d) The Commissioner considers that any estimate of residual income tax furnished by a taxpayer pursuant to section MB 3 of the Income Tax Act 1994 was not fair and reasonable—

“(i) At the time the estimate was furnished; or

“(ii) On any instalment date.”

(2) Section 119(2)(a) is repealed.

(3) Section 119(3) is replaced by:

“(3) An amount of provisional tax determined by the Commissioner under subsection (1) shall not exceed the amount of provisional tax that would be payable if the taxpayer had not estimated.”.

81 Commissioner determination of provisional tax

Section 119(2)(b) is replaced by:

“(b) The Commissioner considers, by reason of any of sections HK 26(2), HK 26(3), LC 1, LC 4, and LC 5 of the Income Tax Act 1994, or by reason of any double tax agreement, that the provisional tax that would be payable by the person is excessive.”.

82 Purpose of specific provisions

In section 120J, “sections 120K to 120U”, whenever it occurs, is replaced by “sections 120K to 120V”.

83 Instalments of and due dates for provisional tax

(1) Section 120K(1) is replaced by:

“120K

1 Except where this section requires otherwise, in an income year, other than a transitional year, the income tax liability of a provisional taxpayer is due and payable in equal instalments on each of the 3 instalment dates of the income year.”.

(2) In section 120K(3), “, other than in a transitional year,” is inserted after “The income tax liability of a new provisional taxpayer”.

(3) Section 120K(4) is replaced by:

“(4) The income tax liability of a provisional taxpayer who is a natural person, other than in that person’s capacity as trustee, with residual income tax not exceeding \$30,000 for that income year and—

“(a) Has not provided an estimate of the person’s residual income tax under section MB 3 of the Income Tax Act 1994; and

“(b) 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—

is due and payable in one instalment on the taxpayer's terminal tax date.

“(4A) In a transitional year, the income tax liability of a provisional taxpayer, other than a natural person to whom subsection (4) applies, is due and payable as follows:

“(a) On the instalment date or dates determined 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 following formula:

$$\frac{4 \times i}{m}$$

where—

i is the income tax liability 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 5(11) of the Income Tax Act 1994, being the amount of the income tax liability for the income year less any amount of income tax liability treated as due on an instalment date determined under paragraph (b).

“(4B) For the purposes of this Part, the income tax liability of a provisional taxpayer who is a natural person and to whom sections 120K(1) or 120K(4) do not apply shall be treated as due and payable on the taxpayer's terminal tax date.

“(4C) Notwithstanding section 59(3), subsection (4B) is deemed to apply to the 1997-98 income year.”.

(4) In section 120K(5), the definition of **person incorrectly assumed to be a provisional taxpayer** is repealed.

84 Variation to definition of date interest starts

Section 120O is replaced by the following:

“120O

The definition of **date interest starts** is to be construed as if the words **the later of the following days** and subparagraph (ii) were omitted from paragraph (b) of that definition when—

- “(a) A payment required by sections NC 15(1)(b) or NC 15(1)(i) of the Income Tax Act 1994 is due to be paid to the Commissioner no later than 5 April in a year:
- “(b) A payment required by sections NC 15(1)(c) or NC 15(1)(i) of the Income Tax Act 1994 is due to be paid to the Commissioner no later than 20 April in a year:
- “(c) A payment required by section NF 4 of the Income Tax Act 1994 is due to be paid to the Commissioner no later than 20 April in a year:
- “(d) A payment required by section NG 11 of the Income Tax Act 1994 is due to be paid to the Commissioner no later than 20 April in a year:
- “(e) A payment required by section NH 3 of the Income Tax Act 1994 is due to be paid to the Commissioner no later than 20 April in a year.”.

85 Amount in nature of interest to be added to fringe benefit tax paid on annual income year basis

After section 120S(3), the following is added:

- “(4) In calculating interest on overpaid fringe benefit tax under this section, **date interest starts** is to be construed as if **the later of the following days** and subparagraph (ii) were omitted from paragraph (b).”.

86 Interest on excess deductions of resident withholding tax

After section 120U, the following is inserted:

“120V

If the Commissioner is required to make a refund of excess resident withholding tax under section NF 7 of the Income Tax Act 1994, no interest shall be payable by the Commissioner under section 120D(3) on the excess refunded.”.

87 Certain rights of challenge not conferred

- (1) Section 138E(1)(e)(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, 139 (insofar as it applies to unpaid tax for periods before 1 April 1997) and 184 of the Tax Administration Act 1994; or”.

- (2) Section 138E(1) is amended by omitting from paragraph (e)(iv) “108,”.

88 Challenging civil penalties

Section 138L(2)(b) is replaced by:

- “(b) The percentage applicable to the civil penalty:”.

89 Late filing penalties

After section 139A(4), the following is added:

- “(5) Not less than 30 days before imposing a late filing penalty, the Commissioner must—
- “(a) Send written notice to a taxpayer that a late filing penalty may be imposed if a return specified in the notice is not filed; or
- “(b) Publicly notify that a late filing penalty may be imposed on taxpayers who omit to file the required return.”.

90 Underestimation penalty where income tax underestimated as at final instalment date

- (1) Section 140A(1) is amended by omitting, wherever it occurs, “applicable”.
- (2) Section 140A(2) is replaced by:
- “(2) When the income tax is reassessed for an income year, the amount of an underestimation penalty imposed for that year shall not be increased beyond the amount of any underestimation penalty previously imposed for that year.”.

91 Underestimation penalty where income tax underestimated as at final instalment date

- (1) Section 140A is repealed.
- (2) Subsection (1) applies to the 1998-99 and subsequent income years.

92 Tax shortfalls

- (1) Section 141(3) is replaced by:

- “(3) A separate tax shortfall calculation is required—
- “(a) For each return period; and
 - “(b) For each tax type; and
 - “(c) For each tax position taken by a taxpayer.”.
- (2) Section 141(5) is replaced by:
- “(5) If, in a return period—
- “(a) A taxpayer is liable to pay one or more shortfall penalties in respect of the same tax type; and
 - “(b) The taxpayer’s liability to the tax is overstated in one or more respects—
the tax shortfall for a tax type shall be calculated by—
 - “(c) Setting off the tax effects of the overstatements against the understatement, in the case of one tax shortfall; and
 - “(d) Setting off the tax effects of the overstatements pro-rated against the understatements, in the case of more than one tax shortfall.”.
- (3) In section 141(9), “If” is replaced by “If, in the application of subsection (6),”.
- (4) After section 141(13), the following is added:
- “(14) For the purposes of determining the amount of a tax shortfall in relation to an instalment date and a provisional taxpayer, the tax shortfall shall be the difference between—
- “(a) The lesser of—
 - “(i) The amount of provisional tax payable on the instalment date if an estimate had not applied at that instalment date; and
 - “(ii) The amount that would have been payable on that instalment date if the taxpayer’s provisional tax payable for the income year had been the taxpayer’s residual income tax liability for the income year; and
 - “(b) The amount of provisional tax payable on that instalment date as determined by the estimate applying as at that instalment date.”.
- (5) Subsection (5) comes into force from the 1998-99 income year.

93 Not taking reasonable care

- (1) In section 141A(1), whenever it occurs, “the taxpayer’s tax position” is replaced by “a taxpayer’s tax position”.

- (2) Section 141A(3) is replaced by:
- “(3) A taxpayer who, in taking a taxpayer’s tax position, has used an acceptable interpretation of the tax law is also a taxpayer who has taken reasonable care in taking the taxpayer’s tax position.”.

94 Unacceptable interpretation

- (1) Section 141B(1), is replaced by:

“141B

In relation to a tax position taken by a taxpayer, an unacceptable interpretation—

- “(a) Is an interpretation or an interpretation of an application of a tax law; and
- “(b) Viewed objectively, that interpretation or application fails to meet the standard of being about as likely as not to be correct.”.
- (2) In section 141B(3), “on time” is omitted.
- (3) In section 141B(3)(a), “, in the case of income tax,” is inserted after “before”.
- (4) Section 141B(3)(b)(i)(A) is replaced by:
- “(A) The net loss of a taxpayer in respect of the return period, ascertained in accordance with the provisions of the Income Tax Act 1994, are to be used in this subsection as if they had a positive value; and.”

95 Gross carelessness

- (1) In section 141C(1), the words “the taxpayer’s tax position” are replaced by “a taxpayer’s tax position”.
- (2) After section 141C(3), the following is added:
- “(4) A taxpayer who, in taking a taxpayer’s tax position, has used an acceptable interpretation of tax law is also a taxpayer who has not been grossly careless in taking the taxpayer’s tax position.”.

96 Commissioner to determine portions in which shortfall penalty payable by taxpayer and officers of taxpayer

Section 141F is replaced by the following:

“141F

- (1) If—
 - “(a) A taxpayer is required to make or account for a deduction or withholding of tax under a tax law; and
 - “(b) An officer of the taxpayer fails to make a deduction or withholding of tax under a tax law or applies or permits to be applied the amount of the deduction or withholding of tax other than in payment to the Commissioner,—
one shortfall penalty, calculated in accordance with this Part, may be imposed in respect of each tax position taken by the taxpayer.
- “(2) If the Commissioner determines that a shortfall penalty is required to be imposed, the Commissioner may determine the portion that each of the taxpayer and the officers is to be liable for that penalty having regard to—
 - “(a) The acts or omissions of the taxpayer and the officers; and
 - “(b) Whether those acts or omissions were reasonable in the circumstances of the case.”.

97 New due date for payment of tax that is not a penalty

Section 142A(1)(b) is replaced by:

- “(b) A taxpayer’s liability to pay tax on a due date is increased beyond the amount of tax the taxpayer calculated as payable in a return furnished in relation to the due date.”.

98 Due dates for payment of imputation penalty tax and dividend withholding penalty tax

Section 142E(3) is repealed.

99 Deduction of tax from payments due to defaulters

- (1) Section 157(1) is replaced by:

“157

- (1) Where a taxpayer has made default in the payment to the Commissioner of any income tax (or a part of any income tax) or any interest under Part VII payable by the taxpayer or any civil penalty (or a part of any civil

penalty) incurred by the taxpayer, the Commissioner may from time to time by notice in writing require any person to—

“(a) Deduct or extract, in one sum, from any amount that is, or becomes, an amount payable in relation to the taxpayer such sum as is equal to the lesser of—

“(i) The amount that, according to the notice, is required to be deducted or extracted:

“(ii) The amount that, at the time at which the deduction or extraction is required to be made in compliance with the notice, is the amount payable in relation to the taxpayer:

“(b) Subject to subsection (3), deduct or extract from time to time, by way of instalment, from any amount that is, or from time to time becomes, an amount payable in relation to the taxpayer such sum as is equal to the lesser of—

“(i) The amount that, at the time at which the deduction or extraction is required to be made in compliance with the notice, is the amount required to be so deducted or extracted:

“(ii) The amount that, at the time at which, according to the notice, the amount of the instalment is required to be deducted or extracted, is the amount payable,—

and require that person to pay to the Commissioner, within such time as is specified in the notice, every sum so deducted or extracted, to the credit of,—

“(c) To the extent that that sum is in respect of or in relation to income tax (or any part of any income tax) or any interest under Part VII assessed on an income tax liability, the taxpayer who has that income tax liability:

“(d) To the extent that that sum is in respect of or in relation to the whole or any part of a tax deduction or interest payable to the Commissioner or a

civil penalty, an account maintained by the Commissioner in relation to that tax deduction or that interest or that civil penalty.

“(1A) A notice of amount to be deducted or extracted issued under subsection (1) may include a daily amount of interest as well as the amount required to be deducted or extracted.

“(1B) The daily amount of interest notified under subsection (1A) shall be calculated for each day, commencing on the date of the notice and ending on the day on which the sum required by the notice is deducted or extracted.”.

(2) In section 157(10), in the definition of **income tax** paragraph (a) is replaced by:

“(a) Income tax payable under the Income Tax Act 1994 and the Income Tax Act 1976:”.

(3) Subsection (1) is deemed to have come into force on 1 April 1997.

(4) Subsection (2) is deemed to have come into force on 1 April 1995.

100 Power of the Commissioner in relation to small amounts of refunds or tax payable

In section 174(1)(a), “\$5” is replaced by “\$20”.

101 Relief in cases of serious hardship

After section 176(6) the following is added:

“(7) In this section, **tax** means **income tax** as defined in section OB 6(1)(a) of the Income Tax Act 1994.”.

102 Remission of understatement penalty tax

Section 178 is repealed.

103 Relief from additional tax incurred due to default in payment of tax

(1) Section 182, as repealed by section 60 of the Tax Administration Amendment Act (No 2) 1996, is deemed to have been repealed on 1 April 1997.

- (2) Notwithstanding subsection (1), a remission may be made under section 182 if the Commissioner considers that the request for the remission is received before the date on which this Act receives the Royal assent.

104 Amendment to application date

- (1) Sections 183A to 183D are replaced by the following:

“183A Remission for reasonable cause

- “(1) The Commissioner may remit a late filing penalty or a late payment penalty or an imputation penalty tax imposed under section 140B or a dividend withholding payment penalty tax imposed under section 140C if—

“(a) The Commissioner is satisfied that the late filing or late payment was caused by an event or circumstance beyond the control of the taxpayer that provides the taxpayer with a reasonable justification or excuse for not providing the tax return or paying the tax on time; and

“(b) The taxpayer files the required tax return or pays the unpaid tax as soon as practicable.

- “(2) Without limiting the Commissioner’s discretion under subsection (1), an event or circumstance may include—

“(a) An accident or a disaster; or

“(b) Illness or emotional or mental distress.

- “(3) An event or circumstance does not include—

“(a) An act or omission of an agent of a taxpayer, unless the Commissioner is satisfied that the act or omission was caused by an event or circumstance beyond the control of the agent—

“(i) That could not have been anticipated; and

“(ii) The effect of which could not have been avoided by compliance with accepted standards of business organisation and professional conduct; or

“(b) A taxpayer’s financial position.

“183B Cancellation of late payment penalties under instalment arrangement

- “(1) The Commissioner must cancel a taxpayer’s liability to pay—

“(a) 60% of an initial late payment penalty; or

“(b) An incremental late payment penalty.

- “(2) The Commissioner must cancel a taxpayer’s liability under subsection (1) only if—
- “(a) The tax to pay in respect of which the taxpayer would otherwise have had the liability is—
 - “(i) Tax payable in 2 or more instalments under an arrangement with the Commissioner; or
 - “(ii) Tax in respect of which deductions are to be made and paid to the Commissioner under section 157 of this Act or section 43 of the Goods and Services Tax Act 1985 or any other similar tax law; and
 - “(b) The taxpayer complies with the taxpayer’s obligations under the arrangement; and
 - “(c) The liability would otherwise have arisen after—
 - “(i) The arrangement was entered into; or
 - “(ii) The Commissioner exercised powers available to the Commissioner under section 157 of this Act or section 43 of the Goods and Services Tax Act 1985 or any similar tax law.

“183C Cancellation of interest

- “(1) Subject to subsection (3), a taxpayer’s liability to pay interest under Part VII is cancelled for the period from the date of a notice of assessment until the due date specified in the notice if—
- “(a) The Commissioner issues the taxpayer with a notice of assessment; and
 - “(b) The tax assessed in the notice, together with any interest payable under Part VII in respect of the period before the date of the notice, is paid to the Commissioner by the due date for payment specified in the notice.
- “(2) Where a taxpayer challenges an assessment by commencing proceedings under Part VIIIA, the taxpayer’s liability to pay interest under Part VII on non-deferrable tax is cancelled for the period from the date of the notice until the due date specified in a notice of assessment if—
- “(a) The Commissioner issues the taxpayer with a notice of assessment; and

“(b) The non-deferrable tax in relation to the tax assessed in the notice, together with any interest payable under Part VII in respect of that non-deferrable tax, is paid to the Commissioner by the due date for payment specified in the notice.

“(3) Where—

“(a) The Commissioner issues a notice of assessment to a taxpayer before the original due date for payment of the tax to which the assessment relates; and

“(b) The tax assessed in the notice, together with any interest payable under Part VII in respect of the period before the date of the notice, is paid to the Commissioner on or before the 30th day after the date on which the notice of assessment is issued—

the Commissioner shall cancel the taxpayer’s liability to pay interest under Part VII for the period commencing on the day after the date on which the notice of assessment is issued and ending with the day on which payment is made, or the due date of the tax, whichever occurs first.

“(4) Where—

“(a) The Commissioner issues a statement of account to a taxpayer after the original due date for payment of tax to which the statement of account relates; and

“(b) The tax referred to in the statement of account, together with any interest payable under Part VII in respect of the period before the date of the statement of account, is paid to the Commissioner on or before the 15th day after the date on which the statement of account is issued, or the due date of the tax, whichever occurs first,—

the Commissioner shall cancel the taxpayer’s liability to pay interest under Part VII for the period commencing on the day after the date on which the statement of account is issued and ending with the day on which payment is made.

“(5) When the 30th day referred to in subsection (3) occurs on or before the 15th day referred to in subsection (4), the Commissioner shall cancel a taxpayer’s liability to pay interest under Part VII for the period commencing on the date of issue of the notice of assessment and ending with the day on which payment is made.

“183D Remission consistent with collection of highest net revenue over time

- “(1) The Commissioner may remit—
- “(a) A late filing penalty; and
 - “(b) A late payment penalty; and
 - “(c) Interest under Part VII—
- payable by a taxpayer if the Commissioner is satisfied that the remission is consistent with the Commissioner’s duty to collect over time the highest net revenue that is practicable within the law.
- “(2) In the application of this section, the Commissioner must have regard to the importance of the late payment penalty, the late filing penalty, and interest under Part VII in promoting compliance, especially voluntary compliance, by all taxpayers with the Inland Revenue Acts.
- “(3) The Commissioner must not consider a taxpayer’s financial position when applying this section.”
- (2) Subsection (1) (except so far as it applies to section 183C(4) and (5)) is deemed to have come into force on 1 April 1997.

105 Small amounts of penalties and interest not to be charged

After section 183F(b), the following is inserted:

- “(ba) A taxpayer is not liable to pay a late payment penalty or interest under Part VII on any amount of tax if the amount outstanding after the due date is \$100 or less.”

106 Remission on written application

Section 183H is replaced by the following:

“183H

A taxpayer seeking the remission of an amount or of a liability to pay an amount of interest or tax must—

- “(a) Write to the Commissioner requesting that the amount of tax or interest liability be remitted; and
- “(b) Produce such information as the Commissioner requires in relation to the request.”

107 Refund of tax paid on income subsequently exempted by Order in Council

Section 184 is replaced by:

“184

If a double tax agreement exempts from tax any income derived before the date of the Order in Council that gives effect to the double tax agreement, and the Commissioner is satisfied tax has been paid in relation to that income, and written application is made by or on behalf of the taxpayer at any time within 4 years after the date of the Order in Council, then notwithstanding anything in section MD 1 of the Income Tax Act 1994 the Commissioner may refund the tax paid.”.

Part 3**Amendments to Goods and Services Tax Act 1985****108 Goods and Services Tax Act 1985**

The Goods and Services Tax Act 1985 is amended by this Part.

109 Interpretation

Section 2(1) is amended by inserting:

“**Tax file number** has the meaning assigned to that term by section OB 1 of the Income Tax Act 1994”.

110 Change in registered person’s taxable period

(1) Section 15A(1)(b) is replaced by:

“(b) Following notification by the registered person under paragraph (c) or paragraph (ca) of section 53(1) of this Act of a change of status; or”.

(2) Section 15A(5)(b) is replaced by:

“(b) That person has not, before the last day of the person’s immediately subsequent taxable period, notified the Commissioner of a change of status pursuant to section 53(1)(ca) of this Act—”.

111 Requirements for accounting on payments basis

In section 19A(2), the portion before paragraph (a) is replaced by:

- “(2) Where the Commissioner is satisfied (whether by a notification given by the registered person under section 53(1)(cb) of this Act or otherwise) that a registered person who has been directed to account for tax payable on a payments basis has ceased to satisfy the conditions set out in paragraphs (a) to (c) of subsection (1) of this section, the Commissioner shall either—”.

112 Tax file number

Section 24(2B) is replaced by:

- “(2B) In any case where subsection (2A) of this section applies and the person who is deemed to be the supplier is not a registered person, the reference to the registration number of the supplier in paragraph (b) of subsections (3) and (4) of this section shall be read as if that reference were to the tax file number of the supplier.”.

113 Assessment of tax

- (1) After section 27(1)(c), the following is inserted:
- “(ca) Any person who breaches a tax obligation (as defined in the Tax Administration Act 1994) that is required by this Act to be performed by the person; or”.
- (2) Section 27(2) is replaced by:
- “(2) Subject to sections 108A and 108B and Part IVA of the Tax Administration Act 1994, the Commissioner may from time to time and at any time make all such alterations in or additions to an assessment made under this section as the Commissioner thinks necessary to ensure the correctness of the assessment, notwithstanding that tax already assessed may have been paid.”.
- (3) Section 5(1)(c) of the Goods and Services Tax Amendment Act 1996 is repealed.
- (4) Subsections (1) and (2) are deemed to apply with respect to tax obligations, liabilities, and rights that are to be performed under or arise in relation to supplies made in respect of taxable periods commencing on or after 1 April 1997.

114 Deduction of tax from payment due to defaulters

(1) After section 43(2), the following is inserted:

“(2A) A notice of amount to be deducted or extracted issued under subsection (1) may include a daily amount of interest as well as the amount required to be deducted or extracted.

“(2B) The daily amount of interest notified under subsection (2A) shall be calculated for each day, commencing on the date of the notice and ending on the day on which the sum required by the notice is deducted or extracted.”.

(2) Subsection (1) is deemed to have come into force on 1 April 1997.

115 Group of companies

Section 55(5)(a) is replaced by:

“(a) That member or the representative member of that group of companies notifies the Commissioner of that cessation pursuant to section 53(1)(d) of this Act; or”.

Part 4**Amendments to Income Tax Act 1976****116 Income Tax Act 1976**

The Income Tax Act 1976 is amended by this Part.

117 Gain or loss on disposal of depreciable property

(1) Section 117 is amended by inserting:

“(6A) Where property of a taxpayer is irreparably damaged, the consideration derived by the taxpayer on the disposition of the property is the amount of any insurance proceeds or indemnity payment or other consideration received in relation to that event, and subsection (7) does not apply.”.

(2) Subsection (1) applies in the 1993-94 and the 1994-95 income years, unless the taxpayer has before 17 June 1997 filed a return of income in which section 117(7) of the Income Tax Act 1976 has been applied in respect of that property.

118 Dividends from qualifying company

(1) After section 393M(1) the following is inserted:

- “(1A) For the avoidance of doubt, a dividend that is paid by a qualifying company to any trustee shareholder, and that is, or that becomes, beneficiary income of a beneficiary resident in New Zealand, is exempt income of the beneficiary to the same extent as if the beneficiary were the shareholder referred to in section 393M(1)(a), and the company had paid the dividend to the beneficiary.”
- (2) Subsection (1) is deemed to have come into force on 1 April 1992.

Part 5

Amendments to various other Acts

119 Estate and Gift Duties Act 1968

- (1) This section amends the Estate and Gift Duties Act 1968 (**the principal Act**).
- (2) In section 95 of the principal Act, “1st day of October 1996” is replaced by “1st day of April 1997”.
- (3) Subsection (2) is deemed to have come into force on 31 March 1997.

120 Gaming Duties Act 1971

- (1) This section amends the Gaming Duties Act 1971 (**the principal Act**).
- (2) Section 3 is amended by inserting the following:
“**Officer of the Department** means an officer of the department as defined in the Tax Administration Act 1994”.
- (3) In section 12H(2) of the principal Act:
- (a) The words “a District Commissioner” are replaced by “an officer of the Department”;
 - (b) “District Commissioner” is replaced by “an officer of the Department”.
- (4) After section 12L(1), the following are inserted:
- “(1A) A notice of amount to be deducted or extracted issued under subsection (1) may include a daily amount of interest as well as the amount required to be deducted or extracted.
- “(1B) The daily amount of interest notified under subsection (1A) shall be calculated for each day, commencing on the date of

the notice and ending on the day on which the sum required by the notice is deducted or extracted.”.

121 Tax Administration Amendment Act (No 2) 1996

- (1) Section 24(2)(b) of the Tax Administration Amendment Act (No 2) 1996 is repealed.
- (2) Subsection (1) is deemed to have come into force on 1 October 1996.

122 Taxation Review Authorities Act 1994

- (1) This section amends the Taxation Review Authorities Act 1994 (**the principal Act**).
- (2) In section 17(2C) of the principal Act, “subsection (1)” is replaced by “subsection (2A)”.
- (3) In section 30(2) of the principal Act, the following is added:
“(d) Prescribing the fees to be paid in respect of the filing of any proceedings brought under this Act.”.

123 Taxation (Income Tax Rates) Act 1997

- (1) This section amends the Taxation (Income Tax Rates) Act 1997 (**the principal Act**).
- (2) In section 16(1), “51(1) and (2)” is replaced by “51(1)”.
- (3) After section 16(1) of the principal Act, the following subsection is inserted:
“(1A) In section 51(2), ‘(as substituted by section 37(2) of this Act)’ is omitted”.
- (4) This section is deemed to come into force on 14 May 1997.

Part 6

Remedial amendments arising from Taxation (Core Provisions) Act 1996

Substantive amendments to Income Tax Act 1994

124 Income Tax Act 1994

[Repealed]

Sections 124 to 142 were repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

125 Treatment of net loss*[Repealed]*

Sections 124 to 142 were repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

126 Other exempt income*[Repealed]*

Sections 124 to 142 were repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

127 Exempt income—dividends*[Repealed]*

Sections 124 to 142 were repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

128 Meaning of fringe benefit*[Repealed]*

Sections 124 to 142 were repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

129 Cost of minerals, timber, or flax*[Repealed]*

Sections 124 to 142 were repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

130 New Subpart EQ inserted*[Repealed]*

Sections 124 to 142 were repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

131 Interpretation*[Repealed]*

Sections 124 to 142 were repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

132 Tax in respect of Maori authorities with 20 or fewer beneficiaries*[Repealed]*

Sections 124 to 142 were repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

133 New Subpart ID inserted*[Repealed]*

Sections 124 to 142 were repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

134 Specified activity net losses*[Repealed]*

Sections 124 to 142 were repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

135 Offsetting supplementary dividend against net income*[Repealed]*

Sections 124 to 142 were repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

136 Policyholder net losses*[Repealed]*

Sections 124 to 142 were repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

137 Credit of tax for imputation credit*[Repealed]*

Sections 124 to 142 were repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

138 New Zealand income tax liability on foreign source income*[Repealed]*

Sections 124 to 142 were repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

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

Sections 124 to 142 were repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

140 Definitions*[Repealed]*

Sections 124 to 142 were repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

141 Various amendments to Income Tax Act 1994*[Repealed]*

Sections 124 to 142 were repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

*Amendments—Aids to interpretation in Income Tax Act 1994***142 Aids to interpretation***[Repealed]*

Sections 124 to 142 were repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

*Amendments to Tax Administration Act 1994***143 Replacing sections in Tax Administration Act 1994**

- (1) This section amends the Tax Administration Act 1994.
- (2) Sections 138J and 138K are replaced by:

“138J Waiver of payment or security

The Commissioner may waive any requirement under section 138I for the payment of non-deferrable tax relating to any tax in dispute if the Commissioner considers that—

- “(a) The payment of the tax (or the provision of security) before the end of the relevant period of deferral will unduly prejudice a taxpayer’s business or personal circumstances; and
- “(b) There is no risk to the revenue in waiving the payment (or the provision of security) until after the challenge is determined.

“138K Determination of challenge not to affect other matters

The determination of a challenge by a hearing authority under this Part—

- “(a) Relates solely to the matter that is the subject of the disputable decision being challenged; and
- “(b) Does not affect the right of the Commissioner to make a disputable decision relating to a different matter and to amend the disputable decision being challenged in any way rendered necessary by the later disputable decision.”.

- (3) Section 473 of the Taxation (Core Provisions) Act 1996 is repealed.
- (4) Subsection (2) is deemed to have come into effect on 1 October 1996.

144 Various amendments to Tax Administration Act 1994

- (1) In section 120R(a), “loss” is replaced by “net loss”.
- (2) Section 120P is renumbered 120P(1) and the following subsection is added:
“(2) If gross income of a taxpayer is allocated to an income year under subsection (1)(b), the taxpayer shall allocate to the income year that proportion of deductions allowed in the allocation income year which the allocated gross income represents as a proportion of the gross income for the allocation income year calculated without allocation.”.
- (3) Section 120R(2) is repealed.
- (4) Subsections (1) to (3) are deemed to apply to the 1997-98 and subsequent income years.

Schedule 1

s 62

New Schedule 13 to Income Tax Act 1994

[Repealed]

This Schedule was impliedly repealed, by section 36(2) Taxation (Remedial Provisions) Act 1998 (1998 No 7) with application on 23 September 1997.

Schedule 2

s 142(1)

Replacement lists of defined terms in part

B

[Repealed]

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

Schedule 3

s 142(2)

**Diagram illustrating process used to
satisfy income tax liability***[Repealed]*

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