

# Taxation (Accrual Rules and Other Remedial Matters) Act 1999

Public Act 1999 No 59  
Date of assent 20 May 1999

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**An Act to rewrite the accrual rules, improve the operation of the binding rulings regime, and make remedial amendments to the Inland Revenue Acts**

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

**1 Short Title**

This Act may be cited as the Taxation (Accrual Rules and Other Remedial Matters) Act 1999.

**Part 1**

**Amendments to Income Tax Act 1994**

Part 1 (sections 2 to 60) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).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*[Repealed]*

Part 1 (sections 2 to 60) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**3 Interpretation**

*[Repealed]*

Part 1 (sections 2 to 60) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**4 Double tax agreements**

*[Repealed]*

Part 1 (sections 2 to 60) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**5 Exempt income—employee allowances and expenditure on account of employee**

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**7 Commercial bills***[Repealed]*

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**9 Holding and acquisition of interests in foreign companies***[Repealed]*

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**11 Branch equivalent income calculation***[Repealed]*

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**12 Interpretation of fringe benefit tax rules***[Repealed]*

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**16 Certain property not trading stock***[Repealed]*

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**17 Treatment of petroleum mining exploration and development expenditure***[Repealed]*

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**18 New sections inserted***[Repealed]*

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**19 Interest from inflation-indexed instruments***[Repealed]*

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**20 Cost of trading stock other than excepted financial arrangements***[Repealed]*

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**21 Transfer of trading stock within wholly-owned group***[Repealed]*

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**22 New subpart substituted***[Repealed]*

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**23 New division added***[Repealed]*

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**24 Consequential changes to section references resulting from Part EH Division 2***[Repealed]*

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**25 New section inserted***[Repealed]*

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**26 Costs of acquiring any film or any right in any film***[Repealed]*

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**27 Cost of producing films***[Repealed]*

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**28 New sections inserted***[Repealed]*

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**29 Option to use foreign tax balance date***[Repealed]*

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**30 New sections inserted***[Repealed]*

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**31 Taxation of hire purchase agreements***[Repealed]*

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**32 Special provisions relating to dispositions of property***[Repealed]*

Part 1 (sections 2 to 60) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**33 Transfer of property or obligation under financial arrangements deemed to be at market value***[Repealed]*

Part 1 (sections 2 to 60) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**34 Acquisition of property by amalgamated company on qualifying amalgamation***[Repealed]*

Part 1 (sections 2 to 60) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**35 Succession of obligations of amalgamating company under financial arrangement on amalgamation***[Repealed]*

Part 1 (sections 2 to 60) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**36 Treatment of financial arrangements between  
amalgamating companies***[Repealed]*

Part 1 (sections 2 to 60) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

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

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**38 Rules for calculating worldwide group debt percentage***[Repealed]*

Part 1 (sections 2 to 60) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**39 Concession for on-lending***[Repealed]*

Part 1 (sections 2 to 60) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**40 New section inserted***[Repealed]*

Part 1 (sections 2 to 60) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**41 Accrual rules***[Repealed]*

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**42 Taxable income to be calculated generally as if group  
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Part 1 (sections 2 to 60) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**43 Profits of mutual associations in respect of transactions with members***[Repealed]*

Part 1 (sections 2 to 60) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**44 Trustee income***[Repealed]*

Part 1 (sections 2 to 60) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**45 Existing trusts becoming subject to tax***[Repealed]*

Part 1 (sections 2 to 60) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**46 Low income rebate***[Repealed]*

Part 1 (sections 2 to 60) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**47 Rebate for gifts of money***[Repealed]*

Part 1 (sections 2 to 60) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**48 Determination of net income***[Repealed]*

Part 1 (sections 2 to 60) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**49 Interest paid in conduit financing arrangements***[Repealed]*

Part 1 (sections 2 to 60) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**50 Amount of provisional tax payable***[Repealed]*

Part 1 (sections 2 to 60) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

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

Part 1 (sections 2 to 60) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**52 Payment of tax***[Repealed]*

Part 1 (sections 2 to 60) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**53 Assessment and payment of tax***[Repealed]*

Part 1 (sections 2 to 60) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**54 Application of NRWT rules***[Repealed]*

Part 1 (sections 2 to 60) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**55 Definitions***[Repealed]*

Subsection (36)(b) was repealed by section 93(2) Taxation (Remedial Matters) Act 1999 (1999 No 98) with application as from 20 May 1999.

Part 1 (sections 2 to 60) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**56 Meaning of income tax***[Repealed]*

Part 1 (sections 2 to 60) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**57 Determination of consideration if consideration for  
property is denominated in foreign currency***[Repealed]*

Part 1 (sections 2 to 60) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**58 Airport operators***[Repealed]*

Part 1 (sections 2 to 60) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

**59 Further definitions of associated persons***[Repealed]*

Subsection (1)(c) was repealed by section 93(3) Taxation (Remedial Matters) Act 1999 (1999 No 98) with application as from 20 May 1999.

Part 1 (sections 2 to 60) was repealed, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).

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

Part 1 (sections 2 to 60) 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

**61 Tax Administration Act 1994**

This Part amends the Tax Administration Act 1994.

**62 Interpretation**

(1) In section 3—

(a) In the definition of **binding ruling**, the following is added after paragraph (c):

“(d) Status ruling made under section 91GA:”:

(b) The following definitions are inserted:

“**Competent authority** is defined in section 173B

“**Contested act of assistance** is defined in section 173B

“**Contested tax** is defined in section 173B

“**Tax recovery agreement** is defined in section 173B”

(c) In the definition of **disputable decision**, paragraph (b) is replaced by:

“(b) A decision of the Commissioner under a tax law, except for a decision—

“(i) To decline to issue a binding ruling under Part VA; or

“(ii) That cannot be the subject of an objection under Part VIII; or

“(iii) That cannot be challenged under Part VIIIA.”:

(d) The definition of **late payment penalty** is replaced by:

“**Late payment penalty** means—

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

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

“(i) Additional tax imposed on unpaid tax under section 139:

“(ii) Additional tax imposed on any tax remaining unpaid under section 41 of the Goods and Services Tax Act 1985 for supplies made in taxable periods:

“(iii) Interest on gift duty imposed under section 84 of the Estate and Gift Duties Act 1968 for gifts made:

“(iv) A penalty imposed for 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 for—

“(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:

“(v) Interest on unpaid totalisator duty under section 8 of the Gaming Duties Act 1971 for all betting profits that must be calculated under section 4 of that Act:

“(vi) Interest on unpaid racing duty under section 12 of the Gaming Duties Act 1971 for lotteries drawn:

“(vii) Interest on unpaid gaming machine duty under section 12F of the Gaming Duties Act 1971 for dutiable games played by means of gaming machines:

“(viii) Interest on unpaid casino duty under section 21Q of the Gaming Duties Act 1971 for casino wins.”:

(e) In the definition of **property**, “sections 60 and” is replaced by “section”:

(f) The definition of **return period** is replaced by:



“**Return period** means—

- “(a) The period covered by a tax return, or which would be covered by a tax return if one were provided:
- “(b) For a tax return that relates to a transaction, the time within which the transaction must be returned:”:
- (g) The following definition is inserted:

“**Status ruling** means a ruling made under section 91GA”:

(h)

- (i) The following definitions are repealed:

**Holder**

**Implementation date**

**Issuer**

**Trade credit.**

- (2) In section 3(4)(a), “60,” is repealed.
- (3) Subsections (1) and (2), except for subsection (1)(d) and (f) apply on and after the date this Act receives the Royal assent.
- (4) Subsection (1)(d) applies on and after 1 April 1997.
- (5) Subsection (1)(f) applies on and after 1 April 1999.

Subsection (1)(h) was repealed by section 93(4) Taxation (Remedial Matters) Act 1999 (1999 No 98) with application as from 20 May 1999.

### **63 New sections inserted**

- (1) After section 22, the following is inserted:

#### **“22A Records required under Part EH Division 2 of Income Tax Act 1994**

- “(1) A taxpayer who applies section EH 36 of the Income Tax Act 1994 and who does not use a market approved by the Commissioner under section 90AC(1)(c) must keep, in English, records sufficient to enable the Commissioner to verify that the market value adopted is reliable.
- “(2) A taxpayer who applies section EH 43 of the Income Tax Act 1994 must keep, in English, records sufficient to enable the Commissioner to verify that their reason for changing spreading methods was a sound commercial one.
- “(3) A taxpayer required to retain records must—
  - “(a) Take all reasonable precautions for the safe custody of those records; and

- “(b) Retain those records for 7 years after the end of the year that the records relate to, unless:
  - “(i) The Commissioner has given notice that retention is not required; or
  - “(ii) The records are required by law to be given to another person; or
  - “(iii) The taxpayer is a company that has been liquidated or wound up; and
- “(c) Retain the records required for a further period as specified by the Commissioner under subsection (4).
- “(4) The Commissioner may, by giving notice before the end of the 7-year retention period specified in subsection (3), require a taxpayer to retain records specified by the Commissioner for a further period of not more than 3 years following the expiry of the 7-year period if—
  - “(a) The taxpayer is or has been under audit or investigation by the Commissioner; or
  - “(b) The Commissioner intends to conduct an audit or investigation before the expiry of the retention period as extended, or is actively considering an audit or investigation.

**“22B Further records required under Part EH**

- “(1) A trustee to whom either section EH 5 or EH 52 applies must keep, in English, records of—
  - “(a) The amounts of debt forgiven by creditors; and
  - “(b) Amounts distributed to the trust’s beneficiaries.
- “(2) A trustee required to retain records must—
  - “(a) Take all reasonable precautions for the safe custody of those records; and
  - “(b) Retain those records for as long as the trust exists.”
- (2) Subsection (1) applies on and after the date this Act receives the Royal assent.

**64 Resident withholding tax deduction certificates**

- (1) Section 25(7)(a) is replaced by:
  - “(a) All resident withholding income is interest paid by the person under a financial arrangement, and the interest is not more than \$20 in that income year; or”

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

**65 Annual income tax returns not required**

- (1) Section 33A(1)(b)(x) is repealed.
- (2) Section 33A(2)(c) is replaced by:
- “(c) Is not a cash basis person; or”.
- (3) Subsections (1) and (2) apply to the 1999–2000 and subsequent income years.

**66 Dates by which annual returns to be furnished**

- (1) Section 37(4A) is replaced by:
- “(4A) If a tax agent has not furnished for an income year the required number of tax returns by the dates specified by the Commissioner, the Commissioner may:
- “(a) Refuse to grant an extension of time under subsection (4) for furnishing one or more tax returns that are linked to the tax agent; and
- “(b) Cancel any existing extension of time arrangement granted under subsection (4) for the income years for which the tax agent has not furnished the required number of tax returns by the dates specified by the Commissioner; and
- “(c) Cancel any existing extension of time arrangement granted under subsection (4) for one or more returns, but not necessarily all returns, for the income years for which the tax agent has not furnished the required number of tax returns by the dates specified by the Commissioner.”
- (2) Subsection (1) applies on and after the date this Act receives the Royal assent.

**67 New sections inserted**

- (1) After section 44, the following is inserted:
- “44A Special returns by taxpayers affected by reduced deductions under Income Tax Act 1994**
- “(1) A taxpayer who has made a return of income for an income year must file a special return for that income year in the form

required by the Commissioner if the taxpayer's net income or net loss for the income year is affected by—

- “(a) A reduction under section DM 1A(4) of the taxpayer's deduction under section DM 1A(3); or
  - “(b) A reduction under section EO 4A(4) of the taxpayer's deduction under section EO 4A(3); or
  - “(c) A reduction under section DM 1A(4) of another taxpayer's deduction under section DM 1A(3); or
  - “(d) A reduction under section EO 4A(4) of another taxpayer's deduction under section EO 4A(3).
- “(2) A taxpayer who has derived consideration that gives rise to a reduction under section DM 1A(4) or section EO 4A(4) and any other taxpayer affected by that reduction must file a special return—
- “(a) For the income year in which the consideration is derived; and
  - “(b) By the date that the taxpayer's return of income for that income year would be due.

**“44B Special returns for financial arrangements**

- “(1) A person who calculates an adjustment under section EH 57 of the Income Tax Act 1994 must file a special return for the adjustment in the form required by the Commissioner on or before the date on which the person must file their return of income in the income year specified in section EH 57(2).
- “(2) Despite the time bar, the Commissioner must reassess the person's income tax liability for the income years to which the adjustment relates according to the calculations of income and expenditure under the adjustment.”
- (2) The new section 44A applies on and after 17 November 1998.
- (3) The new section 44B applies on and after the date this Act receives the Royal assent.

**68 Employers to make returns as to employees**

- (1) After section 46(5)(d), the following is inserted:
- “(da) All payments of weekly compensation made by the Accident Compensation Corporation under the Accident Insurance Act 1998; or

“(db) Payments of compensation for loss of earnings or loss of potential earning capacity in so far as the payments relate to a work-related personal injury and are made by the Accident Compensation Corporation under a policy of personal accident or sickness insurance to which section 188(1)(a) of the Accident Insurance Act 1998 applies; or”.

(2) Subsection (1) applies on and after 1 July 1999.

**69 Disclosure of certain financial arrangement transactions where interest payable to exempt person, etc**

(1) Section 53(1)(b)(iii) is replaced by:

“(iii) A party to the financial arrangement; or”.

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

**70 Returns of inter-related arrangements**

(1) Section 60 is repealed.

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

**71 Disclosure of information to prevent cessation of benefit payments**

(1) In section 82A(8)—

(a) The definition of **beneficiary information** is repealed; and

(b) The following definition is inserted:

“**Information about a beneficiary** means information that—

“(a) Identifies the beneficiary; and

“(b) Identifies the benefit that the beneficiary is receiving, has received, or for which the beneficiary has applied.”.

(2) Subsection (1) applies on and after 7 October 1998.

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

(1) In section 88, wherever it occurs, “double tax agreement” is replaced by “double tax agreement or tax recovery agreement”.

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

### **73 Purpose of this Part**

- (1) After section 89A(2), the following is added:  
“(3) Despite section 1(2), this Part applies to disputable decisions made by the Commissioner for income years before the 1994–95 income year.”
- (2) Subsection (1) applies on and after the date this Act receives the Royal assent.

### **74 New sections inserted**

- (1) After section 90, the following is inserted:  
“**90AA Application of determinations made under section 90**  
“(1) A determination made under section 90 applies, in principle, to a financial arrangement to which Part EH Division 2 applies until a new determination that is relevant to the financial arrangement is made by the Commissioner under section 90AC.  
“(2) Once a determination is made under section 90AC, a person must apply that determination to a financial arrangement to which Part EH Division 2 applies, and must not apply the determination made under section 90.

### **“90AB Application for determination**

- “(1) A person who becomes, or who intends to become, a party to a financial arrangement may apply to the Commissioner for a determination to be made under section 90AC(1).  
“(2) Unless subsection (3) applies, an application must be made in accordance with regulations made under this Act.  
“(3) If no regulations have been made under this Act or if regulations made do not provide for the eventuality that occurs, an application must be made in accordance with a procedure that the Commissioner prescribes.

### **“90AC Determinations relating to financial arrangements**

- “(1) For the purpose of the accrual rules in Part EH Division 2 of the Income Tax Act 1994, the Commissioner may determine the following:

- “(a) How the yield to maturity method applies to a financial arrangement or class of financial arrangements under section EH 34(1):
- “(b) How the straight line method applies to a financial arrangement or class of financial arrangements under section EH 35:
- “(c) The market, the method, and the source of information, that a person may use to determine market value under section EH 36:
- “(d) The method for determining the income derived or expenditure incurred for a financial arrangement or class of financial arrangements under section EH 38(1):
- “(e) The alternative method that may be applied to determine the income derived or expenditure incurred for a financial arrangement or class of financial arrangements under either section EH 34(2) or EH 38(2):
- “(f) Whether a method meets the requirements of section EH 42(1) and may be treated as complying with the consistency requirement:
- “(g) Whether or not a method may be changed under section EH 42(3) and the circumstances or conditions under which a change in method is allowed:
- “(h) If a financial arrangement includes an excepted financial arrangement, the method for determining the portion of the income, gain, loss, expenditure, consideration paid, or consideration received that is solely attributable to the excepted financial arrangement:
- “(i) The method for determining the future value, discounted value, or a combination of both the future and discounted values of amounts paid or payable on the date the first right in the contracted property is transferred or services are provided under an agreement to which either section EH 48(3)(c) or EH 48(3)(d) applies:
- “(j) The method for determining under section FD 10(4) the consideration to be taken into account under section EH 47 in the case of a financial arrangement that is disposed of between members of the same consolidated group of companies:

- “(k) The exchange rate that a taxpayer or a class of taxpayer may use, and the circumstances in which the rate may be used under section OB 7(2)(c)(ii), having regard to the costs that the taxpayer or class of taxpayer would incur in using a rate available under section OB 7(2)(a) or (b).
- “(2) The Commissioner may also determine the class of persons that may apply a determination.
- “(3) A determination made under any of subsection (1)(a), (1)(d), (1)(h), (1)(i), or (1)(j) is binding on persons who are subject to the accrual rules.
- “(4) A determination is not made when the Commissioner accepts an alternative method to the yield to maturity method under section EH 34 or an alternative method under section EH 38 of the Income Tax Act 1994.
- “(5) For the purpose of subsection (1)(e), the Commissioner may specify or differentiate financial arrangements by reference to type, characteristics, the purpose for which the arrangements were entered into, or in any other way.
- “(6) The Commissioner may vary, rescind, restrict, or extend a determination made under this section by replacing the determination or by making a new determination.

**“90AD Notification of determinations**

- “(1) The Commissioner must publish a determination made under section 90AC in the *Gazette* not later than 30 days after the date the determination is made. The determination must be published in a form that is specified by regulations made under this Act.
- “(2) A determination is made under section 90AC when it is signed by the Commissioner.
- “(3) The Commissioner must assess a person who has applied a determination made under section 90AC in accordance with the determination except if—
- “(a) The legislation on which the determination is based has been repealed or amended to the person’s detriment; or



- “(b) There was a material misrepresentation or omission in the person’s application for the determination, whether intentional or not.

**“90AE Four-year period in which determination does not have to be applied**

If a person becomes a party to a financial arrangement before a new determination is made under section 90AC(6) or a replacement determination is published, the person does not have to apply the new or the replacement determination to the financial arrangement until 4 years after the date of publication have passed.”

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

**75 Determinations in relation to apportionment of interest costs**

- (1) Section 90A(1) is replaced by:

“(1) For the purpose of Part FG of the Income Tax Act 1994, the Commissioner may determine the extent to which a financial arrangement provides funds to a party under the arrangement.”

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

**76 Taxation laws in respect of which binding rulings may be made**

- (1) In section 91C(1)(e)(i), “Section 90” is replaced by “Sections 90 or 90AC”.

- (2) Section 91C(1)(e)(iA) is replaced by:

“(iA) Section 90A of this Act in relation to the extent to which a financial arrangement provides funds to a party under the arrangement; or.”

- (3) After section 91C(1), the following is inserted:

“(1A) The Commissioner may make a binding ruling under section 91GB.”

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

**77 Content and notification of a public ruling**

- (1) Section 91DA(1) is replaced by:
- “(1) A public ruling must state—
- “(a) That it is a public ruling made under section 91D; and
  - “(b) The taxation law or laws on which it is a ruling; and
  - “(c) The arrangement to which the ruling applies; and
  - “(d) How the taxation law or laws apply to the arrangement; and
  - “(e) The period or income year for which the ruling applies. Anything that does not contain these statements is not a public ruling.”
- (2) After section 91DA(3), the following is added:
- “(4) The Commissioner must publish each public ruling, in full, in a publication of the department.”
- (3) Subsections (1) and (2) apply on and after the date this Act receives the Royal assent.

**78 Effect of a public ruling**

- (1) Section 91DB(2) is repealed.
- (2) Subsection (1) applies on and after the date this Act receives the Royal assent.

**79 Application of a public ruling**

- (1) Section 91DC is replaced by:
- “(1) A public ruling on a taxation law applies to a person and an arrangement—
- “(a) If the taxation law is expressly referred to in the ruling; and
  - “(b) For an arrangement that is—
    - “(i) Specified in the ruling; and
    - “(ii) Entered into during the period or income year for which the ruling applies; and
  - “(c) For the period or income year specified in the ruling.
- “(2) Subsection (1) does not apply to a taxpayer who has issued the Commissioner with a notice of proposed adjustment to change the effect of a ruling previously applied by the taxpayer.”
- (2) Subsection (1) applies on and after the date this Act receives the Royal assent.

**80 Extension of a public ruling**

- (1) In section 91DD(2)(b), “or income year” is inserted after “The original period”.
- (2) In section 91DD(2)(c), “or income year” is inserted after “the new period”.
- (3) Subsections (1) and (2) apply on and after the date this Act receives the Royal assent.

**81 Withdrawal of a public ruling**

- (1) Section 91DE(2) is replaced by:  
“(2) The Commissioner must notify the withdrawal by giving adequate notice in the *Gazette*.”
- (2) Section 91DE(3) is replaced by:  
“(3) A public ruling is withdrawn on the date stated in the notice of withdrawal. The date cannot be before the date on which notice is given under subsection (2).”
- (3) Section 91DE(4)(b) is replaced by:  
“(b) The ruling continues to apply, for the remainder of the period or income year to which the ruling applies, to an arrangement to which it previously applied that was entered into before the date of withdrawal.”
- (4) In section 91DE(5)(c), “or income year” is inserted after “The original period”.
- (5) Subsections (1) to (4) apply on and after the date this Act receives the Royal assent.

**82 Commissioner to make private rulings on request**

- (1) Section 91E(1) is replaced by:  
“(1) Subject to section 91EF, the Commissioner must make a private ruling on how a taxation law applies, or would apply, to a person and to the arrangement, whether a single or a recurring arrangement, for which the ruling is sought.”
- (2) In section 91E(3)(b) “; or” is added after paragraph (b), and the following is added after paragraph (b):  
“(c) The applicant has outstanding debts relating to earlier binding ruling applications.”
- (3) Section 91E(4)(b) is replaced by:

- “(b) At the time the application is made or at any time before the ruling is issued, the Commissioner considers that the person to whom the ruling is to apply is not seriously contemplating the arrangement for which the ruling is sought; or”.
- (4) Section 91E(4)(d)(i) is replaced by:
- “(i) Concerns a tax (excluding provisional tax), duty, or levy that is due and payable, unless the application is received before the tax (excluding provisional tax), duty, or levy is due and payable; or”
- (5) In section 91E(4)(e) “any period” is replaced by “a period or an income year”.
- (6) Section 91E(4)(f) is replaced by:
- “(f) An assessment relating to the person, the arrangement, and a period or an income year to which the proposed ruling would apply has been made, unless the application is received by the Commissioner before the date an assessment is made; or”.
- (7) Section 91E(4)(g) is replaced by:
- “(g) The Commissioner is auditing or investigating how the taxation law applies to the person and to the arrangement for a period or an income year to which the proposed ruling would apply; or
- “(ga) The application relates to an arrangement that is the subject of a notice of proposed adjustment; or”.
- (8) Section 91E(4A) is replaced by:
- “(4A) Subsection (4)(a) does not apply if the application for the ruling relates to how either section FB 2 or GD 13 of the Income Tax Act 1994 applies, or would apply, to the person applying for the ruling and to the arrangement, whether a single or a recurring arrangement, for which the ruling is sought.”
- (9) Subsections (1) to (8) apply on and after the date this Act receives the Royal assent.

### **83 Effect of a private ruling**

- (1) After section 91EA(1), the following is inserted:
- “(1A) Subsection (1) does not apply if a taxpayer has issued the Commissioner with a notice of proposed adjustment to change the effect of a ruling previously applied by the taxpayer.”
- (2) Section 91EA(2) is repealed.

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

#### **84 Application for a private ruling**

- (1) Section 91EB(1)(b) is replaced by:  
“(b) Only for the period or income year for which the ruling applies.”
- (2) Section 91EB(2)(c) is replaced by:  
“(c) The Commissioner makes an assumption about a future event or another matter that is material to the ruling, and the assumption subsequently proves to be incorrect; or  
“(d) The Commissioner stipulates a condition that is not satisfied.”
- (3) Subsections (1) and (2) apply on and after the date this Act receives the Royal assent.

#### **85 Applying for a private ruling**

- (1) Section 91EC(1) is replaced by:  
“(1) A person, in their own right or on behalf of a person who is yet to come into legal existence, may apply to the Commissioner for a private ruling on how a taxation law applies, or would apply, to—  
“(a) The person making the application or the prospective person, as the case may be; and  
“(b) An arrangement, whether a single or a recurring arrangement.”
- (2) Section 91EC(2) is replaced by:  
“(2) Two or more persons may jointly apply, or a person on behalf of two or more persons who are yet to come into legal existence, may apply to the Commissioner for a private ruling on how a taxation law applies, or would apply, to each person and to an arrangement, whether a single or a recurring arrangement.”
- (3) Subsections (1) and (2) apply on and after the date this Act receives the Royal assent.

#### **86 Content and notification of a private ruling**

- (1) Section 91EH(1) is replaced by:  
“(1) A private ruling must state—

- “(a) That it is a private ruling made under section 91E; and
  - “(b) The identity of the person, the taxation law, and the arrangement (which may be identified by reference to the arrangement in the application) to which the ruling applies; and
  - “(c) How the taxation law applies to the arrangement and to the person; and
  - “(d) The period or income year for which the ruling applies; and
  - “(e) Material assumptions about future events or other matters made by the Commissioner; and
  - “(f) Conditions stipulated by the Commissioner.
- Anything that does not contain these statements is not a private ruling.”
- (2) Subsection (1) applies on and after the date this Act receives the Royal assent.

### **87 Withdrawal of a private ruling**

- (1) After section 91EI(2), the following is inserted:
- “(2A) A status ruling on a withdrawn private ruling does not apply on and after the date specified in the notice of withdrawal.”
- (2) In section 91EI(3)(b), “or income year” is inserted after “for the remainder of the period”.
- (3) In section 91EI(3), at the end of paragraph (b), “withdrawal.” is replaced by “withdrawal; and”, and the following is added
- “(c) A status ruling that has been made on the private ruling continues to apply, for the remainder of the period or income year specified in the private ruling, if the arrangement was entered into before the date of withdrawal.”
- (4) Subsections (1) to (3) apply on and after the date this Act receives the Royal assent.

### **88 Disclosure of private ruling**

- (1) Section 91EJ is repealed.
- (2) Subsection (1) applies on and after the date this Act receives the Royal assent.

**89 Commissioner may make product rulings**

- (1) In section 91F(3)(b) “; or” is added after paragraph (b), and the following is added after paragraph (b):
  - “(c) The applicant has outstanding debts relating to earlier binding ruling applications.”
- (2) Section 91F(4)(b) is replaced by:
  - “(b) At the time the application is made or at any time before the ruling is issued, the Commissioner considers that the person to whom the ruling is to apply is not seriously contemplating the arrangement for which the ruling is sought; or”
- (3) Section 91F(4)(e) is replaced by:
  - “(e) A product ruling already exists on how the taxation law applies to the arrangement, and the proposed ruling would apply to a period or income year to which the existing ruling applies; or”
- (4) Subsections (1), (2), and (3) apply on and after the date this Act receives the Royal assent.

**90 Effect of a product ruling**

- (1) After section 91FA(1), the following is inserted:
  - “(1A) Subsection (1) does not apply if a taxpayer has issued the Commissioner with a notice of proposed adjustment to change the effect of a ruling previously applied by the taxpayer.”
- (2) Section 91FA(2) is repealed.
- (3) Subsections (1) and (2) apply on and after the date this Act receives the Royal assent.

**91 Application of a product ruling**

- (1) Section 91FB(1)(b) is replaced by:
  - “(b) Only for the period or income year for which the ruling applies.”
- (2) Section 91FB(2)(c) is replaced by:
  - “(c) The Commissioner makes an assumption about a future event or another matter that is material to the application of the ruling, and the assumption subsequently proves to be incorrect; or
  - “(d) The Commissioner stipulates a condition that is not satisfied.”
- (3) Subsections (1) and (2) apply on and after the date this Act receives the Royal assent.

**92 Applying for a product ruling**

(1) Section 91FC(1) is replaced by:

“(1) A person, in their own right or on behalf of a person who is yet to come into legal existence, may apply to the Commissioner for a product ruling on how a taxation law applies, or would apply—

“(a) To an arrangement; or

“(b) To the consumer of the product that is the subject of the ruling, and to the arrangement.

“(1A) A person making an application under subsection (1) or a prospective person, as the case may be, must intend to be a party to the proposed arrangement.

“(1B) For the purpose of subsection (1)(b), a **consumer** is a party to the arrangement who is not the applicant.”

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

**93 Content and notification of a product ruling**

(1) Section 91FH is replaced by:

**“91FH**

(1) A product ruling must state—

“(a) That it is a product ruling made under section 91F; and

“(b) The name of the person who applied for the ruling; and

“(c) The taxation law and the arrangement to which the ruling applies; and

“(d) How the taxation law applies to the arrangement; and

“(e) The period or income year for which the ruling applies; and

“(f) Material assumptions about future events or other matters made by the Commissioner; and

“(g) Conditions stipulated by the Commissioner.

Anything that does not contain these statements is not a product ruling



- “(2) The Commissioner must send a copy of the ruling to the applicant as soon as practicable after the date on which the ruling is made.
  - “(3) Unless earlier publication is requested by the applicant in writing, the Commissioner cannot publish a product ruling until 2 months have passed after the date the ruling is made.
  - “(4) If earlier publication is requested by the applicant, the Commissioner must—
    - “(a) Notify the making of the product ruling by notice in the *Gazette*; and
    - “(b) Publish the product ruling in a publication of the department as soon as possible.
  - “(5) After the 2-month period has ended, the Commissioner must—
    - “(a) Notify the making of a product ruling by notice in the *Gazette*; and
    - “(b) Publish each product ruling, in full, in a publication of the department.
  - “(6) A taxpayer, other than the applicant, cannot obtain a copy of a product ruling before it is published by the Commissioner.”
- (2) Subsection (1) applies on and after the date this Act receives the Royal assent.

**94 Extension of a product ruling**

- (1) Section 91FI is repealed.
- (2) Subsection (1) applies on and after the date this Act receives the Royal assent.

**95 Withdrawal of a product ruling**

- (1) Section 91FJ(2) is replaced by:
  - “(2) The Commissioner must notify the withdrawal by giving adequate notice in the *Gazette*.”
- (2) Section 91FJ(3) is replaced by:
  - “(3) A product ruling is withdrawn on the date stated in the notice of withdrawal. The date cannot be before the date on which notice is given under subsection (2).

- “(3A) A status ruling on a withdrawn product ruling does not apply on and after the date specified in the notice of withdrawal.”
- (3) In section 91FJ(4)(b), “or income year” is inserted after “for the remainder of the period”.
- (4) In section 91FJ(4), at the end of paragraph (b), “withdrawal.” is replaced by “withdrawal; and”, and the following is added
- “(c) A status ruling that has been made on the product ruling continues to apply, for the remainder of the period or income year specified in the product ruling, if the arrangement to which it previously applied was entered into before the date of withdrawal.”
- (5) In section 91FJ(5)(c), “or income year” is inserted after “The original period”.
- (6) After section 91FJ(5)(c), the following is inserted:
- “(ca) Any status ruling that applied to the product ruling; and
- “(cb) That the status ruling is also being withdrawn; and”.
- (7) Subsections (1) to (6) apply on and after the date this Act receives the Royal assent.

## **96 Effect of legislative change on binding ruling**

- (1) Section 91G is replaced by:

### **“91G**

A binding ruling does not apply from the date a taxation law is repealed or amended to the extent that the repeal or amendment changes the way the taxation law applies in the ruling.”

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

## **97 New sections inserted**

- (1) After section 91G (as replaced by section 96), the following is inserted:

### **“91GA Applying for ruling on effect of change in legislation**

- “(1) A person who applied for a private ruling made under section 91E, may apply to the Commissioner for a ruling on whether the amendment or repeal of a taxation law that is stated as applying in the private ruling has changed the way that the law applies in the ruling.

- “(2) A person who applied for a product ruling made under section 91F, may apply to the Commissioner for a ruling on whether the amendment or repeal of a taxation law that is stated as applying in the product ruling has changed the way that the law applies in the ruling.
- “(3) A ruling made under subsection (1) or (2) is a **status ruling**.

**“91GB Commissioner to make status rulings on request**

- “(1) The Commissioner must make a status ruling on whether the amendment or repeal of a taxation law that is stated as applying in a private or a product ruling has changed the way that the law applies in the ruling.
- “(2) The Commissioner may make a status ruling on whether the amendment or repeal of a taxation law has changed the way that the law applies in a private or a product ruling whether or not reference was made to that taxation law in the application.
- “(3) The Commissioner may not make a status ruling if—
  - “(a) The application is frivolous or vexatious; or
  - “(b) The Commissioner considers that the correctness of the private or product ruling would depend on which assumptions were made about a future event or other matter; or
  - “(c) The Commissioner considers that it would be unreasonable to make a ruling in view of the resources available to the Commissioner.

**“91GC Requirements for status ruling applications**

- “(1) An application for a status ruling must be made in the form prescribed by the Commissioner and must—
  - “(a) Identify the applicant; and
  - “(b) Identify the private or product ruling on which the status ruling is sought; and
  - “(c) State the taxation laws that are stated as applying in the private or product ruling that have been amended or repealed; and
  - “(d) State any propositions of law that are relevant to the issues raised in the application; and
  - “(e) Provide a draft ruling.

- “(2) If the Commissioner considers that it would be unreasonable to require the applicant to comply with any of the requirements in subsection (1)(d) or (1)(e), the Commissioner may waive those requirements.

**“91GD Commissioner may request further information**

The Commissioner may at any time request further relevant information from an applicant for a status ruling.

**“91GE Right to consultation**

Before the Commissioner makes a status ruling, the Commissioner must give the applicant a reasonable opportunity to be consulted if the content of the proposed ruling differs from that requested by the applicant.

**“91GF Content of status ruling**

A status ruling must identify the private or product ruling on which it is a ruling and state—

- “(a) That it is a status ruling made under section 91GA; and  
“(b) Whether the amendment or repeal of a taxation law has changed the way that the law applies in the ruling.

Anything that does not contain these statements is not a status ruling.

**“91GG Notification of status ruling**

- “(1) The Commissioner must send a copy of a status ruling to the applicant as soon as practicable after the date on which the ruling is made.
- “(2) In the case of a status ruling on a product ruling, the Commissioner must also—
- “(a) Notify the making of a status ruling by notice in the *Gazette*; and
- “(b) Publish the status ruling in a publication of the department.
- “(3) The Commissioner must notify the making of and publish a status ruling as soon as possible but not before the 2-month period specified in section 91FH(3) has passed, unless the ap-

plicant has requested earlier publication of their product ruling under that section.

**“91GH Effect of status ruling**

If a person applies a taxation law in accordance with a status ruling, the Commissioner must also apply the taxation law in accordance with the status ruling.

**“91GI Effect of minor error on binding ruling**

- “(1) The Commissioner does not have to withdraw and reissue a new ruling to correct a typographical or a minor error if the correction does not change the meaning of the ruling.
- “(2) A ruling that is not withdrawn and reissued remains valid.”
- (2) Subsection (1) applies on and after the date this Act receives the Royal assent.

**98 Regulations**

- (1) In section 91I, “private rulings and product rulings” is replaced by “private, product and status rulings”.
- (2) In section 91I(2)(c), at the end of paragraph (c), “services.” is replaced by “services:” and the following is added:
- “(d) Allow the Commissioner to waive, in whole or in part, any fees that are payable.”
- (3) Subsection (1) applies on and after the date this Act receives the Royal assent.
- (4) Subsection (2) applies on and after 1 April 1995.

**99 New section added**

- (1) After section 91I, the following is added:

**“91J Commissioner may not issue ruling to applicant with outstanding debts**

- “(1) The Commissioner may refuse to issue a private, a product, or a status ruling to an applicant with an outstanding debt that relates to an earlier binding ruling application.
- “(2) An applicant has an outstanding debt if she or he has not paid, on or before 60 days after the date stated in an invoice sent by Inland Revenue, the amount stated in the invoice.

- “(3) This section applies only to an outstanding debt that first arises on or after 1 June 1999.”
- (2) Subsection (1) applies on and after the date this Act receives the Royal assent.

**100 Commissioner to make assessments, determinations of net loss, and other determinations**

- (1) In section 92(2)(b), “section 138J” is replaced by “section 138K”.
- (2) Subsection (1) applies to the 1997–98 and subsequent income years.

**101 Extension of time bars**

- (1) Section 108B is replaced by:

**“108B**

- (1) A taxpayer may, by waiver, extend by up to 6 months the period of time before a time bar referred to in subsection (3) applies.
- “(2) A waiver under subsection (1) must be in the prescribed form and must be signed and delivered to the Commissioner before the expiry of the relevant 4-year period.
- “(3) Subsection (1) applies to—
- “(a) The time bar occurring under section 25 of the Income Tax Act 1976 after the period of 4 years from the end of the year in which the notice of original assessment was issued; and
- “(b) The time bar occurring under section 107A after the period of 4 years from the end of the year in which the notice of original assessment was issued; and
- “(c) The time bar occurring under section 108 (as that section applied before it was amended by section 29 of the Tax Administration Amendment Act (No 2) 1996) after the period of 4 years from the end of the year in which the notice of original assessment was issued; and
- “(d) The time bar occurring under section 108 (as amended by section 29 of the Tax Administration

Amendment Act (No 2) 1996) after the period of 4 years from the end of the income year in which the taxpayer provides a return of income; and

- “(e) The time bar occurring under the former section 31 of the Goods and Services Tax Act 1985 (as that section applied on 30 September 1996) after the period of 4 years from the end of the month in which the GST return was provided or, as the case may be, the assessment made; and
- “(f) The time bar occurring under section 108A(1) after the period of 4 years from the end of the GST return period for which the GST return was provided or, as the case may be, the assessment made; and
- “(g) The time bar occurring under section 108A(2) after the period of 4 years from the end of the month in which the GST return was provided or, as the case may be, the assessment made.”

- (2) Subsection (1) applies on and after 1 October 1996.
- (3) Despite subsection (2), subsection (1) does not apply to a waiver made under section 108B if the waiver was signed and delivered to the Commissioner before 17 November 1998.

## 102 New section inserted

- (1) After section 120A, the following is inserted:

### “120AA Application of Part

- “(1) This Part does not apply if—
  - “(a) A taxpayer has paid qualifying tax in dispute; and
  - “(b) The taxpayer has objected, appealed, or stated a case relating to the qualifying tax in dispute paid; and
  - “(c) The taxpayer has indicated to the Commissioner, before the date that the Taxation (Accrual Rules and Other Remedial Matters) Act 1999 receives the Royal assent, that repealed sections 120 or 139 of this Act or repealed sections 34A or 398 of the Income Tax Act 1976 apply; and
  - “(d) The decision on the objection, appeal, or case stated requires the Commissioner to refund the qualifying tax in dispute paid or requires the taxpayer to pay deferrable tax, as that term was defined before its repeal by section

3 of the Tax Administration Amendment Act (No 2) 1996.

- “(2) If subsection (1) applies, the Commissioner must apply, as appropriate—
- “(a) Sections 120 or 139 as they applied immediately before their repeal by sections 36 and 43 respectively of the Tax Administration Amendment Act (No 2) 1996; or
  - “(b) Sections 34A or 398 of the Income Tax Act 1976 as they applied immediately before the enactment of this Act.”
- (2) Subsection (1) applies on and after 1 April 1997.

### **103 Meaning of unpaid tax and overpaid tax for provisional tax purposes**

- (1) Section 120L is numbered as subsection (1) and the following is added:
- “(2) If a taxpayer makes a payment and does not specify how the payment is to be applied, the Commissioner must apply the payment towards the provisional tax that is due on an instalment date to which the Commissioner considers the payment relates
- “(3) If the taxpayer makes a payment and specifies that it is made to meet their provisional tax due on an instalment date, the Commissioner must apply the payment towards the provisional tax specified by the taxpayer.”
- (2) Subsection (1) applies to the 1998–99 and subsequent income years.

### **104 Application of Part 8**

- (1) Section 124A(1) is replaced by:

#### **“124A**

1Despite section 1(2), this Part applies to—

- “(a) Every notice of assessment or reassessment issued by the Commissioner under a provision of the Inland Revenue Acts after April 1995 and before 1 October 1996 for a particular item or matter, irrespective of the period to which the assessment or reassessment relates; and



“(b) Every notice of assessment issued by the Commissioner under a provision of the Inland Revenue Acts on or after 1 October 1996, if before that date, a taxpayer has made a competent objection to a notice of assessment that precedes the notice of reassessment for the same particular item or matter.”

- (2) After section 124A(2), the following is added:
- “(3) Despite section 1(2) Part IIIA of the Income Tax Act 1976 does not apply to a notice of assessment or reassessment issued on or after 1 April 1995.”
- (3) Subsection (1) applies on and after 1 October 1996.
- (4) Subsection (2) applies on and after the date this Act receives the Royal assent.

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

- (1) Section 125(g) is repealed.
- (2) In section 125(j)(iv), “174,” is replaced by “174AA,”.
- (3) Subsection (1) applies on and after the date this Act receives the Royal assent.
- (4) Subsection (2) applies on and after 1 April 1999.

#### **106 Obligation to pay tax where competent objection lodged** *[Repealed]*

Sections 106 and 109 were repealed by section 93(5) Taxation (Remedial Matters) Act 1999 (1999 No 98) with application as from 20 May 1999.

#### **107 Powers of Taxation Review Authority on determination of objection or case stated**

- (1) In section 135(2)—
- (a) “section 90(1)” is replaced by “either section 90(1) or 90AC(1)”; and
- (b) “section 90(6)” is replaced by “either section 90(6) or sections 90AC(6) and 90AE”.
- (2) Subsection (1) applies on or after the date this Act receives the Royal assent.

**108 Application of this Part**

- (1) Section 138A(1) is replaced by:
- “(1) Despite section 1(2), this Part applies to—
- “(a) Every notice of disputable decision issued by the Commissioner under a provision of the Inland Revenue Acts on or after 1 October 1996, irrespective of the period to which the notice of disputable decision relates; and
  - “(b) Any assessment, reassessment, or determination of the Commissioner if a notice of assessment or reassessment to which section 124A(2)(a) applies has been issued before 1 October 1996, irrespective of the period to which the notice of assessment or reassessment relates.”
- (2) Subsection (1) applies on and after 1 October 1996.

**109 Obligation to pay tax during challenge**

*[Repealed]*

Sections 106 and 109 were repealed by section 93(5) Taxation (Remedial Matters) Act 1999 (1999 No 98) with application as from 20 May 1999.

**110 Certain rights of challenge not conferred**

- (1) In section 138E(1)(e)(iv), “174,” is replaced by “174AA,”.
- (2) After section 138E(1)(e), the following is inserted:
- “(ea) The Commissioner’s interpretation of how a taxation law applies to a person, whether or not the person has come into legal existence, and to an arrangement, whether or not a single or a recurring arrangement, as set out in a binding ruling made under Part VA; or
- “(eb) The Commissioner’s interpretation of whether the amendment or repeal of a taxation law has changed the way that the law applies in a private or a product ruling, as set out in a status ruling made under section 91GA; or”.
- (3) Subsection (1) applies on and after 1 April 1999.
- (4) Subsection (2) applies on and after the date this Act receives the Royal assent.

**111 Deduction of tax from payments due to defaulters**

- (1) In section 157(10), after paragraph (e) of the definition of **income tax**, the following is added:

- “(f) An amount of unpaid tax subject to Part XA:”.
- (2) Subsection (1) applies on and after the date this Act receives the Royal assent.

## 112 New Part inserted

- (1) After section 173, the following is inserted:

### “Part XA

### “Tax recovery agreements

#### “173A Application of Part

This Part applies to tax recovery agreements negotiated between the Government of a territory outside New Zealand and the Government of New Zealand.

#### “173B Definitions

In this Part—

“**Competent authority** has the meaning provided in a double tax agreement or in a tax recovery agreement and includes the Commissioner

“**Contested act of assistance** means an act of or on behalf of a competent authority that a person affected by the act considers is inconsistent with a tax recovery agreement or this Part

“**Contested tax** means an amount of tax that is contested because—

“(a) A time limit on a right to object to or to challenge the amount of a tax assessed by the competent authority of the territory outside New Zealand has not expired; or

“(b) The time limit in paragraph (a) has expired and the person assessed with the amount of tax has made a valid objection or challenge to the amount of the tax assessed; and

“(c) If paragraph (b) applies, the objection or challenge has not been finally determined by a court or tribunal of competent jurisdiction in the territory:

“**Tax recovery agreement** means—

“(a) A convention or an agreement negotiated to assist in the recovery of unpaid tax due to either or both of the Governments that are parties to the convention or the agreement that has—

- “(i) Been brought into effect by Order in Council under section 173C; and
- “(ii) Entered into force according to its tenor; or
- “(b) A double tax agreement, to the extent that it provides for the recovery of unpaid tax.

**“173C Tax recovery agreements**

- “(1) The Governor-General may, by Order in Council, declare that a tax recovery agreement has effect for unpaid tax.
- “(2) A tax recovery agreement has effect—
  - “(a) Even if a provision in the agreement is inconsistent with a provision in this Act or in any other enactment; and
  - “(b) Subject to this Part.

**“173D Taxes that may be recovered**

To the extent that the taxes are prescribed in a tax recovery agreement, the agreement may provide for assistance in the recovery of taxes that are imposed by the laws of New Zealand and the territory with which the agreement is negotiated.

**“173E Requests for assistance**

- “(1) A competent authority may make a request for assistance under a tax recovery agreement.
- “(2) A request for assistance must be accompanied by—
  - “(a) Written particulars of—
    - “(i) The amount of unpaid tax to which the request for assistance in recovery relates; and
    - “(ii) The extent, if any, to which the requesting party considers the unpaid tax is contested; and
  - “(b) A declaration made by the applicant’s competent authority that the unpaid tax is a tax prescribed in the agreement and that any other conditions in the tax recovery agreement concerning the making of a request have been complied with; and
  - “(c) A certified or notarized copy of the instrument that allows enforcement of the unpaid tax in the state of the applicant.

**“173F Scope of assistance**

- “(1) Subject to subsections (2) and (3), when assisting a competent authority in response to a request made under a tax recovery agreement, the Commissioner may apply any provision or exercise any authority, discretion, power, provision, or right that is available to the Commissioner under the laws of New Zealand.
- “(2) Parts IVA, V, VA, VI, VII, VIII, VIIIA, IX, except sections 143C to 143E, and Part XII, except sections 203 to 205, do not apply to this Part
- “(3) Part XI applies to this Part.

**“173G Limitations on assistance in recovery**

- “(1) The Commissioner must not assist in recovering an amount of unpaid tax that is contested.
- “(2) Subsection (1) does not apply if, after consultation, the competent authorities determine that the taxpayer to whom the request for assistance relates—
- “(a) Acknowledges that the amount of unpaid tax will no longer be contested; or
  - “(b) May leave New Zealand in order to defeat recovery action; or
  - “(c) May take steps in relation to the existence or location of the taxpayer’s assets that make it more difficult for the Commissioner to recover the unpaid tax; or
  - “(d) Is contesting the assessment solely to delay or frustrate recovery action.
- “(3) Assistance must not be given—
- “(a) For an amount of unpaid tax that became uncontested more than 6 years before the tax recovery agreement entered into force in New Zealand; or
  - “(b) If the request for assistance is first made more than 15 years after the date on which the unpaid tax became uncontested.

**“173H Contested act of assistance**

- “(1) This section applies to a contested act of assistance and applies whether or not another remedy is available under the laws of

New Zealand or the laws of the other party to a tax recovery agreement.

- “(2) A person that claims to be affected by a contested act of assistance may advise the competent authority of the reasons why the person considers the act is a contested act of assistance.
- “(3) On receipt of a request under subsection (2), the competent authority must, without undue delay,—
  - “(a) Endeavour to resolve with the person the dispute concerning the contested act of assistance; or
  - “(b) Refer the request, together with reasons, to the competent authority of the other territory, and endeavour, by mutual agreement, to resolve the dispute.

#### “173I Rights of appeal

- “(1) A taxpayer may appeal to the District Court on a question of law or fact that arises from the exercise of any authority, discretion, power, provision, or right by the Commissioner or another competent authority under this Part.
- “(2) The District Court may reverse or modify the effect of the authority, discretion, power, provision, or right exercised, or refer the matter back to the Commissioner or the other competent authority for further consideration.

#### “173J Certificates given by Commissioner

- “(1) The Commissioner may sign a certificate on any matter referred to in subsection (2) if the Commissioner first determines that assistance may be given under this Part.
- “(2) A certificate under subsection (1) may include the following:
  - “(a) That the request is made under section 173E;
  - “(b) That the request complies with this Part.
- “(3) In all proceedings concerning an act of the Commissioner to which section 173F(1) refers, a certificate purporting to be given under subsection (1) is, in the absence of proof to the contrary, sufficient evidence of the matters certified by the certificate.”
- (2) Subsection (1) applies on and after the date this Act receives the Royal assent.

**113 Section replaced**

(1) Section 174 is replaced by:

**“174 Application of Part to income years before 1994**

“(1) Despite section 1(2), an application for the remission of a penalty imposed under an Inland Revenue Act must be considered under this Part.

“(2) Despite section 1(2), section 413 of the Income Tax Act 1976 does not apply to an application for remission made on or after 1 April 1997.

**“174AA Power of Commissioner in respect of small amounts of refunds or tax payable**

Despite any other provision of this Act or the Income Tax Act 1994, the Commissioner may refrain from either issuing a notice of assessment, collecting, or refunding tax if—

“(a) The balance of the tax payable is not more than \$20; or

“(b) The tax paid or deducted is \$5 or less than the amount of the tax for which the taxpayer is liable.”

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

**114 New section inserted**

(1) After section 183C, the following is inserted:

**“183CA Cancellation of interest charged on unpaid provisional tax**

“(1) If interest has been charged on unpaid provisional tax under Part VII and it is more than the interest that would have been charged if section 120L(2) and (3) had applied to the 1997–98 income year, the taxpayer may apply to the Commissioner to—

“(a) Have their liability to pay the excess interest cancelled; and

“(b) Have the excess interest, to the extent that the taxpayer has paid it, refunded.

“(2) A taxpayer’s application must be made in writing.

“(3) Upon receiving an application, the Commissioner must—

“(a) Cancel the taxpayer’s liability to pay the excess interest; and

- “(b) Refund to the taxpayer the excess interest to the extent that it has been paid by the taxpayer.”
- (2) Subsection (1) applies to the 1997–98 income year.

### **115 Payment out of Crown Bank Account**

- (1) Section 185 is renumbered as section 185(1) and the following is added:
- “(2) On the recovery under Part XA of an amount of unpaid tax, the amount recovered may be paid to the Government of the territory outside New Zealand out of the Crown Bank Account without further appropriation than this section.”
- (2) Subsection (1) applies on and after the date this Act receives the Royal assent.

## **Part 3 Amendments to Estate and Gift Duties Act 1968**

### **116 Estate and Gift Duties Act 1968**

This Part amends the Estate and Gift Duties Act 1968.

### **117 Exemption for base price adjustment under accrual rules in Income Tax Act 1994**

- (1) Section 35BA is replaced by:
- “**35BA**
- (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(1)(a) of the Income Tax Act 1994.
- “(2) A financial arrangement is not included in the dutiable estate of a deceased person to the extent that—
- “(a) A liability under the arrangement is forgiven or remitted, in whole or in part, in the deceased’s will or by the deceased when contemplating his or her death; and



- “(b) The forgiveness or remission is taken into account when a person calculates their gross income because it—
- “(i) Reduces the deduction allowed to the person; or
- “(ii) Increases the person’s gross income.”
- (2) Subsection (1) applies to financial arrangements entered into on and after the date this Act receives the Royal assent.

#### **118 Exemption for base price adjustment under accrual rules in Income Tax Act 1994**

- (1) Section 75B is replaced by:

##### **“75B**

- (1) In this section—
- “(a) **Accrual rules** is defined in section OB 1 of the Income Tax Act 1994:
- “(b) **Dividend** is defined in section CF 2(1)(b) of the Income Tax Act 1994:
- “(c) **Financial arrangement** means an arrangement defined in section EH 22(1)(a) of the Income Tax Act 1994.
- “(2) The forgiveness or remission of a liability, in whole or in part, under a financial arrangement is not a gift under this Act if and to the extent that the forgiveness or remission must be taken into account under the accrual rules when a person calculates their gross income because it—
- “(a) Reduces the deduction allowed to the person; or
- “(b) Increases the person’s gross income.
- “(3) If and to the extent that a transaction is a dividend, the transaction is not a gift under this Act.”
- (2) Subsection (1) applies to financial arrangements entered on and after this date this Act receives the Royal assent.

### **Part 4**

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

##### **119 Income Tax Act 1976**

This Part amends the Income Tax Act 1976.

**120 Interpretation**

(1) In section 64B, the following is inserted after paragraph (n) of the definition of **excepted financial arrangement**:

“(o) A loan that is interest free, repayable on demand and denominated in New Zealand dollars, for the lender of the loan only:

“(p) An employment contract:

“(q) An interest in a group investment fund:

“(r) An interest in a partnership or a joint venture:

“(s) Travellers’ cheques:

“(t) A warranty for goods or services:

“(u) A hire purchase agreement (as defined in section 2 of the Hire Purchase Act 1971) for livestock or bloodstock entered into on or after 1 April 1993.”

“An arrangement listed in paragraphs (o), (p), (q), (r), (s), (t), and (u) is not an excepted financial arrangement if a taxpayer has treated it as financial arrangement in a return of income that has already been filed.”

(2) Subsection (1) applies on and after 8.30 pm New Zealand Standard Time on 31 July 1986.

**121 Airport operators**

(1) In section 197A(2), in the definition of **joint venture agreement**—

(a) “section 12 of the Civil Aviation Act 1964” is replaced by “section 94 of the Civil Aviation Act 1990”; and

(b) “Civil Aviation Act 1964” is replaced by “Civil Aviation Act 1990”.

(2) Subsection (1) applies on and after 1 September 1990.

## **Part 5**

### **Amendments to Goods and Services Tax Act 1985**

**122 Goods and Services Tax Act 1985**

This Part amends the Goods and Services Tax Act 1985.

**123 Zero-rating**

(1) After section 11(2)(c), the following is inserted:

- “(caa) The services are provided to overseas postal organisations for the delivery, in New Zealand, of postal articles mailed outside New Zealand; or”
- (2) Subsection (1) applies on and after 1 April 1999.

**Part 6**  
**Amendments to Taxation (Simplification  
and Other Remedial Matters) Act 1998**

**124 Taxation (Simplification and Other Remedial Matters)  
Act 1998**

- (1) This Part amends the Taxation (Simplification and Other Remedial Matters) Act 1998.
- (2) In section 64(1), in the new section NC 15(1)(b), “of the Tax Administration Act 1994” is inserted after “section 36B”.
- (3) Subsection (2) applies on and after 1 April 1999.

**Part 7**  
**Amendments to Taxation (Tax Credits,  
Trading Stock, and Other Remedial  
Matters) Act 1998**

**125 Taxation (Tax Credits, Trading Stock, and Other  
Remedial Matters) Act 1998**

- (1) This Part amends the Taxation (Tax Credits, Trading Stock, and Other Remedial Matters) Act 1998.
- (2) Section 22(1)(d) and 22(7) is repealed.
- (3) Section 22(5) and 22(11) is repealed.
- (4) Subsection (2) applies on 26 November 1998.
- (5) Subsection (3) applies on the date this Act receives the Royal assent.