

**Reprint
as at 23 March 2020**



**Taxation (Annual Rates for 2017–18, Employment and
Investment Income, and Remedial Matters) Act 2018**

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Commencement see section 2

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Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.
Note 4 at the end of this reprint provides a list of the amendments incorporated.

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018.

2 Commencement

- (1) This Act comes into force on the date on which it receives the Royal assent, except as provided in this section.
- (2) Section 261(7) is treated as coming into force on 1 April 1995.
- (3) Section 331 is treated as coming into force on 1 April 2003.
- (4) Sections 413 and 414 are treated as coming into force on 1 April 2005.
- (5) Section 337 is treated as coming into force on 26 April 2005.
- (6) Sections 9, 10(2) and (4), 14, 16(2), 59, 60, 64, 76, 80, 102, 103, 104, 105, 106, 114, 116, 144, 146, 147, 155(2) and (3), 160(2), 161(3), 167, 168, 171, 172, 174, 176, 177, 184, 194, 214, 243(5) and (13), 245, 248, 249, 252(6), 264,

- 286(1), 293(3), 330, and 342(1) are treated as coming into force on 1 April 2008.
- (7) Sections 37 and 293(4) are treated as coming into force on 1 July 2008.
 - (8) Section 256(2) is treated as coming into force on 3 July 2008.
 - (9) Sections 77 and 173 are treated as coming into force on 1 April 2009.
 - (10) Section 88 is treated as coming into force on 30 June 2009.
 - (11) Sections 84(2), 85, 160(1) and (3), and 161(1), (2), and (4) are treated as coming into force on 1 July 2009.
 - (12) Section 366 is treated as coming into force on 6 October 2009.
 - (13) Section 333(2) is treated as coming into force on 9 December 2009.
 - (14) Sections 128, 129, 130, and 278(2) are treated as coming into force on 1 April 2010.
 - (15) Section 136 is treated as coming into force on 1 June 2010.
 - (16) Section 243(68) is treated as coming into force on 1 July 2010.
 - (17) Section 339 is treated as coming into force on 7 September 2010.
 - (18) Sections 44, 78, 79, 81, 82, 122, and 243(16)(a) and (b), (70), and (72) are treated as coming into force on 1 April 2011.
 - (19) Sections 39, 48, and 253 are treated as coming into force on 1 April 2012.
 - (20) Section 243(15) is treated as coming into force on 1 July 2013.
 - (21) Sections 66 and 86 are treated as coming into force on 1 April 2014.
 - (22) Sections 31, 157, and 243(2), (25), (41), and (48) are treated as coming into force on 14 April 2014.
 - (23) Sections 34, 67, 165, 166, 170, and 243(21), (35), and (37) are treated as coming into force on 1 April 2015.
 - (24) Section 110 is treated as coming into force on 1 October 2015.
 - (25) Sections 12, 47, 65(1), 94, 243(3), 254, 314, and 333(1) are treated as coming into force on 1 April 2016.
 - (26) Section 137 is treated as coming into force on 6 April 2016.
 - (27) Section 342(2) is treated as coming into force on 3 May 2016.
 - (28) Sections 5, 209(2), and 252(3) are treated as coming into force on 2 June 2016.
 - (29) Section 243(51) is treated as coming into force on 1 July 2016.
 - (30) Sections 23 and 36 are treated as coming into force on 21 March 2017.
 - (31) Sections 43, 68, 96 to 99, 101, 163, 164, 187, 188, 212, 213, 230, 241, 243(17), (23), (38), and (78), 311, 401, 408, 409, 410, 415, 418, and 419 are treated as coming into force on 30 March 2017.
 - (32) Sections 8, 25, 63, 65(2), 69, 91, 92, 117, 120, 138, 139, 152(2), 154, 220(2) and (3), 224, 225, 243(9), (36), (42), (44), (45), (50), and (69), 250, 251(1),

- 256(1) and (4), 338, 345, 399, 404, and 405 are treated as coming into force on 1 April 2017.
- (33) Section 256(3) is treated as coming into force on 11 August 2017.
- (34) Sections 11, 15, 17(1) and (3)(a) and (c), 19, 22, 24, 32, 42, 50, 61, 87, 109, 115, 190, 192, 195, 243(14), (19), (60), (64), (73), (75), (77), and (79), and 310 come into force 6 months after the date of Royal assent.
- (35) Sections 26, 27, 28, 29, 30, 52, 53, 54, 55, 56, 57, 58, 70, 71, 72, 73, 74, 75, 83, 118, 124, 132, 140, 141, 143, 145, 148, 149, 150, 151, 152, 162, 169, 175, 185, 193, 200, 202, 204, 217, 234, 243(8), (10), (12), (27), (31), (32), (39), (40), (57), (58), (61), (62), (63), (80), and (87), 261(23), 278(2), 290, 317, 319, 325(4), 346, 347, 348, 350, 358, 359, 364, 370, 381, 382(1), 389, 392, 393, 395(1), 416, 417, and 422 come into force on 1 April 2018.
- (36) Sections 156, 255, 397, and 400 come into force on 1 July 2018.
- (37) Sections 17(2) and (3)(b), 20, 41, 100, 142, 153, 158, 159, 183, 186(2), 189, 191, 196, 197, 198(3), 199, 201, 203, 205, 206(2) and (3), 207, 208, 209(1), (3), and (4), 210, 215(2), 216, 218(4), 237, 239, 240, 243(20), (24), (26), (30), (52), (53), and (54), 252(1), (2), (4), (5), and (7), 259, 261(4), (5), (6), (13), (15), (20), (22), (25), and (26), 262, 267, 269, 270, 271, 272, 274, 275, 276, 279, 280, 281(1), 282, 283, 284, 291, 300, 301(1), 303, 305, 308, 309, 313, 315, 316, 334, 336, 340, 341, 343, 351, 352, 353(1), (5), and (6), 354, 355, 356, 357, 360(2), 361, 363, 365, 367, 371, 372(1)(a) to (c), 374, 375, 376, 377, 378, 379, 380, 382(2), 383, 384, 385, 386, 387, 388, 391, 394, 395(2), 406, and 411 come into force on 1 April 2019.
- (38) Sections 112, 121, 131, 178, 179, 180(1) and (2), 181, 182, 186(1), 215(1), 218(1), (2), and (3), 219, 220(1), 221, 222, 223, 226, 227, 228, 229, 233, 235, 236, 238, 242, 243(7), (29), (43), (46), (55), (65), (66), (67), (82), and (83), 251(2), 261(2), (3), (8), (9), (10), (12), (14), (16), (17), (18), (21), (24), and (27), 263, 265, 266, 268, 273, 281(2), 285, 286(2) to (5), 287, 288, 293(1) and (2), 294, 295, 296, 297, 298, 299, 301(2) and (3), 304, 318, 320, 322, 324, 325(1) to (3), (5) and (6), 326, 328, 329, 332, 335, 353(2) and (8), 360(3), 368, 369, 372(1)(d) and (2), 420, and 421 come into force on 1 April 2020.

Part 1

Annual rates of income tax

3 Annual rates of income tax for 2017–18 tax year

Income tax imposed by section BB 1 (Imposition of income tax) of the Income Tax Act 2007 must, for the 2017–18 tax year, be paid at the basic rates specified in schedule 1 of that Act.

Part 2

Amendments to Income Tax Act 2007

4 Income Tax Act 2007

Part 2 amends the Income Tax Act 2007.

5 Section BF 1 amended (Other obligations)

In section BF 1, in the list of defined terms, delete “withdrawal tax”.

6 Section CB 6A amended (Disposal within 2 years: bright-line test for residential land)

(1) In section CB 6A,—

- (a) in the heading, replace “**2 years**” with “**5 years**”;
- (b) in the heading to subsection (1), replace “*2 years*” with “*5 years*”;
- (c) in subsection (1), in the words before the paragraphs, replace “2 years” with “5 years”;
- (d) in subsection (2), in the words before the paragraphs, replace “2 years” with “5 years”;
- (e) in subsection (3), replace “2 years” with “5 years”;
- (f) in subsection (4), replace “2 years” with “5 years”;
- (g) in the heading to subsection (4B), replace “*2-year*” with “*5-year*”.

(2) Subsection (1) applies to a person’s disposal of residential land if the date that the person first acquires an estate or interest in the residential land is on or after the date on which the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 receives the Royal assent.

(3) Despite subsection (2), subsection (1) does not apply to a person’s disposal of a freehold estate in residential land that the person acquired as the owner of a leasehold estate with a perpetual right of renewal, if the person was granted the leasehold estate before 29 March 2018.

(4) Despite subsection (2), subsection (1) does not apply to a person’s disposal of an estate or interest in residential land that the person acquired as the result of the completion of a land development or subdivision, if before 29 March 2018 the person entered into the agreement under which they acquired the estate or interest upon the completion of the land development or subdivision.

Section 6(3): inserted (with effect on 29 March 2018), on 18 March 2019, by section 335 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section 6(4): inserted (with effect on 29 March 2018), on 18 March 2019, by section 335 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

7 Section CB 16A amended (Main home exclusion for disposal within 2 years)

- (1) In section CB 16A, in the heading, replace “2 years” with “5 years”.
- (2) Subsection (1) applies to a person’s disposal of residential land if the date that the person first acquires an estate or interest in the residential land is on or after the date on which the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 receives the Royal assent.
- (3) Despite subsection (2), subsection (1) does not apply to a person’s disposal of a freehold estate in residential land that the person acquired as the owner of a leasehold estate with a perpetual right of renewal, if the person was granted the leasehold estate before 29 March 2018.
- (4) Despite subsection (2), subsection (1) does not apply to a person’s disposal of an estate or interest in residential land that the person acquired as the result of the completion of a land development or subdivision, if before 29 March 2018 the person entered into the agreement under which they acquired the estate or interest upon the completion of the land development or subdivision.

Section 7(3): inserted (with effect on 29 March 2018), on 18 March 2019, by section 336 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section 7(4): inserted (with effect on 29 March 2018), on 18 March 2019, by section 336 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

8 Section CB 32C amended (Dividend income for first year of look-through company)

- (1) Replace section CB 32C(5)(b) with:
 - (b) **reserves imputation credit** is the total amount given by the formula in subsection (7B), up to the maximum permitted ratio for the untaxed reserves under section OA 18 (Calculation of maximum permitted ratios) and is treated as an attached imputation credit included in the dividend calculated under this section.
- (2) Replace section CB 32C(7)(a)(ii) with:
 - (ii) it met all of its liabilities at market value, including income tax liabilities for the disposal year but excluding income tax liabilities that would arise solely from meeting all of its liabilities at market value or from disposing of all of its property; and
- (3) After section CB 32C(7), insert:

Formula
- (7B) For the purposes of subsection (5)(b), the amount of reserves imputation credit is calculated using the formula—

$$\text{current credits} + \text{future amounts.}$$

Definition of items in formula

- (7C) In the formula in subsection (7B),—
- (a) **current credits** is the amount of the balance in the company’s imputation credit account on the relevant day;
 - (b) **future amounts** is an amount of income tax payable for an earlier income year but not paid on or before the relevant day, less refunds due for the earlier income year but paid after the relevant day.
- (4) In section CB 32C(9)—
- (a) in paragraph (a)(i) replace “imputation credit account” with “imputation credit account on the relevant day”;
 - (b) in paragraph (a)(ii) replace “before” with “on or before”.
- (5) In section CB 32C(10) replace “In subsections (7) and (9)(a)” with “In this section”.
- (6) In section CB 32C(11), in the words before the paragraphs, replace “subsection (9)(a)(ii)” with “subsections (7C)(b) and (9)(a)(ii)”.
- (7) Subsections (1) to (6) apply for the 2017–18 and later income years.

9 Section CD 5 amended (What is a transfer of value?)

- (1) In section CD 5(2B), replace “cancellation of a share of the shareholder’s rights” with “cancellation of a share or the shareholder’s rights”.
- (2) Subsection (1) applies for the 2008–09 and later income years.

10 Section CD 15 amended (Tax credits linked to dividends)

- (1) Replace section CD 15(1) with:

Imputation credits and withholding taxes

- (1) The amount of a dividend includes—
 - (a) an imputation credit attached to the dividend;
 - (b) an amount of RWT or NRWT, as applicable, withheld from or paid in relation to the dividend.
- (2) After section CD 15(3), insert:

Beneficiary income

- (3B) Despite subsection (1)(b) and for the purposes of section HC 6 (Beneficiary income), an amount excluded from beneficiary income under section HC 6(2)(c) is not included in the amount of a dividend.
- (3) In section CD 15, in the list of defined terms, insert “NRWT”, “pay”, “RWT”, “RWT substitution payment”, and “tax credit”.
- (4) Subsection (2) applies for the 2008–09 and later income years but does not apply to a person and an income year in relation to a tax position taken by the person—

- (a) in a return of income filed before 1 April 2019 for the 2008–09 or later income years; and
- (b) relating to the treatment of tax credits for resident passive income in a way that is not consistent with the amendments made in this Act for the treatment of those tax credits; and
- (c) relying on section CD 15 as it was before the amendment made by subsection (2).

11 Section CD 25 amended (Treasury stock acquisitions)

- (1) Replace section CD 25(1)(a) with:

(a) the shares acquired by the company are held by the company in itself, including shares acquired by the company as the result of the application of section CE 6 (Trusts are nominees) and, in the case of shares acquired other than as the result of the application of section CE 6, section 67A(1) of the Companies Act 1993 or section 24 of the Co-operative Companies Act 1996 apply to provide that the shares are not deemed to be cancelled; and

- (2) Replace section CD 25(2)(b) with:

(b) at the first anniversary, the company has failed to transfer a share of the same class in an arm's length transfer and has failed to allocate a share or right to a share, of the same class to an employee share scheme beneficiary under an employee share scheme, except if the company is established under New Zealand co-operative company legislation; or

- (3) After section CD 25(6), insert:

Employee share schemes

- (7) For the purposes of subsection (2), if the company has, before the first anniversary, allocated a share or right to a share to an employee share scheme beneficiary under an employee share scheme but subsequently the allocation is cancelled, the shares acquired under subsection (1) by the company are treated as acquired by the company on the date of cancellation for the amount the company paid for their acquisition under subsection (1).
- (4) In section CD 25, in the list of defined terms, insert “employee share scheme” and “employee share scheme beneficiary”.

12 New section CD 29C inserted (Transfers to shareholders by ASX-listed Australian company of shares in subsidiary)

- (1) After section CD 29B, insert:

CD 29C Transfers to shareholders by ASX-listed Australian company of shares in subsidiary

When an ASX-listed Australian company makes a transfer to shareholders of shares in a subsidiary company, the transfer is not a dividend if section ED 2B

(Transfers to shareholders by ASX-listed Australian company of shares in subsidiary) applies to the transfer.

Defined in this Act: ASX-listed Australian company, company, dividend, share, shareholder

- (2) Subsection (1) applies for the 2016–17 and later income years.

13 Section CD 36 amended (Foreign investment fund income)

- (1) In section CD 36(1)(b)(iv), replace “method.” with “method; and”.

- (2) After section CD 36(1)(b)(iv), insert:

(d) the amount is excluded income under section CX 57B (Amounts derived during periods covered by calculation methods).

- (3) In section CD 36, in the list of defined terms, insert “excluded income”.

14 Section CD 39 amended (Calculation of amount of dividend when property made available)

- (1) In section CD 39(9)(c)(ii), replace “fully-imputed” with “fully imputed”.

- (2) In section CD 39, in the list of defined terms, replace “fully-imputed dividend” with “fully imputed”.

- (3) Subsections (1) and (2) apply for the 2008–09 and later income years.

15 Section CD 43 amended (Available subscribed capital (ASC) amount)

- (1) Before section CD 43(7), insert:

Subscriptions amount increase: employee share scheme

- (6E) Unless subsection (6F) applies, when the company is part of an employee share scheme, the subscriptions amount includes, in addition to any amount under subsection (2)(b), the following amounts:

(a) if the company has a deduction under section DV 27(6) (Employee share schemes) (the **employer company**) for the employee share scheme and employee, then the subscriptions amount includes the positive amount calculated using the formula in subsection (6G), and the subscriptions amount is—

(i) for shares of the same class as the shares issued under the employee share scheme by the employer company; or

(ii) if the employer company does not issue shares under the employee share scheme, for shares of the class most similar to the shares issued under the employee share scheme:

(b) the subscriptions amount for shares of the same class as the shares issued by the company under the employee share scheme (the **issuer company**) includes the amount of the employer company’s deduction under section DV 27(6) for the employee share scheme and employee, if,—

(i) the issuer company is not the employer company; and

- (ii) the company is a member of a wholly-owned group of companies of which the employer company is a member; and
- (iii) before the application of section YC 4 (Look-through rule for corporate shareholders), no member of the wholly-owned group has a voting interest in the issuer company.

Exception to subsection (6E) by election

- (6F) Subsection (6E) does not apply if—
- (a) the shares issued under the employee share scheme are issued for market value or a reasonable estimate of market value; and
 - (b) the company elects to apply this subsection.

Formula: employer companies

- (6G) For the purposes of subsection (6E)(a), the amount is calculated using the formula—

subscription amount – consideration paid.

Definition of items in formula

- (6H) In the formula in subsection (6G),—
- (a) **subscription amount** is the amount of the company’s deduction under section DV 27(6) for the employee share scheme and employee:
 - (b) **consideration paid** is the amount of consideration paid by the company to another company that is a member of the same wholly-owned group of companies (the **payee company**) for the issue of the shares to the employee under the employee share scheme.

Employer companies’ negative amounts

- (6I) If the amount calculated using the formula in subsection (6G) is negative, then the absolute value of the amount is subtracted from the company’s subscriptions amount for the issue of shares of the class most similar to the shares issued under the employee share scheme.

Formula: employer companies’ negative amounts

- (6J) If the amount calculated using the formula in subsection (6G) is negative, then a positive amount calculated using the formula in this subsection is a dividend paid by the company to the payee company—

formula amount – ASC.

Definition of items in formula

- (6K) In the formula in subsection (6J),—
- (a) **formula amount** is the absolute value of the amount calculated using the formula in subsection (6G):

(b) **ASC** is the amount of available subscribed capital under this section, before the application of subsection (6I), for shares of the class most similar to the shares issued under the employee share scheme.

(2) After section CD 43(20), insert:

Subscriptions amount exclusion: employee share scheme

(20B) The subscriptions amount does not include an amount of consideration that the company received for the issue of shares, if the payer of the consideration for the issue of shares is a member of the same wholly-owned group of companies as the company, and the company has, before the application of section YC 4 to the company, voting interests in the payer.

(3) After section CD 43(28), insert:

Subscriptions amount decrease: employee share scheme

(29) An amount equal to the amount of the company's income under section CV 20 (Employee share schemes) or equal to the amount of income under section CV 20 for another company in the same wholly-owned group of companies, as the case may be, is subtracted from the subscriptions amount—

- (a) for shares of the same class as the shares issued under the employee share scheme by the company; or
- (b) if the company does not issue shares under the employee share scheme, for shares of the class most similar to the shares issued under the employee share scheme.

(4) In section CD 43, in the list of defined terms, insert “deduction”, “employee”, “employee share scheme”, “voting interest”, and “wholly-owned group of companies”.

16 Section CD 44 amended (Available capital distribution amount)

(1) After section CD 44(8B), insert:

Capital gain amount: FIF income calculated using fair dividend rate or cost methods

(8C) A company derives a capital gain amount for the purposes of this section in relation to an attributing interest in a FIF for which the company uses the fair dividend rate method or the cost method to calculate their FIF income for a period. The capital gain amount is an amount equal to the greater of—

- (a) the total amount of dividends and gains on disposal derived from the interest in the period that is excluded income under section CX 57B (Amounts derived during periods covered by calculation methods) reduced by the total amount of FIF income the company has from that interest for the same period; and
- (b) zero.

Gains on disposal

- (8D) For the purposes of subsection (8C)(a), a gain on disposal is the difference between the consideration on disposal of the interest and the cost of acquisition of the interest.
- (2) In section CD 44(9)(a), replace “the adjusted tax value” with “for property that is a building for which no depreciation loss arises under section EE 48(2) and (3) (Effect of disposal or event), the adjusted tax value”.
- (3) In section CD 44(18), replace “revenue account property.” with “revenue account property, and includes an attributing interest in a FIF for which income is calculated using either the fair dividend rate method or the cost method.”
- (4) In section CD 44, in the list of defined terms, insert “attributing interest”, “cost method”, “fair dividend rate method”, “FIF”, “FIF income”.
- (5) Subsection (2) applies for the 2008–09 and later income years.

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

- (1) In section CE 1(1)(d), replace “a share purchase agreement” with “an employee share scheme”.
- (2) After section CE 1(3), insert:

Persons on shadow payrolls

- (3B) A PAYE income payment that is paid by a non-resident employer to a person who undertakes employment services in New Zealand but who remains on the employer’s payroll system in a country or territory outside New Zealand is treated as derived by the person on the 20th day after payment when the employer chooses to deliver their employment income information under section 23J(3) of the Tax Administration Act 1994.
- (3) In section CE 1, in the list of defined terms,—
- (a) insert “employee share scheme”:
 - (b) insert “employer”, “employment income information”, “New Zealand”, “non-resident”, and “PAYE income payment”:
 - (c) delete “share purchase agreement”.

18 Section CE 2 amended (Value and timing of benefits under share purchase agreements)

- (1) Repeal section CE 2(7).
- (2) In section CE 2, in the list of defined terms, delete “share purchase scheme”.

19 Sections CE 2 to CE 4 replaced

Replace sections CE 2 to CE 4 with:

CE 2 Benefits under employee share schemes

Benefit

- (1) A person who is an employee share scheme beneficiary described in section CE 7(a)(i) or (ii) receives a benefit for the purposes of section CE 1(1)(d) in relation to shares or related rights under the employee share scheme equal to the positive amount calculated on the share scheme taxing date using the formula—

share value – consideration paid + consideration received – previous income.

Definition of items in formula

- (2) In the formula in subsection (1),—
- (a) **share value** is the market value of the shares or related rights owned by an employee share scheme beneficiary on the share scheme taxing date, if the share scheme taxing date is not triggered by a transfer or cancellation of the shares or related rights:
 - (b) **consideration paid** is the amount of consideration paid or payable by an employee share scheme beneficiary in relation to the transfer of the shares or related rights under the employee share scheme:
 - (c) **consideration received** is the amount of consideration paid or payable to an employee share scheme beneficiary in relation to a transfer or cancellation of the shares or related rights under the employee share scheme, not including relevant shares or related rights under a replacement employee share scheme:
 - (d) **previous income** is the total amount of income under section CE 1(1)(d) that the employee share scheme beneficiary has in relation to the shares or related rights before the date that is 6 months after the date of Royal assent for the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018.

Negative amount: deduction

- (3) A negative amount calculated using the formula in subsection (1) is a deduction of the person.

Positive and negative amount: cost of revenue account property

- (4) A positive or negative amount calculated using the formula in subsection (1) is added to the consideration paid by the person for acquiring the shares, for the purposes of section DB 23 (Cost of revenue account property).

Apportionment

- (5) For the person's benefit under subsection (1), the portion of that benefit calculated using the formula is treated as non-residents' foreign-sourced income—

benefit before reduction × offshore period ÷ earning period.

Definition of items in formula

- (6) In the formula in subsection (5),—
- (a) **benefit before reduction** is the amount of the benefit under subsection (1):
 - (b) **offshore period** is the number of days in the item **earning period** on which—
 - (i) the person is not resident in New Zealand; and
 - (ii) any services the person performs for the relevant employer give rise to an amount of income that is a foreign-sourced amount:
 - (c) **earning period** is the period ending with the vesting of shares or relevant rights in the employee share scheme beneficiary and starting with the earlier of—
 - (i) the first date used to measure the person’s right in relation to the vesting of shares or relevant rights:
 - (ii) the first date that the person has a right in relation to the vesting of shares or relevant rights.

When subsection (8) applies

- (7) Subsection (8) applies when an employer to whom section RD 22(2B) (Returns for amounts of tax paid to Commissioner) and section 46(1) of the Tax Administration Act 1994 apply—
- (a) has made an election under section RD 7B (Treatment of certain benefits under employee share schemes) to withhold and pay an amount of tax in relation to a benefit received by an employee share scheme beneficiary under this section; or
 - (b) is required to furnish an employer monthly schedule under section 46(6B) of the Tax Administration Act 1994 in relation to a benefit received by an employee share scheme beneficiary under this section.

Deferral of income recognition

- (8) Despite section CE 1(1)(d), the employee share scheme beneficiary is treated as deriving employment income in relation to the benefit in the PAYE income payment form period after the 1 in which they receive the benefit.

Defined in this Act: amount, amount of tax, consideration, deduction, employee, employee share scheme, employee share scheme beneficiary, employer, employer monthly schedule, employment income, foreign-sourced amount, income, market value, non-residents’ foreign-sourced income, pay, PAYE income payment form period, replacement employee share scheme, resident in New Zealand, share, share scheme taxing date

20 Section CE 2 amended (Benefits under employee share schemes)

- (1) Replace section CE 2(7), other than the heading, with:
- (7) Subsection (8) applies when an employer is required to provide employment income information under sections RD 22(3) (Providing employment income

information to Commissioner) and 23E to 23H of the Tax Administration Act 1994, as modified by section 23K of that Act, in relation to a benefit received under an employee share scheme.

- (2) In section CE 2(8), replace “in the PAYE income payment form period after the 1 in which they receive the benefit” with “on the ESS deferral date”.
- (3) After section CE 2(8), insert:
- Meaning of ESS deferral date*
- (9) For the purposes of this section and sections RD 6 and RD 7B (which relate to employee share schemes), the **ESS deferral date** is the 20th day after the share scheme taxing date for the employee share scheme beneficiary.
- (4) In section CE 2, in the list of defined terms,—
- (a) insert “employment income information” and “ESS deferral date”;
- (b) delete “employer monthly schedule” and “PAYE income payment form period”.

21 Section CE 5 amended (Meaning of expenditure on account of an employee)

In section CE 5, in the list of defined terms, delete “associated person”, “close company”, “dividend”, “life insurance policy”, “superannuation category 1 scheme”, “superannuation category 2 scheme”, “superannuation category 3 scheme”, and “trustee”.

22 Sections CE 6 and CE 7 replaced

Replace sections CE 6 and CE 7 with:

CE 6 Trusts are nominees

A trustee is treated as the nominee of a company (**company A**) to the extent to which the trustee’s activities relate to an employee share scheme and—

- (a) shares or related rights in company A are issued or transferred under the scheme:
- (b) shares or related rights are issued or transferred to company A’s employees, shareholder-employees, or associates of them, under the scheme.

Defined in this Act: associated person, company, employee, employee share scheme, share, shareholder-employee, trustee

CE 7 Meaning of employee share scheme

Employee share scheme means—

- (a) an arrangement with a purpose or effect of issuing or transferring shares in a company (**company A**) to a person—

- (i) who will be, is, or has been an employee of company A or of another company that is a member of the same group of companies as company A, if the arrangement is connected to the person's employment or service:
 - (ii) who will be, is, or has been a shareholder-employee in relation to company A or in relation to another company that is a member of the same group of companies as company A, if the arrangement is connected to the person's employment or service:
 - (iii) who is an associate of a person described in subparagraph (i) or (ii) (**person A**), if the arrangement is connected to person A's employment or service; but
- (b) does not include an arrangement that—
- (i) is an exempt ESS:
 - (ii) requires market value consideration to be paid by a person described in paragraph (a) for the transfer of shares in the company on the share scheme taxing date:
 - (iii) requires a person described in paragraph (a) to put shares, acquired by them for market value consideration, at risk, if the arrangement provides no protection against a fall in the value of the shares and none of the consideration for acquiring the shares is provided to the person under an agreement that it is used for acquiring the shares.

Defined in this Act: arrangement, associated person, company, consideration, employee, employment, exempt ESS, group of companies, market value, share, share scheme taxing date, shareholder-employee

CE 7B Meaning of share scheme taxing date

Meaning

- (1) **Share scheme taxing date** means, in relation to shares or related rights under an employee share scheme, the earlier of the following dates:
- (a) the first date when the shares are held by or for the benefit of an employee share scheme beneficiary (**beneficial ownership**) and after which, under the provisions of the scheme,—
 - (i) there is no material risk that beneficial ownership may change or that a right or requirement in relation to the transfer or cancellation of the shares may operate; and
 - (ii) there is no benefit accruing to the employee share scheme beneficiary in relation to a fall in value of the shares; and
 - (iii) there is no material risk that there will be a change in the terms of the shares affecting the value of the shares:

- (b) the date when the shares or related rights of an employee share scheme beneficiary are cancelled or are transferred to a person who is not associated with a beneficiary described in section CE 7(a)(i) or (ii).

Exclusions

- (2) For the purposes of applying subsection (1), the following requirements and rights are ignored:
- (a) a right or requirement in relation to transfer by the employee share scheme beneficiary for market value consideration at the time of the transfer:
 - (b) a right or requirement that is not contemplated by the employee share scheme's provisions:
 - (c) a right or requirement that, at the time it came into existence, had no material risk of operating or no material commercial significance:
 - (d) a right or requirement in relation to the transfer of shares, if the right or requirement is 1 that also applies to shares not under the employee share scheme.

Example 1 – Simple vesting period

Acme Limited transfers shares worth \$10,000 to a trustee on trust for an employee, Alice, of Acme Limited. Under the terms of the trust, Alice forfeits, for no consideration, any contingent interest or beneficial ownership in the shares if she leaves the employ of Acme Limited within 3 years of the transfer of the shares to the trustee. Alice stays for 3 years, and, under the terms of the trust, the shares are transferred absolutely to her on her 3rd anniversary of employment. It is a material risk, for the 3 years after the transfer to the trustee, that the terms of the trust will operate to forfeit any contingent interest or beneficial ownership in the shares. Consequently, the share scheme taxing date for Alice's shares is her 3rd anniversary of employment.

Example 2 – Vesting subject to misconduct

Acme Limited transfers shares worth \$10,000 to a trustee on trust for an employee, Bob, of Acme Limited. Under the terms of the trust, Bob forfeits, for no consideration, any contingent interest or beneficial ownership in the shares if he leaves the employ of Acme Limited because he is dismissed for serious misconduct within 3 years of the transfer of the shares to the trustee. It is not a material risk that the terms of the trust will operate to forfeit any contingent interest or beneficial ownership in the shares. The risk that Bob will be dismissed for serious misconduct within 3 years is not material. Consequently, the share scheme taxing date for Bob's shares is the date when the shares are transferred to the trustee.

Defined in this Act: associated person, consideration, employee share scheme, employee share scheme beneficiary, market value, share

CE 7C Meaning of employee share scheme beneficiary

Employee share scheme beneficiary means, for an employee share scheme,—

- (a) a person (**person A**) who is described in section CE 7(a):

(b) a person who is an associate of person A.

Defined in this Act: associated person, employee share scheme

CE 7D Meaning of replacement employee share scheme

Replacement employee share scheme means, for an employee share scheme (the **old scheme**), another employee share scheme to which members of the old scheme are transferred.

Defined in this Act: employee share scheme

23 Section CH 11 amended (Te Awa Tupua and Te Pou Tupua)

(1) In section CH 11(2), replace “derives income in the income year” with “is treated as deriving income for the income year of an amount”.

(2) After section CH 11(2), insert:

Defined in this Act: amount, income, income year

24 Section CQ 5 amended (When FIF income arises)

(1) In section CQ 5(1)(c)(viii), replace “(Exemption for employee share purchase scheme of grey list company)” with “(Exemptions for employee share schemes)”.

(2) In section CQ 5, in the list of defined terms, delete “non-attributing active FIF”.

25 New section CR 3B inserted (Lloyd’s of London: income from life insurance premiums)

(1) After section CR 3, insert:

CR 3B Lloyd’s of London: income from life insurance premiums

What this section applies to

(1) This section applies to a premium a portion of which is treated as having a source in New Zealand under section YD 8B (Apportionment of life insurance premiums derived by Lloyd’s of London) if—

- (a) the policyholder pays the premium for a life insurance policy to Lloyd’s of London or an agent of Lloyd’s of London; and
- (b) the life insurance policy is described in subsection (3); and
- (c) the life insurance policy is offered or was offered or entered into within New Zealand.

Amount of income

(2) Ten percent of the gross premium derived by Lloyd’s of London is income of Lloyd’s of London.

Types of life insurance policies

- (3) The life insurance policy referred to in subsection (1) is a life insurance policy that—
- (a) is made available to the general public; and
 - (b) is not a profit participation policy or a savings product policy or both; and
 - (c) does not provide for a benefit that is an annuity.

Defined in this Act: income, life insurance policy, Lloyd's of London, offered or was offered or entered into, pay, premium, profit participation policy, savings product policy, source in New Zealand

- (2) Subsection (1) applies in relation to a life insurance premium that is derived on or after 1 April 2017 by Lloyd's of London.

26 Section CT 5 amended (Petroleum mining operations outside New Zealand)

- (1) In section CT 5, replace “petroleum mining operations that are” with “petroleum mining operations that are, or decommissioning that is”.
- (2) In section CT 5, in the list of defined terms, insert “decommissioning”.
- (3) Subsection (1) applies for the 2018–19 and later income years.

27 New section CT 5B inserted (Resuming commercial production)

- (1) After section CT 5, insert:

CT 5B Resuming commercial production

When this section applies

- (1) This section applies when a petroleum miner or a farm-in party undertakes commercial production in a permit area when a petroleum miner, or a farm-in party, has received a deduction under section EJ 13 (Permanently ceasing petroleum mining operations) for permanently ceasing petroleum mining operations in the permit area.

Income

- (2) An amount described in subsection (3) is treated as income of the petroleum miner who, at any time after the petroleum mining operations have ceased under section EJ 13,—
- (a) undertakes commercial production (the **resumed commercial production**) in the permit area:
 - (b) arranges for a farm-in party to undertake the resumed commercial production in the permit area.

Amount treated as income

- (3) The amount referred to in subsection (2) that is treated as income is an amount that is equal to the amount of the deduction allowed under section EJ 13 to the

extent to which it relates to a petroleum mining asset that is used or is to be used in the resumed commercial production.

Allocation of income

- (4) The amount is allocated to the income year in which the resumed commercial production in the permit area begins.

Defined in this Act: amount, commercial production, deduction, farm-in party, farm-out arrangement, income, income year, permit area, petroleum development expenditure, petroleum miner, petroleum mining asset, petroleum mining operations, petroleum permit

- (2) Subsection (1) applies for the 2018–19 and later income years.

28 Section CT 6 amended (Meaning of petroleum miner)

- (1) In section CT 6(1), replace “petroleum mining operations” with “petroleum mining operations or decommissioning”.
- (2) In section CT 6(2), replace “petroleum mining operations” with “petroleum mining operations or decommissioning”.
- (3) In section CT 6, in the list of defined terms, insert “decommissioning”.
- (4) Subsections (1) and (2) apply for the 2018–19 and later income years.

29 Section CT 6B amended (Meaning of petroleum mining operations)

- (1) Repeal section CT 6B(2)(e).
- (2) In section CT 6B, in the list of defined terms, delete “removal or restoration operations”.
- (3) Subsection (1) applies for the 2018–19 and later income years.

30 Section CT 7 amended (Meaning of petroleum mining asset)

- (1) In section CT 7(3)(d), replace “removal or restoration operations” with “decommissioning”.
- (2) In section CT 7, in the list of defined terms—
- (a) insert “decommissioning”;
 - (b) delete “removal or restoration operations”.
- (3) Subsection (1) applies for the 2018–19 and later income years.

31 Section CV 17 amended (Non-exempt charities: taxation of tax-exempt accumulation)

In section CV 17, replace “charities: taxation” with “charities: treatment”.

32 New section CV 20 inserted (Employee share schemes)

After section CV 19, insert:

CV 20 Employee share schemes

An amount of income that a person has under section DV 27(9) (Employee share schemes) is income of the person.

Defined in this Act: amount, employee share scheme, income

33 Section CW 10 amended (Dividend within New Zealand wholly-owned group)

In section CW 10, in the list of defined terms, delete “amount”, “deduction”, “income year”, “net income”, and “tax avoidance arrangement”.

34 Section CW 17CB amended (Payments for certain work-related meals)

(1) After section CW 17CB(7), insert:

Meaning of employer’s workplace

(7B) In this section, **employer’s workplace** means the workplace of the employer at which the employee normally works.

(2) In section CW 17CB, in the list of defined terms, insert “employer’s workplace”.

35 New sections CW 26B to CW 26G inserted

After section CW 26, insert:

CW 26B Exempt ESS

An amount derived from an exempt ESS is exempt income.

Defined in this Act: amount, exempt ESS, exempt income

CW 26C Meaning of exempt ESS

Exempt ESS

(1) **Exempt ESS** means—

(a) a scheme that had the Commissioner’s approval under section DC 12 (Loans to employees under share purchase schemes) before that section’s repeal by the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018:

(b) an arrangement of which the Commissioner has been notified under section 63B(1) of the Tax Administration Act 1994, if—

(i) the arrangement meets the criteria in subsections (2) to (9) of this section; and

(ii) the Commissioner has received all forms due under section 63B(2) and (3) of the Tax Administration Act 1994.

Purchase of shares

(2) The arrangement must provide that—

- (a) the shares are available for no more than their market value at the date of purchase or subscription; and
- (b) the market value of the shares purchased or subscribed for by an employee, or a trustee for an employee, under the arrangement is less than or equal to \$5,000 in a year; and
- (c) the difference between the market value of the shares purchased or subscribed for by an employee or a trustee and the amount that an employee spends on buying shares under the arrangement is less than or equal to \$2,000 in a year.

Eligibility

- (3) The arrangement must provide that—
 - (a) a full-time permanent employee to whom an offer under the arrangement is made is eligible to participate in the arrangement, on an equal basis with 90% or more of other full-time permanent employees to whom an offer under the arrangement is not subject to foreign security disclosure rules; and
 - (b) if it applies to part-time employees, those employees to whom an offer under the arrangement is made are eligible to participate in the arrangement, on an equal basis with 90% or more of other part-time employees to whom an offer under the arrangement is not subject to foreign security disclosure rules; and
 - (c) if it applies to seasonal workers, those employees to whom an offer under the arrangement is made are eligible to participate in the arrangement, on an equal basis with 90% or more of other seasonal workers to whom an offer under the arrangement is not subject to foreign security disclosure rules; and
 - (d) if it requires that an employee spend a minimum amount on buying shares, it requires no more than \$1,000 to be spent in a year; and
 - (e) if it requires that an employee must have a minimum period of employment or service before the employee is eligible to participate, it requires—
 - (i) no more than 3 years full-time work, for full-time employees; and
 - (ii) no more than an accumulated period that is the equivalent of 3 years full-time work, for other employees.

Payments

- (4) The arrangement must provide that—
 - (a) if it requires that an employee must buy the shares for more than nominal consideration,—
 - (i) a loan for the cost of the shares is available to the employee; or

- (ii) the employee may pay for or buy the shares in regular instalments of a month or less, and any regular instalments are subject to paragraph (d)(ii); and
- (b) any loan to an employee to buy shares is free of interest and other charges; and
- (c) any loan or regular instalments have a maximum term of 60 months and a minimum term of 36 months; and
- (d) any loan to an employee to buy shares is repayable by regular instalments of a month or less, but—
 - (i) the loan is repayable early in full or in part at the employee’s discretion; and
 - (ii) in the case of an employee who is on unpaid or parental leave for more than a month, the regular instalments are suspended while on leave and the term of the loan is extended as appropriate.

Serious hardship

- (5) The arrangement must provide, in the case of serious hardship that results or may result from an employee’s continued participation in the exempt ESS, that, with the employee’s agreement,—
 - (a) any regular instalments and any other terms related to payment by the employee may be varied; or
 - (b) the employee may withdraw from the arrangement, and any shares are bought from the employee for their market value on the day of withdrawal, subject to the repayment of any outstanding loan.

Withdrawal

- (6) The arrangement must provide that the employee may withdraw from the arrangement on giving 1 month’s notice to the relevant party. Any shares must be bought from the employee for the lesser of their market value on the day of withdrawal and their cost to the employee, subject to the repayment of any outstanding loan.

Period of restriction

- (7) The arrangement must provide that,—
 - (a) if the employee has not acquired the shares for market value, there is a period of restriction during which the shares must not be disposed of and that period of restriction is the shorter of—
 - (i) a period of 3 years starting on the date the employee acquired the shares, or the period of repayment of a loan made to them under the scheme for this purpose, whichever is longer; and
 - (ii) a period starting on the date the employer acquired the shares and ending on the date the employee ends their employment with the

company that employs them, or a company in the same group of companies if the employee is transferred; or

- (b) if the employee has acquired the shares for market value, there is a period of restriction during which the shares must not be disposed of and that period of restriction is no longer than the shorter of—
 - (i) the shortest period in paragraph (a)(i) and (ii); and
 - (ii) any period of restriction provided by the arrangement, if that period finishes on or after the date on which the employee has no further repayment obligations for a loan made to them under the scheme.

End of period of restriction: general rule

- (8) When the period of restriction provided by subsection (7) ends, the arrangement must provide that—
 - (a) the shares are transferred to the employee if the employee is still employed by the relevant company and they have not already been transferred; or
 - (b) if the employee chooses, the shares are purchased for the lesser of—
 - (i) the cost of the shares to the employee;
 - (ii) the market value of the shares on the date the period of restriction ends.

End of period of restriction: certain cases

- (9) Despite subsection (8), when a period of restriction ends because the employee's employment ends through their death, accident, sickness, redundancy, or retirement at normal retiring age, the arrangement must provide that—
 - (a) the shares are transferred to the former employee if they have not already been transferred, or transferred to the legal representative of the employee's estate, as appropriate; or
 - (b) if the employee chooses, the shares are purchased for the lesser of—
 - (i) the cost of the shares to the employee;
 - (ii) the market value of the shares on the date the period of restriction ends.

Defined in this Act: amount, arrangement, Commissioner, company, employee, employer, employment, exempt ESS, group of companies, interest, loan, market value, normal retiring age, notice, pay, share, trustee, year

CW 26D Meaning of employee

For the purposes of section CW 26C, **employee**—

- (a) means a person that is employed by a company; but
- (b) does not include a person who,—

- (i) is a director of the company, unless they are employed by the company:
- (ii) is a corporation sole, a body corporate, or an unincorporated body:
- (iii) with any associated person, holds 10% or more of the issued capital of the company.

Defined in this Act: associated person, company, director, employment

CW 26E Meaning of normal retiring age

For the purposes of section CW 26C, **normal retiring age** means,—

- (a) for an employee other than 1 to whom paragraph (b) applies, no less than 60 years of age:
- (b) for a female employee who is entitled under a contract of employment entered into before 1 April 1978 with the company that employs her to retire before 60 years of age, no less than 55 years of age:
- (c) for any employee, an age that is earlier than the age referred to in paragraph (a) or (b) and that the Commissioner considers reasonable given the nature of the employment or the general terms of employment in the business or occupation of the employee.

Defined in this Act: business, Commissioner, company, employee, employment, normal retiring age

CW 26F Meaning of share

For the purposes of section CW 26C, **share** means, for a company whose shares are made available under an exempt ESS, a fully paid ordinary share that ranks equally with, and has the same designation as, an existing ordinary voting share in the company.

Defined in this Act: company, exempt ESS, share

CW 26G Meaning of trustee

For the purposes of section CW 26C, **trustee** means a group of persons appointed to administer an exempt ESS of a company that employs an employee, and to hold shares under that scheme on trust for the employee during any period of restriction described in section CW 26C(7).

Defined in this Act: company, employee, exempt ESS, group of persons, share, trustee

36 Section CW 40C amended (Te Pou Tupua)

In section CW 40C,—

- (a) before subsection (1), insert “*Exempt income*” as a subsection heading:
- (b) before subsection (2), insert “*Exclusion*” as a subsection heading:
- (c) after subsection (2), insert:

Defined in this Act: amount, exempt income, income

37 Section CW 41 amended (Charities: non-business income)

- (1) In section CW 41(5)(a), replace “trustee or trustees of a trust” with “trustee”.
- (2) In section CW 41(5)(b), replace “trustee or trustee of a trust” with “trustee”.
- (3) In section CW 41(5)(c), replace “trustee or trustee of a trust” with “trustee”.

38 Section CX 5 amended (Relationship with exempt income)

In section CX 5, in the list of defined terms, delete “expenditure on account of an employee”, “life insurance policy”, and “premium”.

39 New section CX 55B inserted (Proceeds from disposal of certain shares and financial arrangements)

- (1) After section CX 55, insert:

CX 55B Proceeds from disposal of certain shares and financial arrangements*Disposal of shares*

- (1) An amount that a foreign PIE equivalent derives for an income year from the disposal of a share is excluded income of the foreign PIE equivalent for the income year.

Disposal of financial arrangements

- (2) An amount that a foreign PIE equivalent derives for an income year from the disposal of a financial arrangement is excluded income of the foreign PIE equivalent for the income year.

Exclusion

- (3) Subsection (2) does not apply to an amount of interest referred to in schedule 6, table 1B, row 6 (Prescribed rates: PIE investments and retirement scheme contributions).

Defined in this Act: amount, excluded income, financial arrangement, foreign PIE equivalent, income year, interest, share

- (2) Subsection (1) applies for the 2012–13 and later income years.

40 New cross-heading and section CX 57B inserted

After section CX 57, insert:

Foreign investment income**CX 57B Amounts derived during periods covered by calculation methods***When this section applies*

- (1) This section applies when a person derives an amount other than FIF income from an attributing interest in a FIF in a period for which they have used a calculation method referred to in section EX 59(1) (Codes: comparative value method, deemed rate of return method, fair dividend rate method, and cost method) to calculate their FIF income or loss.

Excluded income

- (2) The amount derived is excluded income of the person.

Defined in this Act: amount, attributing interest, calculation method, excluded income, FIF, FIF income, FIF loss

41 Section CX 60 amended (Intra-group transactions)

- (1) Replace section CX 60(1), other than the heading, with—

- (1) This section applies when a company that is part of a consolidated group derives an amount referred to in section FM 8(3) (Transactions between group companies: income) from a transaction or arrangement with another company that is part of the same group and the amount would not be income if the group were 1 company.

- (2) In section CX 60(2), replace “The amount” with “To the extent to which the amount is not an amount referred to in section FM 8(3)(d), the amount”.

- (3) Subsection (1) applies for the 2019–20 and later income years.

42 Section CZ 1 replaced (Share purchase agreement income before 19 July 1968)

Replace section CZ 1 with:

CZ 1 Grandparented shares under employee share schemes

When this section applies

- (1) This section applies when, for shares under an employee share scheme,—
- (a) the shares were granted or acquired under the employee share scheme before the date that is 6 months after the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 receives the Royal assent, and—
 - (i) the shares were granted or acquired for purposes not including the purpose of avoiding the future application of the employee share scheme provisions in that Act (the **new ESS provisions**); and
 - (ii) the share scheme taxing date for the shares is before 1 April 2022:
 - (b) the shares were granted or acquired under the employee share scheme before 12 May 2016.

Grandparenting

- (2) The new ESS provisions do not apply for the shares. Instead, the provisions of this Act that would apply ignoring the enactment of the new ESS provisions apply for the shares.

Defined in this Act: employee share scheme, income, share, share scheme taxing date

43 Section CZ 9 amended (Available capital distribution amount: 1965 and 1985–1992)

In section CZ 9(1)(a), replace “those provisions were repealed” with “that provision was repealed”.

44 Section DB 11 amended (Negative base price adjustment)

- (1) After section DB 11(1B), insert:

Deduction: cessation of LTCs and dissolution of limited partnerships

- (1C) A person who has a negative base price adjustment under section EW 31(4) for a financial arrangement is allowed a deduction for an amount of the negative base price adjustment to the extent to which—

- (a) section EW 47B (Cessation of LTCs and dissolution of partnerships) applies; and
- (b) the amount is equal to or less than the consideration that they are treated as having paid, or that is or will be payable, by them for or under the relevant financial arrangement, under section EW 47B(2)(a).

- (2) Subsection (1) applies for income years beginning on or after 1 April 2011.

45 Section DB 18A amended (Ring-fenced allocations: disposal of residential land within 2 years)

- (1) In section DB 18A,—

- (a) in the heading, replace “2 years” with “5 years”;
- (b) in subsection (1), replace “2 years” with “5 years”.

- (2) Subsection (1) applies to a person’s disposal of residential land if the date that the person first acquires an estate or interest in the residential land is on or after the date on which the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 receives the Royal assent.

- (3) Despite subsection (2), subsection (1) does not apply to a person’s disposal of a freehold estate in residential land that the person acquired as the owner of a leasehold estate with a perpetual right of renewal, if the person was granted the leasehold estate before 29 March 2018.

- (4) Despite subsection (2), subsection (1) does not apply to a person’s disposal of an estate or interest in residential land that the person acquired as the result of the completion of a land development or subdivision, if before 29 March 2018 the person entered into the agreement under which they acquired the estate or interest upon the completion of the land development or subdivision.

Section 45(3): inserted (with effect on 29 March 2018), on 18 March 2019, by section 337 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section 45(4): inserted (with effect on 29 March 2018), on 18 March 2019, by section 337 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

46 Section DB 18AB amended (Deduction cap: disposal of residential land within 2 years to associated persons)

- (1) In section DB 18AB,—
 - (a) in the heading, replace “2 years” with “5 years”;
 - (b) in subsection (1)(a), replace “2 years” with “5 years”.
- (2) Subsection (1) applies to a person’s disposal of residential land if the date that the person first acquires an estate or interest in the residential land is on or after the date on which the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 receives the Royal assent.
- (3) Despite subsection (2), subsection (1) does not apply to a person’s disposal of a freehold estate in residential land that the person acquired as the owner of a leasehold estate with a perpetual right of renewal, if the person was granted the leasehold estate before 29 March 2018.
- (4) Despite subsection (2), subsection (1) does not apply to a person’s disposal of an estate or interest in residential land that the person acquired as the result of the completion of a land development or subdivision, if before 29 March 2018 the person entered into the agreement under which they acquired the estate or interest upon the completion of the land development or subdivision.

Section 46(3): inserted (with effect on 29 March 2018), on 18 March 2019, by section 338 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section 46(4): inserted (with effect on 29 March 2018), on 18 March 2019, by section 338 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

47 New section DB 23B inserted (Revenue account property: certain intra-group transactions)

- (1) After section DB 23, insert:

DB 23B Revenue account property: certain intra-group transactions

When this section applies

- (1) This section applies when—
 - (a) a company that is part of a consolidated group at a time during an income year derives an amount of income from a transaction or arrangement with another company in the consolidated group at the same time; and
 - (b) the transaction or arrangement relates to an excepted financial arrangement that—
 - (i) is revenue account property; and
 - (ii) ceases to exist, whether through redemption or cancellation, or on amalgamation or liquidation, or otherwise; and

- (c) the amount is excluded income under section FM 8 (Transactions between group companies: income).

No deduction for expenditure incurred

- (2) Despite section DB 23, the company is denied a deduction for expenditure incurred in relation to the excepted financial arrangement as the cost of revenue account property.

No deduction for closing value

- (3) Despite section DB 49, the company is denied a deduction for the value that the excepted financial arrangement had at the end of the previous income year.

Link with subpart DA

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

Defined in this Act: amalgamation, amount, arrangement, cancellation, company, consolidated group, deduction, excepted financial arrangement, excluded income, general permission, income, income year, liquidation, revenue account property

- (2) Subsection (1) applies for the 2016–17 and later income years.

48 New section DB 54C inserted (Certain expenditure incurred by foreign PIE equivalents)

- (1) After section DB 54B, insert:

DB 54C Certain expenditure incurred by foreign PIE equivalents

When this section applies

- (1) This section applies for an income year when a foreign PIE equivalent incurs expenditure or loss in deriving an amount to which section CX 55B (Proceeds from disposal of certain shares and financial arrangements) applies.

No deduction

- (2) The foreign PIE equivalent is denied a deduction for the amount of the expenditure or loss.

Link with subpart DA

- (3) This section overrides the general permission.

Defined in this Act: amount, deduction, foreign PIE equivalent, general permission, income year

- (2) Subsection (1) applies for the 2012–13 and later income years.

49 Sections DC 12 to DC 15 repealed

Sections DC 12 to DC 15 are repealed.

50 Section DN 6 amended (When FIF loss arises)

In section DN 6(1)(c)(viii), replace “(Exemption for employee share purchase scheme of grey list company)” with “(Exemptions for employee share schemes)”.

51 New section DN 9 inserted (Treatment of certain costs incurred in acquiring FIF interests)

After section DN 8, insert:

DN 9 Treatment of certain costs incurred in acquiring FIF interests

No deduction

- (1) A person is denied a deduction for an amount of expenditure that they incur in acquiring a FIF interest from which income under section CX 57B (Amounts derived during periods covered by calculation methods) is derived.

Link with subpart DA

- (2) This section overrides the general permission.

Defined in this Act: amount, deduction, FIF interest, general permission, income

52 Section DT 5 amended (Petroleum development expenditure)

- (1) In section DT 5(2)(b), replace “method).” with “method); or”.
- (2) After section DT 5(2)(b), insert:
- (c) section EJ 13 (Permanently ceasing petroleum mining operations).
- (3) Subsections (1) and (2) apply for the 2018–19 and later income years.

53 Section DT 7 amended (Exploratory well expenditure)

- (1) Replace section DT 7(2), other than the heading, with:
- (2) An amount equal to the amount that is treated as income is treated as petroleum development expenditure—
- (a) incurred by the petroleum miner in the income year in which commercial production from the well starts; and
- (b) allocated as provided by section DT 5(2).
- (2) Subsection (1) applies for the 2018–19 and later income years.

54 New section DT 7B inserted (Resuming commercial production: petroleum development expenditure)

- (1) After section DT 7, insert:

DT 7B Resuming commercial production: petroleum development expenditure

When this section applies

- (1) This section applies when a petroleum miner has had an amount of petroleum development expenditure treated as income under section CT 5B (Resuming commercial production).

Amount of income treated as petroleum development expenditure

- (2) An amount equal to the amount that is treated as income under section CT 5B is treated as petroleum development expenditure—

- (a) incurred by the petroleum miner in the income year referred to in section CT 5B; and
- (b) allocated as provided by section DT 5(2).

Defined in this Act: amount, deduction, income, income year, petroleum development expenditure, petroleum miner

- (2) Subsection (1) applies for the 2018–19 and later income years.

55 Section DT 15 amended (Persons associated with petroleum miner)

- (1) In section DT 15(1)(b)(i), replace “petroleum mining operations” with “petroleum mining operations or decommissioning”.
- (2) In section DT 15(1)(b)(iii), replace “petroleum mining operations” with “petroleum mining operations or decommissioning”.
- (3) In section DT 15(2), replace “petroleum mining operations” with “petroleum mining operations or decommissioning”.
- (4) In section DT 15(3), replace “petroleum mining operations” with “petroleum mining operations or decommissioning”.
- (5) In section DT 15, in the list of defined terms, insert “decommissioning”.
- (6) Subsections (1) to (4) apply for the 2018–19 and later income years.

56 Section DT 16 amended (Removal or restoration operations)

- (1) In the section heading of section DT 16, replace “**Removal or restoration operations**” with “**Decommissioning**”.
- (2) In section DT 16(1), replace “removal or restoration operations” with “decommissioning”.
- (3) In section DT 16, in the list of defined terms,—
 - (a) insert “decommissioning”;
 - (b) delete “removal or restoration operations”.
- (4) Subsections (1) and (2) apply for the 2018–19 and later income years.

57 Section DT 17 amended (Attribution of expenditure)

- (1) In section DT 17(3), replace the subsection heading with “*Relationship between subpart and section GB 20*”.
- (2) In section DT 17(3), delete “and IS 5 (Petroleum miners’ tax losses)”.
- (3) Subsections (1) and (2) apply for the 2018–19 and later income years.

58 Section DT 20 amended (Petroleum mining operations outside New Zealand)

- (1) In section DT 20, replace “petroleum mining operations that are” with “petroleum mining operations that are or decommissioning that is”.
- (2) In section DT 20, in the list of defined terms, insert “decommissioning”.

(3) Subsection (1) applies for the 2018–19 and later income years.

59 Section DU 7 amended (Deduction for certain mining expenditure spread on basis of units of production)

(1) After section DU 7(1), insert:

What this section does not apply to

(1B) This section does not apply to an amount of mining outgoing excess of a loss-attributing qualifying company.

(2) Subsection (1) applies for the 2008–09, 2009–10, and 2010–11 income years.

60 Section DV 2 amended (Transfer of expenditure to master fund)

In section DV 2(8B), in the subsection heading, replace “*portfolio tax rate entity*” with “*multi-rate PIE*”.

61 New cross-heading and section DV 27 inserted

After section DV 26 insert:

Employee share schemes

DV 27 Employee share schemes

When this section applies

(1) This section applies when a person is party to an employee share scheme.

No deduction except as provided by this section

(2) Except as provided by this section, the person is denied a deduction for an amount of expenditure or loss for an income year incurred in relation to the employee share scheme.

Interest, establishment and management

(3) Subsection (2) does not apply to an amount of expenditure or loss to the extent to which the amount relates to—

(a) a loan or interest:

(b) establishing or managing the employee share scheme.

Deduction under section CE 2(3)

(4) The person is allowed a deduction for the amount of the deduction they are allowed under section CE 2(3) (Benefits under employee share schemes) for the income year.

Employment income

(5) The person is allowed a deduction for an amount of expenditure or loss incurred on employment income other than under section CE 1(1)(d) (Amounts derived in connection with employment).

Deduction for benefit

- (6) If the person is the employing or contracting company for an employee share scheme beneficiary described in section CE 7(a)(i) or (ii) (Meaning of employee share scheme) (the **employee**), the person has an amount of expenditure or loss calculated using the formula in subsection (7).

Formula

- (7) For the purposes of subsection (6), the amount of the expenditure or loss is the positive amount calculated using the formula—

employee amount – previous deductions.

Definition of items in formula

- (8) In the formula,—
- (a) **employee amount** is the amount for the employee calculated under the formula in section CE 2(1):
- (b) **previous deductions** is the total amount of deductions that have been allowed to a party to the employee share scheme or an associate for expenditure or loss incurred—
- (i) in relation to the employee amount; and
- (ii) before the date that is 6 months after the date of Royal assent for the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018.

Income

- (9) A negative amount calculated using the formula in subsection (7) is an amount of income of the person.

Link with subpart DA

- (10) Subsection (4) supplements the general permission. Subsection (4) overrides the employment limitation.

Defined in this Act: amount, associated person, company, deduction, employee share scheme, employee share scheme beneficiary, employment income, employment limitation, general permission, income, income year, interest, loan, share

62 New section DV 28 inserted (Exempt employee share schemes)

- (1) Before the heading to subpart DW, insert:

DV 28 Exempt employee share schemes*When this section applies*

- (1) This section applies when a person is party to an exempt ESS.

No deduction

- (2) The person is denied a deduction for expenditure or loss in relation to the exempt ESS, except to the extent to which the expenditure or loss relates to establishing or managing the exempt ESS.

Defined in this Act: exempt ESS, deduction

- (2) Subsection (1) applies—
- (a) on and after the date on which the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 receives the Royal assent, unless paragraph (b) applies:
- (b) on and after 6 April 2017, if shares under the exempt ESS were acquired after that date in other than the ordinary course of the exempt ESS.

63 New section DW 3B inserted (Lloyd’s of London: deductions for life insurance business)

- (1) After section DW 3, insert:

DW 3B Lloyd’s of London: deductions for life insurance business

No deductions

- (1) Lloyd’s of London is denied a deduction for expenditure incurred in deriving income under section CR 3B (Lloyd’s of London: income from life insurance premiums).

Link with subpart DA

- (2) This section overrides the general permission.

Defined in this Act: deduction, general permission, income, Lloyd’s of London, premium

- (2) Subsection (1) applies in relation to a life insurance premium that is derived on or after 1 April 2017 by Lloyd’s of London.

64 Section EA 2 amended (Other revenue account property)

- (1) Replace section EA 2(1)(e) with:

(e) property under a specified lease or a lease to which section EJ 10 (Personal property lease payments) applies:

- (2) In section EA 2(1)(f), replace “sections EJ 12 to EJ 20” with “sections DT 1, DT 5, and EJ 12 to EJ 20”.

65 New section ED 2B inserted (Transfers to shareholders by ASX-listed Australian company of shares in subsidiary)

- (1) After section ED 2, insert:

ED 2B Transfers to shareholders by ASX-listed Australian company of shares in subsidiary*When this section applies*

- (1) This section applies when—
- (a) a company (the **splitting company**) is an ASX-listed Australian company under subsection (8); and
 - (b) the splitting company transfers the shares in a company (the **subsidiary**) owned by the splitting company to the shareholders of the splitting company; and
 - (c) for each shareholder (the **participating shareholder**) who holds shares in the subsidiary immediately after the transfer of shares (the **share transfer**), any difference between the participating shareholder's proportion of the total shares in the subsidiary held immediately after the share transfer and the participating shareholder's proportion of the total shares in the splitting company held by participating shareholders immediately before the share transfer, is negligible or may be ignored under subsection (2); and
 - (d) the share transfer is not a payment of assessable income or exempt income under the Income Tax Assessment Act 1936 (Aust).
- (2) For the purpose of subsection (1)(c), a difference between a shareholder's proportion of the total shares in the subsidiary and the shareholder's proportion of the total shares in the splitting company held by participating shareholders may be ignored if the difference arises from the transfer or non-transfer of ownership interests under the share transfer, where—
- (a) the ownership interests have a market value that is a negligible proportion of the total market value of ownership interests in the subsidiary; and
 - (b) each transfer or non-transfer is intended to facilitate the share transfer or is the direct result of impossibility or impracticability for a shareholder caused by the requirements of laws relating to securities.

Cost of shares in splitting company after transfer

- (3) The cost for a shareholder of the shares in the splitting company that are held by the shareholder after the share transfer is the amount calculated using the formula—

$$\text{cost before transfer} \times \text{value after transfer} \div (\text{value acquired shares} + \text{value after transfer}).$$
Cost of shares in new company

- (4) The cost for a shareholder of the shares acquired in the share transfer is the amount calculated using the formula—

cost before transfer \times value acquired shares \div (value acquired shares + value after transfer).

Definition of items in formulas

- (5) In the formulas in subsections (3) and (4),—
- (a) **cost before transfer** is the cost for the shareholder, immediately before the share transfer, of the shares in the splitting company held by the shareholder immediately after the share transfer:
 - (b) **value after transfer** is the market value of the shares in the splitting company held by the shareholder immediately after the share transfer:
 - (c) **value acquired shares** is the market value of the shares in the subsidiary held by the shareholder immediately after the share transfer.

Available subscribed capital amounts

- (6) Immediately after the share transfer, the available subscribed capital,—
- (a) for each share held in the subsidiary, is—
 - (i) the amount given by section CD 43 (Available subscribed capital (ASC) amount) for the share; or
 - (ii) zero, if it is impractical to recognise an amount of available subscribed capital for the shares held in the subsidiary:
 - (b) for the shares held in the splitting company, equals the amount of the available subscribed capital for the shares in the splitting company held immediately before the share transfer, reduced by the total amount given by paragraph (a) for the shares held in the subsidiary immediately after the share transfer.

Not dividend

- (7) The transfer of the shares in the subsidiary to the shareholders in the splitting company is not a dividend.

Meaning of ASX-listed Australian company

- (8) **ASX-listed Australian company** means a company that—
- (a) is resident in Australia; and
 - (b) is treated as resident in no tax jurisdiction other than Australia under each agreement that—
 - (i) is between Australia and another tax jurisdiction; and
 - (ii) would be a double tax agreement if negotiated between New Zealand and the other tax jurisdiction; and
 - (c) has shares included in an index that is an approved index under the ASX Operating Rules; and
 - (d) is not an entity described in schedule 25, part B (Foreign investment funds); and

(e) is required under the Income Tax Assessment Act 1997 (Aust) and Income Tax Assessment Act 1936 (Aust) to maintain a franking account.

Defined in this Act: amount, ASX-listed Australian company, available subscribed capital, company, dividend, double tax agreement, market value, resident in Australia, share, shareholder

(2) Replace section ED 2B(8)(c) with:

(c) is included on the official list of ASX Limited, a market licensee under Chapter 7 of the Corporations Act 2001 (Aust); and

(3) Subsection (1) applies for the 2016–17 and later income years.

(4) Subsection (2) applies for the 2017–18 and later income years.

66 Section EE 7 amended (What is not depreciable property?)

In section EE 7(j), delete “, except for an asset to which section DU 6(4) (Depreciation) applies”.

67 Section EE 34 amended (Annual rate for patent granted in 2005–06 or later income year)

In section EE 34(7), replace “do not to the patent” with “do not apply to the patent”.

68 Section EE 44 amended (Application of sections EE 48 to EE 51)

In section EE 44(2), replace “EE 52” with “EE 51”.

69 Section EE 60 amended (Total deductions in section EE 56)

(1) In section EE 60(2)(e), replace “section EZ 23BA(3)” with “section EZ 23BA(4)”.

(2) Subsection (1) applies for the 2017–18 and later income years.

70 Section EJ 12 amended (Petroleum development expenditure: default allocation rule)

(1) In section EJ 12(3), replace “DT 16, and IS 5” with “and DT 16”.

(2) Subsection (1) applies for the 2018–19 and later income years.

71 Section EJ 12B amended (Petroleum development expenditure: reserve depletion method)

(1) In section EJ 12B(9), replace “DT 16, and IS 5” with “and DT 16”.

(2) Subsection (1) applies for the 2018–19 and later income years.

72 Section EJ 13 replaced (Relinquishing petroleum mining permit)

(1) Replace section EJ 13 with:

EJ 13 Permanently ceasing petroleum mining operations

When this section applies

- (1) This section applies when a petroleum miner and each farm-in party to a farm-out arrangement, if any, to which the petroleum miner is a party, permanently ceases petroleum mining operations—
- (a) in a permit area for which the petroleum miner holds a petroleum permit; and
 - (b) for which petroleum development expenditure has been incurred.

Amount of deduction for petroleum miner

- (2) The amount of the deduction that the petroleum miner is allowed is the difference between—
- (a) the amount of the deduction allowed for the petroleum miner under section DT 5 (Petroleum development expenditure) and attributable to—
 - (i) the permit; or
 - (ii) an asset of the kind described in section CT 7(1)(b) or (c) (Meaning of petroleum mining asset) held solely in connection with the permit; and
 - (b) any part of the deduction for the petroleum miner allocated to, or treated as allocated to, earlier income years under section EJ 12(2) or EJ 12B(3).

Amount of deduction for farm-in party

- (3) The amount of the deduction that the farm-in party is allowed is the difference between—
- (a) the amount of the deduction allowed for the farm-in party under section DT 14 (Farm-out arrangements) for petroleum development expenditure, and attributable to—
 - (i) the permit; or
 - (ii) an asset of the kind described in section CT 7(1)(b) or (c) held solely in connection with the permit; and
 - (b) any part of the deduction for the farm-in party allocated to, or treated as allocated to, earlier income years under section EJ 12(2) or EJ 12B(3).

Timing of deduction

- (4) For the purposes of section DT 5(2)(c) (Petroleum development expenditure), the deduction is allocated to the income year in which petroleum mining operations permanently cease.

Defined in this Act: amount, deduction, farm-in party, farm-out arrangement, income year, permit area, petroleum development expenditure, petroleum miner, petroleum mining operations, petroleum permit

- (2) Subsection (1) applies for the 2018–19 and later income years.

73 Section EJ 14 repealed (Spreading deduction backwards)

- (1) Repeal section EJ 14.
- (2) Subsection (1) applies for the 2018–19 and later income years.

74 Section EJ 18 amended (Petroleum mining operations outside New Zealand)

- (1) In section EJ 18, replace the words before paragraph (a) with “Sections EJ 12 to EJ 17 and EJ 20 apply with any necessary modifications to a petroleum miner undertaking petroleum mining operations that are, or decommissioning that is,—”.
- (2) In section EJ 18(b), replace “EJ 17, EJ 19,” with “EJ 17”.
- (3) In section EJ 18, in the list of defined terms, insert “decommissioning”.
- (4) Subsections (1) and (2) apply for the 2018–19 and later income years.

75 Section EJ 20 amended (Meaning of petroleum mining development)

- (1) In section EJ 20(2)(d), replace “removal or restoration operations” with “decommissioning”.
- (2) In section EJ 20, in the list of defined terms,—
 - (a) insert “decommissioning”:
 - (b) delete “removal or restoration operations”.
- (3) Subsection (1) applies for the 2018–19 and later income years.

76 Section EJ 22 amended (Deductions for market development: product of research, development)

- (1) In section EJ 22(1), delete “under section DB 34 (Research or development)”.
- (2) Subsection (1) applies for the 2008–09 and later income years.

77 Section EW 13 amended (When use of spreading method not required)

In section EW 13(2), replace “Accident Insurance Act 1988, any” with “Accident Insurance Act 1998, any”.

78 Section EW 15H amended (Mandatory use of some determinations)

- (1) In section EW 15H(1)(e), replace “paragraphs (a) to (d)” with “paragraphs (a) to (c)” in each place where it appears.
- (2) In section EW 15H(2), replace “subsection (1)(a), (c), and (d)” with “subsection (1)(a) and (c)”.
- (3) Subsections (1) and (2) apply for a financial arrangement entered into by a person—
 - (a) in the 2014–15 income year and later income years, unless paragraph (b) applies:

- (b) in an income year (the **first income year**) and later income years, if the person files a return of income for the first income year on the basis that this section applies to a financial arrangement entered into in the first income year, and the first income year is the 2011–12, 2012–13, 2013–14, or 2014–15 income year, and the person uses IFRSs to prepare financial statements or to report for financial arrangements for the first income year.

79 Section EW 29 amended (When calculation of base price adjustment required)

- (1) After section EW 29(13), insert:

Cessation of LTCs and dissolution of partnerships

- (14) A person that is party to a financial arrangement in their capacity as owner or partner of a look-through company or a partnership must calculate a base price adjustment as at the date of disposal of the financial arrangement under section HB 4(3) or (6) or HG 4 (which relate to cessation of LTCs and dissolution of partnerships) if they are also a party in a capacity other than as owner or partner (**private capacity**). They calculate the base price adjustment under this subsection in their private capacity.
- (2) In section EW 29, in the list of defined terms, insert “look-through company”, “partner”, and “partnership”.
- (3) Subsection (1) applies for income years beginning on or after 1 April 2011.

80 Section EW 31 amended (Base price adjustment formula)

- (1) Replace section EW 31(7)(b) with:

- (b) non-integral fees, if the relevant method is—
 - (i) the IFRS financial reporting method in section EW 15D:
 - (ii) the modified fair value method in section EW 15G.

- (2) In section EW 31, in the list of defined terms, insert “fair value method”.

81 Section EW 39 amended (Consideration affected by unfavourable factors)

- (1) Repeal section EW 39(4).
- (2) In section EW 39, in the list of defined terms, delete “self-remission”.
- (3) Subsection (1) applies for income years beginning on or after 1 April 2011.

82 New heading and section EW 47B inserted

- (1) After section EW 47, insert:

*Consideration for cessation of LTCs and dissolution of partnerships***EW 47B Cessation of LTCs and dissolution of partnerships***When this section applies*

- (1) This section applies when—
 - (a) a person is required to calculate a base price adjustment under section EW 29(14) in their private capacity; and
 - (b) the person has an accrued entitlement.

Consideration limited to owner's interests

- (2) The person is treated as—
 - (a) having paid all the consideration paid, or that is or will be payable, by them for or under the relevant financial arrangement, multiplied by the proportion of their owner's interests or partner's interests in the financial arrangement in their non-private capacity; and
 - (b) having been paid the market value, on the date of disposal, of the accrued entitlement, multiplied by the proportion of their owner's interests or partner's interests in the financial arrangement in their non-private capacity.

Defined in this Act: dispose, financial arrangement, owner's interest, partner, partner's interests

- (2) Subsection (1) applies for income years beginning on or after 1 April 2011.

83 Section EX 21 amended (Attributable CFC amount and net attributable CFC income or loss: calculation rules)

- (1) In section EX 21(14)(a), replace “DT 17 to DT 19, and IS 5” with “and DT 17 to DT 19”.
- (2) In section EX 21(29), replace “DT 17 to DT 19, and IS 5” with “and DT 17 to DT 19”.
- (3) Subsections (1) and (2) apply for the 2018–19 and later income years.

84 Section EX 21B amended (Non-attributing active CFCs)

- (1) In section EX 21B(2)(b), replace “EX 21E” with “section EX 21E” in each place where it appears.
- (2) After section EX 21B(4), insert:

Part-period calculations

- (5) Section EX 21F sets out the requirements for a non-attributing active CFC when an interest holder holds an income interest for only part of an accounting period.
- (3) In section EX 21B, in the list of defined terms, insert “income interest”.

85 New section EX 21F inserted (Part-period calculations)

After section EX 21E, insert:

EX 21F Part-period calculations

When this section applies

- (1) This section applies for the purposes of sections EX 21B, EX 21C, and EX 21E when an interest holder holds an income interest for only part of an accounting period (the **part-period**).

Requirements

- (2) The interest holder may determine that a CFC is a non-attributing active CFC if—
- (a) the CFC meets the requirements of section EX 21C for the use of applicable accounting standard in the application of section EX 21E; and
 - (b) the person chooses to use the applicable accounting standard in EX 21E; and
 - (c) the CFC meets the requirements of section EX 21E, having regard to the accounts for the part-period; and
 - (d) the person, or a company that is part of the person’s group of companies, holds an income interest in the CFC for the part-period.

Determination for interest holders

- (3) A determination under subsection (2) applies for the interest holder and no other person.

Alternative default method

- (4) If the requirements of subsection (2) are not met, the interest holder must use the default test set out in section EX 21D, applying the test to the full accounting period.

Defined in this Act: accounting period, CFC, company, group of companies, income interest, non-attributing active CFC

86 Section EX 22 amended (Non-attributing Australian CFCs)

- (1) Replace section EX 22(1)(c) with:

- (c) the CFC—
- (i) is not a unit trust; or
 - (ii) is a unit trust that is subject under Australian law to income tax on its income in the same way as a company; or
 - (iii) is a unit trust whose units are owned by an entity resident in Australia as described in paragraph (a)(iii), and either the unit holder meets the requirements of paragraph (a)(ii) or the unit trust is treated as part of the head company of a consolidated group subject under Australian law to tax on its income.

- (2) Subsection (1) applies for income years beginning on or after 1 July 2014.

87 Section EX 38 amended (Exemption for employee share purchase scheme of grey list company)

- (1) In the heading to section EX 38, replace “**Exemption for employee share purchase scheme of grey list company**” with “**Exemptions for employee share schemes**”.
- (2) In section EX 38, insert after the section title, “*Grey list companies*” as a subsection heading.
- (3) In section EX 38(f) replace “share purchase agreement” with “employee share scheme”.
- (4) In section EX 38(g) replace “share purchase agreement” with “employee share scheme”.
- (5) In section EX 38, insert as a new subsection:

Share scheme taxing date

- (2) A person’s rights in a FIF in an income year are not an attributing interest to the extent to which—
- the rights are a direct income interest; and
 - section EX 30(1)(c) does not apply; and
 - the person acquires the shares or related interests under an employee share scheme; and
 - at the beginning of the year, the share scheme taxing date for the shares or related interests has not passed.
- (6) In section EX 38, in the list of defined terms,—
- insert “employee share scheme” and “share scheme taxing date”;
 - delete “share purchase agreement”.

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

- (1) In section EX 46(10)(a), replace “fixed-rate share” with “fixed-rate share that meets the requirements of the definition of **fixed-rate share**, paragraph (f)(i) or (f)(iii), or both”.
- (2) In section EX 46, in the list of defined terms, insert “fixed-rate share”.

89 Section EX 59 amended (Codes: comparative value method, deemed rate of return method, fair dividend rate method, and cost method)

- (1) Replace section EX 59(2), other than the heading, with:
- (2) An amount, other than FIF income, that is derived in the period from the interest is excluded income under section CX 57B (Amounts derived during periods covered by calculation methods).
- (2) In section EX 59, in the list of defined terms,—

- (a) insert “excluded income”:
- (b) delete “dividend”.

90 Section EX 73 amended (Election that CFC not non-attributing active CFC or FIF not non-attributing active FIF)

In section EX 73, in the list of defined terms, delete “non-attributing active FIF”.

91 Section EY 10 amended (Meaning of life insurer)

- (1) After section EY 10(2), insert:

Exclusion: Lloyd’s of London

- (2B) Except for the reference to life insurer in section EY 8 where Lloyd’s of London is treated as a life insurer, Lloyd’s of London is treated as not being a life insurer in relation to its business of providing life insurance, the premium from which is income of Lloyd’s of London under section CR 3B (Lloyd’s of London: income from life insurance premiums).
- (2) In section EY 10, in the list of defined terms, insert “Lloyd’s of London”, “life insurance policy”, and “premium”.
- (3) Subsection (1) applies in relation to a life insurance premium that is derived on or after 1 April 2017 by Lloyd’s of London.

92 Section EZ 23BA amended (Aircraft acquired before 2017–18 income year: adjusted tax value, base value, reduced; total deductions increased)

- (1) Replace section EZ 23BA(4), other than the heading, with:
- (4) For the purposes of section EE 60, an amount equal to the difference between the reduction required by subsection (2) and the reduction required by subsection (3) is included as a decrease in the item total deductions for the aircraft engine or aircraft.
- (2) Subsection (1) applies for the 2017–18 and later income years.

93 Section FB 3A amended (Residential land)

- (1) In section FB 3A(1), replace “2 years” with “5 years”.
- (2) Subsection (1) applies to a person’s disposal of residential land if the date that the person first acquires an estate or interest in the residential land is on or after the date on which the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 receives the Royal assent.
- (3) Despite subsection (2), subsection (1) does not apply to a person’s disposal of a freehold estate in residential land that the person acquired as the owner of a leasehold estate with a perpetual right of renewal, if the person was granted the leasehold estate before 29 March 2018.
- (4) Despite subsection (2), subsection (1) does not apply to a person’s disposal of an estate or interest in residential land that the person acquired as the result of

the completion of a land development or subdivision, if before 29 March 2018 the person entered into the agreement under which they acquired the estate or interest upon the completion of the land development or subdivision.

Section 93(3): inserted (with effect on 29 March 2018), on 18 March 2019, by section 339 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section 93(4): inserted (with effect on 29 March 2018), on 18 March 2019, by section 339 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

94 Section FC 2 amended (Transfer at market value)

In section FC 2(3), after “Sections”, insert “ED 2B (Transfers to shareholders by ASX-listed Australian company of shares in subsidiary) and”.

95 Section FC 9 amended (Residential land transferred to executor, administrator, or beneficiary on death of person)

- (1) In section FC 9(2), replace “2 years” with “5 years”.
- (2) Subsection (1) applies to a person’s disposal of residential land if the date that the person first acquires an estate or interest in the residential land is on or after the date on which the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 receives the Royal assent.
- (3) Despite subsection (2), subsection (1) does not apply to a person’s disposal of a freehold estate in residential land that the person acquired as the owner of a leasehold estate with a perpetual right of renewal, if the person was granted the leasehold estate before 29 March 2018.
- (4) Despite subsection (2), subsection (1) does not apply to a person’s disposal of an estate or interest in residential land that the person acquired as the result of the completion of a land development or subdivision, if before 29 March 2018 the person entered into the agreement under which they acquired the estate or interest upon the completion of the land development or subdivision.

Section 95(3): inserted (with effect on 29 March 2018), on 18 March 2019, by section 340 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section 95(4): inserted (with effect on 29 March 2018), on 18 March 2019, by section 340 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

96 Section FC 10 amended (Transfers from person to Official Assignee under Insolvency Act 2006)

After section FC 10(6), insert:

Defined in this Act: adjusted tax value, amount, deduction, depreciable property, revenue account property

97 Section FE 2 amended (When this subpart applies)

In section FE 2(1B)(a), replace “sections FE 2(1)(cc)” with “section FE 2(1)(cc)”.

98 Section FE 9 amended (Elections)

In section FE 9, in the list of defined terms, delete “excess debt entity”.

99 Section FG 2 amended (Notional loans)

In section FG 2, in the list of defined terms, replace “approved issuer levy” with “approved issuer”.

100 Section FM 8 amended (Transactions between group companies: income)

(1) In section FM 8(3)(c), replace “as part of the consolidated group.” with “as part of the consolidated group; or”, and insert:

(d) the amount of a dividend derived by a local authority from an entity referred to in section CW 10(3) (Dividend within New Zealand wholly-owned group).

(2) Subsection (1) applies for the 2019–20 and later income years. However, this section and sections 41 and 218(4) do not apply—

- (a) to a person who has a binding ruling that is made before 6 April 2017; and
- (b) relating to the consolidation rules and their application to a local authority; and
- (c) for the period from the date of the binding ruling to the end of the income year in which the binding ruling expires.

101 Section FM 30 amended (Application of certain provisions to consolidated groups)

In section FM 30, in the list of defined terms, delete “nominated company”.

102 Section FM 36 amended (Joining existing consolidated group)

In section FM 36(2), replace “section FM 31 and entitled to join the consolidated group, it may choose” with “section FM 31, it may choose”.

103 Section FM 37 amended (Leaving consolidated group)

In section FM 37(c), replace “it is no longer entitled to be in the same consolidated group” with “it is not eligible to continue as part of the same consolidated group”.

104 Section FM 38 amended (Notice requirements on forming or joining consolidated group)

In section FM 38(2), replace “entitled” with “eligible”.

105 Section FM 40 amended (Losing eligibility or entitlement to be part of consolidated group)

- (1) In section FM 40, in the section heading, delete “**or entitlement**”.
- (2) In section FM 40(1), replace “the nominated company, when it is no longer entitled to be in the same consolidated group” with “the nominated company, when it is not eligible to continue as part of the same consolidated group”.
- (3) In section FM 40(2)(b), replace “entitled to be in the same consolidated group” with “eligible to continue as part of the same consolidated group”.
- (4) In section FM 40(3), replace “eligible or entitled” with “eligible”.
- (5) In section FM 40(4), replace “eligibility or entitlement” with “eligibility” in each place where it appears.

106 Section FN 4 amended (Eligibility rules)

In section FN 4(2)(a), replace “are part of” with “are part of or would be part of”.

107 Section FO 10 amended (When property passes on resident’s restricted amalgamation)

- (1) In section FO 10(6), replace “2-year” with “5-year”.
- (2) Subsection (1) applies to a person’s disposal of residential land if the date that the person first acquires an estate or interest in the residential land is on or after the date on which the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 receives the Royal assent.
- (3) Despite subsection (2), subsection (1) does not apply to a person’s disposal of a freehold estate in residential land that the person acquired as the owner of a leasehold estate with a perpetual right of renewal, if the person was granted the leasehold estate before 29 March 2018.
- (4) Despite subsection (2), subsection (1) does not apply to a person’s disposal of an estate or interest in residential land that the person acquired as the result of the completion of a land development or subdivision, if before 29 March 2018 the person entered into the agreement under which they acquired the estate or interest upon the completion of the land development or subdivision.

Section 107(3): inserted (with effect on 29 March 2018), on 18 March 2019, by section 341 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section 107(4): inserted (with effect on 29 March 2018), on 18 March 2019, by section 341 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

108 Section FO 17 amended (Land)

- (1) In section FO 17,—
 - (a) in subsection (2)(b), replace “2-year” with “5-year” in each place where it appears:

- (b) in the heading to subsection (3), replace “2-year” with “5-year”:
 - (c) in subsection (3), replace “2-year” with “5-year” in each place where it appears.
- (2) Subsection (1) applies to a person’s disposal of residential land if the date that the person first acquires an estate or interest in the residential land is on or after the date on which the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 receives the Royal assent.
 - (3) Despite subsection (2), subsection (1) does not apply to a person’s disposal of a freehold estate in residential land that the person acquired as the owner of a leasehold estate with a perpetual right of renewal, if the person was granted the leasehold estate before 29 March 2018.
 - (4) Despite subsection (2), subsection (1) does not apply to a person’s disposal of an estate or interest in residential land that the person acquired as the result of the completion of a land development or subdivision, if before 29 March 2018 the person entered into the agreement under which they acquired the estate or interest upon the completion of the land development or subdivision.

Section 108(3): inserted (with effect on 29 March 2018), on 18 March 2019, by section 342 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section 108(4): inserted (with effect on 29 March 2018), on 18 March 2019, by section 342 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

109 New cross-heading and section GB 49B inserted

After section GB 49, insert:

Arrangements involving employee share schemes

GB 49B Employee share schemes

When this section applies

- (1) This section applies when a person enters into an arrangement and the purpose or effect of the arrangement is to defeat the intent and application of the definition of **employee share scheme** or the definition of **share scheme taxing date** in relation to an employee share scheme.

Reconstruction

- (2) The Commissioner may classify the arrangement or set a share scheme taxing date as the Commissioner considers appropriate to counteract a tax advantage obtained by the person from or under the agreement.

Defined in this Act: arrangement, Commissioner, employee share scheme, share, share scheme taxing date

110 Section GB 52 amended (Arrangements involving residential land: companies' shares)

- (1) In section GB 52(1)(a), replace “in sections CB 6A(1)(a) or (b) (Disposal within 2 years: bright-line test for residential land) is within 2 years” with “in section CB 6A(1)(a) or (b) (Disposal within 5 years: bright-line test for residential land) is within 5 years”.
- (2) Subsection (1) applies to a person's disposal of residential land if the date that the person first acquires an estate or interest in the residential land is on or after the date on which the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 receives the Royal assent.
- (3) Despite subsection (2), subsection (1) does not apply to a person's disposal of a freehold estate in residential land that the person acquired as the owner of a leasehold estate with a perpetual right of renewal, if the person was granted the leasehold estate before 29 March 2018.
- (4) Despite subsection (2), subsection (1) does not apply to a person's disposal of an estate or interest in residential land that the person acquired as the result of the completion of a land development or subdivision, if before 29 March 2018 the person entered into the agreement under which they acquired the estate or interest upon the completion of the land development or subdivision.

Section 110(3): inserted (with effect on 29 March 2018), on 18 March 2019, by section 343 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section 110(4): inserted (with effect on 29 March 2018), on 18 March 2019, by section 343 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

111 Section GB 53 amended (Arrangements involving residential land: trusts)

- (1) In section GB 53 (1)(c), replace “2 years” with “5 years”.
- (2) Subsection (1) applies to a person's disposal of residential land if the date that the person first acquires an estate or interest in the residential land is on or after the date on which the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 receives the Royal assent.
- (3) Despite subsection (2), subsection (1) does not apply to a person's disposal of a freehold estate in residential land that the person acquired as the owner of a leasehold estate with a perpetual right of renewal, if the person was granted the leasehold estate before 29 March 2018.
- (4) Despite subsection (2), subsection (1) does not apply to a person's disposal of an estate or interest in residential land that the person acquired as the result of the completion of a land development or subdivision, if before 29 March 2018 the person entered into the agreement under which they acquired the estate or interest upon the completion of the land development or subdivision.

Section 111(3): inserted (with effect on 29 March 2018), on 18 March 2019, by section 344 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section 111(4): inserted (with effect on 29 March 2018), on 18 March 2019, by section 344 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

112 Section HA 19 amended (Credit accounts and dividend statements)

In section HA 19(3)(a), replace “section 67(1)” with “section 25G”.

113 Section HC 2 amended (Obligations of joint trustees for calculating income and providing returns)

In section HC 2(2)(b), replace “section 42(1)(a)” with “section 33(1)”.

114 Section HC 6 amended (Beneficiary income)

(1) After section HC 6(1B), insert:

(1C) Beneficiary income includes an RWT substitution payment made to a beneficiary under section RE 2(7) (Resident passive income) to the extent to which the payment meets the requirements of subsection (1) or is paid on a date referred to in subsection (1B).

(2) In section HC 6(2)(b), replace “apply.” with “apply; or” and insert:

(c) an amount by which a tax credit of a beneficiary for resident withholding tax is reduced under section LB 3(6) (Tax credits for resident withholding tax); or

(d) an amount of a tax credit of a beneficiary allocated under section LB 3(5).

(3) Subsections (1) and (2) apply for the 2008–09 and later income years but do not apply to a person and an income year in relation to a tax position taken by the person—

(a) in a return of income filed before 1 April 2019 for the 2008–09 or later income years; and

(b) relating to the treatment of tax credits for resident passive income in a way that is not consistent with the amendments made in this Act for the treatment of those tax credits; and

(c) relying on section HC 6 as it was before the amendments made by subsections (1) and (2).

115 Section HC 27 amended (Who is a settlor?)

(1) Repeal section HC 27(3B).

(2) In section HC 27, in the list of defined terms, delete “share purchase agreement”.

116 Section HC 33 amended (Choosing to satisfy income tax liability of trustee)

- (1) In section HC 33(1), replace “liability of the trustee of the trust as described in subsection (2)” with “liability of the trustee of the trust”.
- (2) Subsection (1) applies for the 2008–09 and later income years.

117 Section HD 3 amended (Agents’ duties and liabilities)

- (1) After section HD 3(2), insert:

Assessments, returns, and payments of tax by agents for Lloyd’s of London

- (2B) An agent described in section HD 17B(2) (Lloyd’s of London: agents for life insurance)—
 - (a) is not subject to subsection (2) for income derived under section CR 3B (Lloyd’s of London: income from life insurance premiums); and
 - (b) must meet the obligations described in section HR 13(3)(a) and (b) (Lloyd’s of London: life insurance) but only to the extent described in section HD 17B(3).
- (2) Subsection (1) applies in relation to a life insurance premium that is derived on or after 1 April 2017 by Lloyd’s of London.

118 New section HD 13B inserted (AIM companies)

After section HD 13, insert:

HD 13B AIM companies

When this section applies

- (1) This section applies when a company—
 - (a) uses the AIM provisional tax method; and
 - (b) makes a provision that relates to expenditure on employment income for a shareholder-employee of the company; and
 - (c) makes a payment of tax for the shareholder-employee.

Agency

- (2) The company is treated as agent for the shareholder-employee for the purposes of the definition of **residual income tax**.

Relationship with subject matter

- (3) Section HD 2 does not apply to the agency, unless the agency does not arise only under this section.

Defined in this Act: company, employment income, pay, shareholder-employee, tax

119 Section HD 15 amended (Asset stripping of companies)

- (1) After section HD 15(8), insert:

Meaning of company in voting interest or market value interest tests

(8B) When applying sections YC 2 to YC 6 (which relate to voting and market value interests) for the purposes of the definitions of **controlling shareholder** and **interested shareholder** in subsection (9), the reference to **company** in sections YC 2 to YC 6 includes a company that is acting in the capacity of trustee.

(2) In section HD 15(9), insert in appropriate alphabetical order:

company includes a company that is acting in the capacity of trustee

(3) In section HD 15(9), in the definition of **controlling shareholder**, paragraph (b), delete “(Disregarding certain securities)”.

(4) In section HD 15, in the list of defined terms, insert “trustee”.

120 New section HD 17B inserted (Lloyd’s of London: agents for life insurance)

(1) After section HD 17, insert:

HD 17B Lloyd’s of London: agents for life insurance

When this section applies

(1) This section applies when Lloyd’s of London derives income from the payment of a premium under section CR 3B (Lloyd’s of London: income from life insurance premiums).

Agents paying premium or providing funds

(2) The person treated as agent for Lloyd’s of London is—

(a) a person, including a broker or agent, who pays the premium to Lloyd’s of London; or

(b) a person described in subsection (4)(b).

Liability of agents

(3) The person liable as agent is only liable to calculate the taxable income, provide the return and pay the income tax in relation to the premium the person pays to Lloyd’s of London and not in relation to all the premium income of Lloyd’s of London for the tax year.

Banks or non-bank deposit takers

(4) If a premium is paid by a registered bank, or a licensed non-bank deposit taker, on behalf of a person to Lloyd’s of London or to some other person, acting on behalf of Lloyd’s of London, not carrying on a business in New Zealand through a fixed establishment in New Zealand,—

(a) the bank or licensed non-bank deposit taker is not an agent of Lloyd’s of London; and

- (b) the person who provides the bank or licensed non-bank deposit taker with the funds from which the premium is paid is an agent of Lloyd's of London.

Defined in this Act: agent, business, deduction, fixed establishment, general permission, income, income tax, licensed non-bank deposit taker, life insurance policy, Lloyd's of London, New Zealand, pay, premium, registered bank, return of income, tax year, taxable income

- (2) Subsection (1) applies in relation to a life insurance premium that is derived on or after 1 April 2017 by Lloyd's of London.

121 Section HF 1 amended (Maori authorities and the Maori authority rules)

In section HF 1(2)(g), replace “sections 31, 57, 68B,” with “sections 25I, 31, 57,”.

122 Section HG 4 amended (Disposal upon final dissolution)

- (1) After section HG 4(6), insert:

Market value of debt owed

- (7) In this section, in relation to a limited partnership, the market value of a partner's interest in a financial arrangement as debtor must take into account the amount of any adjustment for credit impairment.
- (2) In section HG 4, in the list of defined terms, insert “financial arrangement”.
- (3) Subsection (1) applies for income years beginning on or after 1 April 2011.

123 Section HM 3 amended (Foreign PIE equivalents)

- (1) In section HM 3(1)(b)(ii), replace “scheme:” with “scheme.”
- (2) Repeal section HM 3(1)(b)(iii).
- (3) In section HM 3, in the list of defined terms, delete “trustee” and “unit trust”.

124 Section HM 4 amended (Who is an investor?)

- (1) In section HM 4, after the section title, insert “*Meaning of investor*” as a subsection heading.

- (2) In section HM 4, insert as subsection (2):

Consequences of not providing tax file number

- (2) An investor in a multi-rate PIE who is required under section 28B of the Tax Administration Act 1994 to provide a tax file number to the PIE and fails to do so within the time limit set out in that section is treated as an investor whose interest has reached the exit level.
- (3) In section HM 4, in the list of defined terms, insert “exit level”, “multi-rate PIE”, and “tax file number”.
- (4) Subsections (1) and (2) apply for the 2018–19 and later income years.

125 Section HM 9 amended (Collective schemes)

Repeal section HM 9(c).

126 Section HM 13 amended (Maximum shareholdings in investments)

(1) Replace section HM 13(2) with:

Voting and market interests: companies other than unit trusts

(2) The investment must not carry voting interests or market value interests of more than 20%. This subsection does not apply to a unit trust. Subsection (5) overrides this subsection.

(2) In section HM 13, in the list of defined terms, insert “market value interest”.

127 Section HM 30 amended (When foreign PIE equivalent no longer meets requirements)

In section HM 30(2), replace “section HM 3(b) to (e)” with “section HM 3(1)(b) to (e)”.

128 Section HM 42 amended (Exit calculation option)

(1) Replace section HM 42(1), other than the heading, with:

(1) This section applies when a multi-rate PIE chooses for a tax year to calculate its income tax liability for exiting investors and remaining investors. The PIE must notify the Commissioner under section 31B of the Tax Administration Act 1994 of the calculation option and of the applicable attribution period.

(2) In section HM 42, in the list of defined terms, insert “attribution period”.

129 Section HM 43 amended (Quarterly calculation option)

(1) Replace section HM 43(1), other than the heading, with:

(1) A multi-rate PIE that does not choose to calculate and pay its income tax liability under the exit calculation or provisional tax calculation options, must calculate its tax liability for each quarter of the tax year using the formula set out in section HM 47. The PIE must notify the Commissioner under section 31B of the Tax Administration Act 1994 of the calculation option and of the applicable attribution period.

(2) In section HM 43, in the list of defined terms, insert “attribution period”.

130 Section HM 44 amended (Provisional tax calculation option)

(1) Replace section HM 44(1), other than the heading, with:

(1) This section applies when a multi-rate PIE chooses to calculate its income tax liability on an income year basis and pay provisional tax by notifying the Commissioner before the start of the income year or when choosing to become a PIE. The PIE must notify the Commissioner under section 31B of the Tax Administration Act 1994 of the calculation option and of the applicable attribution period.

- (2) In section HM 44, in the list of defined terms, insert “attribution period” and “Commissioner”.

131 Section HM 48 amended (Adjustments to investor interests or to distributions)

- (1) After section HM 48(4), insert:

Adjustments for errors

- (5) When a multi-rate PIE, through an error, does not calculate and pay its income tax liability in relation to its investors for a tax year correctly, the PIE may make an adjustment under subsection (1)(c) within 1 month of the discovery of the error.

Maximum adjustments

- (6) For the purposes of subsection (5),—
- (a) the adjustment may be made in the tax year in which the error is made (**year 1**) without any limit on the total amount of adjustments for errors:
 - (b) the adjustment may be made in the tax year following that in which the error is made (**year 2**), but the total of all adjustments for errors made in year 2 relating to an error made in year 1 must be no more than the greater of—
 - (i) \$2000; or
 - (ii) 5% of the income tax liability of the PIE for year 1.

When adjustments treated as made

- (7) An adjustment that meets the requirements of subsections (5) and (6) is treated as made on the due date for the amount referred to in section HM 41(3) and calculated under sections HM 42 to HM 44B.

Notifying Commissioner of adjustments

- (8) Following the discovery of an error to which subsection (6)(b) applies, the PIE must notify the Commissioner of the error at the time of making the adjustment, including in their notification—
- (a) the information in schedule 6, table 1, rows 1 to 8, 10, 12, 13, 16, 21, and 22 of the Tax Administration Act 1994; and
 - (b) the adjustment to the item referred to in schedule 6, table 1, row 9 of that Act.

- (2) In section HM 48, in the list of defined terms, insert “income tax liability”.

132 Section HM 62 amended (Exit levels for investors)

- (1) In section HM 62, insert after the section title, “*When tax liability and investor interests equal*” as a subsection heading.
- (2) In section HM 62, insert as new subsections:

Consequences of not providing tax file number

- (2) An investor in a multi-rate PIE is treated as reaching the exit level when they fail to provide a tax file number to the PIE by the date set out in section 28B of the Tax Administration Act 1994.

Treatment of investors when tax file numbers not provided

- (3) The account of an investor to whom subsection (2) applies is treated as closed on the date referred to in that subsection. The PIE must pay the amount that is the balance of the investor's investment to the investor, and calculate and pay tax for the exiting investor for the exit period using the exit calculation option under section HM 42.

- (3) In section HM 62, in the list of defined terms, insert “amount” and “tax file number”.

133 Section HM 67 amended (Formation losses carried forward to first quarter)

- (1) In section HM 67(1), replace “when an entity becomes a multi-rate PIE that” with “when an entity either becomes a multi-rate PIE or is a multi-rate PIE that has calculated and paid tax under the provisional tax calculation option under section HM 44 that”.
- (2) In section HM 67(2), replace “the entity becomes a PIE” with “the entity either becomes a PIE or changes its calculation option from the provisional tax calculation option to the exit calculation or quarterly calculation option”.
- (3) In section HM 67, in the list of defined terms, insert “provisional tax”.

134 Section HM 68 amended (When formation losses carried forward are less than 5% of formation investment value)

- (1) In section HM 68, replace “at the time it becomes a PIE” with “at the time it either becomes a PIE or changes its calculation option from the provisional tax calculation option to the exit calculation or quarterly calculation option”.
- (2) In section HM 68, in the list of defined terms, insert “provisional tax”.

135 Section HM 69 amended (When formation losses carried forward are 5% or more of formation investment value: 3-year spread)

- (1) In section HM 69(1), replace “from the date the entity becomes a PIE” with “from the date the entity either becomes a PIE or changes its calculation option from the provisional tax calculation option to the exit calculation or quarterly calculation option”.
- (2) In section HM 69, in the list of defined terms, insert “provisional tax”.

136 Section HR 10 amended (What happens when vehicle stops being financial institution special purpose vehicle?)

In section HR 10(1), replace “an financial institution special purpose vehicle” with “a financial institution special purpose vehicle” in each place where it appears.

137 Section HR 12 replaced (Non-exempt charities: taxation of tax-exempt accumulations)

Replace section HR 12 with:

HR 12 Non-exempt charities: treatment of tax-exempt accumulations

Who this section applies to

- (1) This section applies to—
- (a) a person (**person A**) who—
 - (i) is registered on the register of charitable entities under the Charities Act 2005 for a period; and
 - (ii) derives exempt income under section CW 41 or CW 42 (which relate to charities) in the same period; and
 - (iii) is deregistered as a charitable entity on the end date:
 - (b) a person (**person B**) who derives exempt income under section CW 42 for a period that comes to an end on the end date.

When this section does not apply

- (2) This section does not apply if—
- (a) for person A, they are re-registered on the register of charitable entities within 1 year of the end date:
 - (b) for person B, they meet the requirements of section CW 42(1) within 1 year of the end date.

Treatment of income

- (3) Person A or person B, as applicable, has an amount of income derived on the day that is 1 year after the end date that is equal to the value of assets that the person held on the end date less the liabilities of the person on that date, but ignoring—
- (a) assets that are disposed of or transferred within 1 year of the end date, together with any rights and obligations, to another person—
 - (i) for charitable purposes:
 - (ii) in accordance with the person’s rules described in subsection (4):
 - (b) assets received from the Crown—
 - (i) to settle a Treaty of Waitangi claim:
 - (ii) in accordance with the Maori Fisheries Act 2004:

- (c) assets other than money gifted or left to the person when they met the requirements to derive exempt income under section CW 41 or CW 42.

Person's rules

- (4) In subsection (3)(a)(ii), the person's rules are, as appropriate—
 - (a) for person A, the person's rules set out in the register of charitable entities immediately before the person's removal from the register:
 - (b) for person B, the governing instrument that applies immediately before the end date.

Negative amounts

- (5) For the purposes of the calculation in subsection (3), if the amount is negative, it is treated as zero.

References to assets and liabilities

- (6) In this section, references to **assets** and **liabilities**, as applicable,—
 - (a) mean the assets and liabilities owned, controlled, or held, wholly or in part, immediately before the end date; and
 - (b) include—
 - (i) all assets of any kind; and
 - (ii) all liabilities, including debts, charges, duties, contracts, or other obligations, whether present, future, actual, contingent, payable, or to be observed or performed in New Zealand or elsewhere.

Meaning of end date

- (7) In this section, **end date** means—
 - (a) for person A, the day of final decision:
 - (b) for person B, the day on which the requirements of section CW 42(1) are no longer met.

Defined in this Act: amount, asset, charitable purpose, day of final decision, end date, exempt income, income, liabilities, New Zealand, real property, share, year

138 New cross-heading and section HR 13 inserted

- (1) After section HR 12, insert:

Lloyd's of London: life insurance

HR 13 Lloyd's of London: life insurance

What this section applies to

- (1) This section applies for the purposes of the obligations imposed by section BB 2 (Main obligations) on underwriters of Lloyd's of London who derive income (**premium income**) under section CR 3B (Lloyd's of London: income from life insurance premiums) in an income year in relation to that income.

Lloyd's of London single person

- (2) All underwriters of Lloyd's of London who derive premium income in the income year are treated as if they were a notional single person, and are jointly and severally liable for meeting the obligations of the notional single person for the income year.

Taxable income and return of income

- (3) Subject to section HD 17B (Lloyd's of London: agents for life insurance), the underwriters of Lloyd's of London must—
- (a) calculate the taxable income that relates to the premium income for the notional single person described in subsection (2) for the corresponding tax year; and
 - (b) for that tax year, provide a joint return of income and satisfy the income tax liability that relates to the premium income for the notional single person.

Underwriters of Lloyd's of London

- (4) In this section, underwriters of Lloyd's of London has the same meaning as Lloyd's of London.

Defined in this Act: income, income tax liability, income year, Lloyd's of London, New Zealand, return of income, tax year, taxable income

- (2) Subsection (1) applies in relation to a life insurance premium that is derived on or after 1 April 2017 by Lloyd's of London.

139 Section HZ 4E amended (Transition out of LTC regime for Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017)

Replace section HZ 4E(1), other than the heading, with:

- (1) This section applies when an entity that is a look-through company (an **LTC**) at the end of the 2016–17 or 2017–18 income years ceases to be an LTC (the **cessation**)—
- (a) on the first day of application for an amendment to LTC-related provisions, in section 288 of the Taxation (Annual Rates for 2016–17, Closely Held Companies, and Remedial Matters) Act 2017; and
 - (b) because of an amendment to LTC-related provisions, in section 288 of that Act.

140 Section IA 2 amended (Tax losses)

- (1) Replace section IA 2(4)(g) with:
- (g) a person with an unused specified activity net loss: the amount of the unused specified activity net loss to the extent to which the amount has not been subtracted under section IA 4(1)(a) from net income for a tax year.

- (2) In section IA 2, in the list of defined terms,—
 - (a) insert “unused specified activity net loss”:
 - (b) delete “specified activity net loss”.
- (3) Subsection (1) applies for the 2018–19 and later income years.

141 Section IA 4 amended (Using loss balances carried forward to tax year)

- (1) In section IA 4(1), after “tax year,” insert “and a person’s unused specified activity net loss,”.
- (2) In section IA 4(1)(b), after “section IA 2(2),” insert “or the amount of unused specified activity net loss referred to in section IA 2(4)(g),”.
- (3) After section IA 4(1), insert:

Unused specified activity net losses subtracted before loss balance

- (1B) In subsection (1)(a), the unused specified activity net loss is subtracted from net income before the loss balance.

Order for unused specified activity net losses

- (1C) In subsection (1)(a), the unused specified activity net loss is subtracted in the order in which it arose. The order in which it arose is to be determined by applying section IA 9(4) to the unused specified activity net loss as if it were a tax loss component referred to in that section.

- (4) In section IA 4, in the list of defined terms, insert “tax loss component” and “unused specified activity net loss”.
- (5) Subsections (1), (2), and (3) apply for the 2018–19 and later income years.

142 Section IA 4 amended (Using loss balances carried forward to tax year)

- (1) In section IA 4(1), after “tax year,” delete “and a person’s unused specified activity net loss,”.
- (2) In section IA 4(1)(b), after “section IA 2(2),” delete “or the amount of unused specified activity net loss referred to in section IA 2(4)(g),”.
- (3) Repeal section IA 4(1B) and (1C).
- (4) In section IA 4, in the list of defined terms, delete “tax loss component” and “unused specified activity net loss”.
- (5) Subsections (1), (2), and (3) apply for the 2019–20 and later income years.

143 Section IA 7 amended (Restrictions relating to ring-fenced tax losses)

- (1) Repeal section IA 7(8).
- (2) In section IA 7, list of defined terms, delete “petroleum mining company”.
- (3) Subsection (1) applies for the 2018–19 and later income years.

144 Section IA 8 amended (Restrictions relating to schedular income)

In section IA 8, in the list of defined terms, delete “non-resident entertainer”.

145 Section IA 9 amended (Ordering rules)

(1) After section IA 9(3), insert:

Order for tax loss component from unused specified activity net loss

(4) For the purposes of subsection (1), the tax loss component under section IA 2(4)(g) arose when the specified activity net loss, that is referred to in the definition of unused specified activity net loss and that makes up the tax loss component, arose.

(2) In section IA 9, in the list of defined terms, insert “unused specified activity net loss”.

(3) Subsection (1) applies for the 2018–19 and later income years.

146 Section IC 3 amended (Common ownership: group of companies)

(1) Replace section IC 3(3), other than the heading, with:

(3) In subsection (1)(a) and section IC 4(1)(a), a person’s common voting interest in the relevant companies at a particular time is the percentage of their voting interests under sections YC 2, YC 4(1) to (3), YC 5, and YC 6 (which relate to voting interests) in each of the companies at the time.

(2) In section IC 3(4), replace “section YC 3 (Market value interests)” with “sections YC 3, YC 4(1) to (3), YC 5, and YC 6 (which relate to market value interests)”.

(3) Subsection (1) applies for the 2008–09 and later income years.

147 Section IS 5 amended (Petroleum miners’ tax losses)

(1) In section IS 5(1)(a), replace “section DT 7 (Exploratory well expenditure)” with “section DT 5 (Petroleum development expenditure)”.

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

148 Section IS 5 repealed (Petroleum miners’ tax losses)

(1) Repeal section IS 5.

(2) Subsection (1) applies for the 2018–19 and later income years.

149 Section IZ 1 repealed (Use of specified activity net losses)

(1) Repeal section IZ 1.

(2) Subsection (1) applies for the 2018–19 and later income years.

150 Section IZ 2 repealed (Petroleum mining companies: treatment of payments from shareholders)

(1) Repeal section IZ 2.

(2) Subsection (1) applies for the 2018–19 and later income years.

151 Section IZ 3 repealed (Petroleum mining companies: use of loss balances)

(1) Repeal section IZ 3.

(2) Subsection (1) applies for the 2018–19 and later income years.

152 Section LA 6 amended (Remaining refundable credits: PAYE, RWT, and certain other items)

(1) After section LA 6(1)(i), insert:

(ib) subpart LT (Tax credits for petroleum miners):

(2) In section LA 6(2)(d), replace “under Part 10B” with “under section LB 1B (Treatment of tax credits of certain companies with shareholders who are employees) or Part 10B”.

(3) Subsection (1) applies for the 2018–19 and later income years.

153 Section LB 1 amended (Tax credits for PAYE income payments)

(1) In section LB 1(1), replace “an employer monthly schedule” with “employment income information”.

(2) In section LB 1(3)(c), replace “the employer monthly schedule” with “their employment income information”.

(3) In section LB 1(4), replace “an employer monthly schedule” with “employment income information”.

(4) In section LB 1, in the list of defined terms,—

(a) insert “employment income information”;

(b) delete “employer monthly schedule”.

154 New section LB 1B inserted (Treatment of tax credits of certain companies with shareholders who are employees)

After section LB 1, insert:

LB 1B Treatment of tax credits of certain companies with shareholders who are employees

When this section applies

(1) This section applies when—

(a) a company to which section RD 3B or RD 3C (which relate to income derived by shareholders who are employees) applies, pays an amount to a person who is both a shareholder and an employee of the company; and

(b) the amount is paid or allocated—

(i) under section GB 29 (Attribution rule: calculation); or

- (ii) as a shareholder salary, being a payment treated as income other than from a PAYE income payment under section RD 3B(1)(b) or RD 3C(1)(b); and
- (c) an amount of tax has been withheld from the payment in relation to which the company has, or will have, a tax credit under section LB 1.

Use of tax credits

- (2) Despite section LA 6(2)(a) to (c) (Remaining refundable credits: PAYE, RWT, and certain other items), the company may apply to have an amount of the company's tax credit transferred under section LA 6(2)(d) to the person, treating the amount as tax paid in excess.

Treatment for company

- (3) The amount of the company's tax credit under section LB 1 is reduced by the amount that is transferred to the shareholder and, for the purposes of section OB 32 (ICA refund of income tax), the amount transferred is treated as a refund of income tax.

Treatment for shareholder

- (4) The amount of the shareholder's tax credit under section LB 1 is increased by the amount that is transferred under subsection (2).

Defined in this Act: amount, amount of tax, company, employee, income, income tax, pay, PAYE income payment, shareholder, tax credit

155 Section LB 3 amended (Tax credits for resident withholding tax)

- (1) In section LB 3(1) replace “are met.” with “are met. The amount of tax includes a payment of RWT for a non-cash dividend.”
- (2) Replace section LB 3(4) and (5) with:

Detached tax credits

- (4) A trustee of a trust may detach some or all of a tax credit referred to in subsection (1) for resident passive income—
 - (a) that is derived by the trustee in an income year; and
 - (b) that is distributed to a person (**person A**) who is a beneficiary of the trust in—
 - (i) the income year referred to in paragraph (a); or
 - (ii) the extended period referred to in section HC 6(1)(b) (Beneficiary income); and
 - (c) in relation to which the trustee makes an RWT substitution payment under section RE 2(7).

Allocation and tax credits

- (5) The trustee may, in a return of income for the income year referred to in subsection (4)(a), choose to allocate, for that year, an amount to a beneficiary of the trust that is equal to some or all of the amount of the detached tax credit

referred to in subsection (4). The trustee has a tax credit equal to the amount that is not allocated to a beneficiary, and a beneficiary has a tax credit for the amount that is allocated to them.

Treatment of amounts

- (6) Despite subsection (1), an amount of a tax credit that person A would have under this section in the absence of subsections (4) and (5) must be reduced by an amount equal to the RWT substitution payment received by person A.

Evidential requirements

- (7) Subsection (5) does not apply in the circumstances set out in section HD 4(b) (Treatment of principals).

Meaning of detached tax credit

- (8) A **detached tax credit**, for a beneficiary and an income year, means an amount equal to the amount of an RWT substitution payment referred to in subsection (4)(c) that meets the requirements of subsection (4)(a) and (b).

- (3) In section LB 3, in the list of defined terms, insert “amount”, “Commissioner”, “detached tax credit”, “income tax liability”, “income year”, “notify”, and “trustee income”.

- (4) Subsections (2) and (3) apply for the 2008–09 and later income years but do not apply to a person and an income year in relation to a tax position taken by the person—

- (a) in a return of income filed before 1 April 2019 for the 2008–09 or later income years; and
- (b) relating to the treatment of tax credits for resident passive income in a way that is not consistent with the amendments made in this Act for the treatment of those tax credits; and
- (c) relying on section LB 3 as it was before the amendments made by subsections (2) and (3).

156 Section LB 4 amended (Tax credits for families)

In section LB 4(1), replace “and their minimum family tax credit under subpart ME (Minimum family tax credit)” with “, their minimum family tax credit under subpart ME (Minimum family tax credit), and their Best Start tax credit under subpart MG (Best Start tax credit)”.

157 Section LD 3 amended (Meaning of charitable or other public benefit gift)

In section LD 3(2)(ac), replace “entity, if the gift is made in a tax year that the entity meets the requirements to derive exempt income” with “entity, if the gift is made at a time the entity is eligible to derive exempt income”.

158 Section LD 4 amended (Tax credits for payroll donations)

- (1) In section LD 4(1)(a)(i) replace “files by electronic means an employer monthly schedule and a PAYE income payment form” with “provides employment income information by electronic means”.
- (2) *[Repealed]*
- (3) In section LD 4, in the list of defined terms,—
 - (a) insert “employment income information”:
 - (b) delete “employer monthly schedule” and “PAYE income payment form”.

Section 158(2): repealed, on 18 March 2019, by section 345 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

159 Section LD 5 amended (Calculating amount of tax credit and filing particulars)

- (1) In section LD 5(2)(a), replace “an employer monthly schedule and a PAYE income payment form for” with “the employment income information relating to”.
- (2) In section LD 5, in the list of defined terms,—
 - (a) insert “employment income information”:
 - (b) delete “employer monthly schedule” and “PAYE income payment form”.

160 Section LK 1 amended (Tax credits relating to attributed CFC income)

- (1) After section LK 1(1), insert:

Credits for parent companies and group companies

- (1B) For the purposes of this section and sections LK 2, LK 3, and LK 6, a company that is part of a group of companies that includes a person with attributed CFC income has a tax credit for the tax year corresponding to the income year of an amount that is equal to an amount of foreign income tax paid by the group company in relation to the CFC from which the income is derived.

Residence requirements

- (1C) For the purposes of subsection (1B), the residence requirements set out in section IC 7 (Residence of company A) do not apply to disallow the use of the tax credit by group companies under section LK 6.
- (2) Replace section LK 1(4), other than the heading, with:
 - (4) In subsection (1), a payment of income tax or foreign income tax by the CFC or person, as applicable, includes an amount of tax withheld from income in New Zealand or another country or territory.
- (3) In section LK 1(4), replace “subsection (1)” with “subsections (1) and (1B)”.
- (4) In section LK 1, in the list of defined terms, insert “company”, “group of companies”, and “income”.
- (5) Subsection (2) applies for the 2008–09 and later income years.

161 Section LK 2 amended (Calculation of amount of credit)

- (1) In section LK 2(1), replace “LK 1(1)” with “LK 1(1) and (1B)”.
- (2) In section LK 2(2)(b), replace “paid or payable by the CFC” with “paid or payable by the CFC or the person or, when section LK 1(1B) applies, the group company,”.

- (3) After section LK 2(2), insert:

Modifications to formula: section LK 1(1)(d)

- (3) For the purposes of the formula in this section, when section LK 1(1)(d) applies to provide a tax credit for a tax year when foreign income tax is paid by the person in relation to the CFC from which the income is derived, the calculation of the amount of the tax credit is made under subsection (1), ignoring the section EX 18 income interest in subsection (2)(a).

- (4) After section LK 2(3), insert:

Modifications to formula: section LK 1(1B)

- (4) For the purposes of the formula in this section, when section LK 1(1B) applies to provide a tax credit for a tax year to a group company, the calculation of the amount of the tax credit is made under subsection (1), ignoring the section EX 18 income interest in subsection (2)(a).

- (5) In section LK 2, in the list of defined terms, insert “company”, “group of companies”, and “income”.

- (6) Subsection (3) applies for the 2008–09 and later income years.

162 New subpart LT inserted (Tax credits for petroleum miners)

- (1) After section LS 4, insert:

Subpart LT—Tax credits for petroleum miners

LT 1 Tax credits for petroleum miners

When this section applies

- (1) This section applies for an income year if a petroleum miner or a farm-in party—
 - (a) has—
 - (i) been allocated under section EJ 13(4) (Permanently ceasing petroleum mining operations) a deduction for the income year;
 - (ii) incurred expenditure for which they are entitled to a deduction under section DT 16 (Decommissioning); and
 - (b) notifies the Commissioner before they file the return of income for the income year; and
 - (c) has a net loss for the tax year corresponding to the income year.

Tax credits

- (2) The petroleum miner or farm-in party has a tax credit for the tax year corresponding to the income year for an amount calculated using the formula—
amount of loss \times tax rate.

Definition of items in formula

- (3) In the formula,—
- (a) **amount of loss** is the amount of the net loss described in subsection (1)(c) to the extent to which the amount does not exceed the total of the amounts for the deductions referred to in subsection (1)(a)(i) and (ii):
 - (b) **tax rate** is the basic rate of income tax set out in schedule 1, part A (Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits).

Maximum amounts

- (4) Despite subsection (2), the maximum amount of the credit must not be more than the lesser of—
- (a) the result of the formula; and
 - (b) the amount of income tax paid by—
 - (i) for a petroleum miner, the petroleum miner and any consolidated group of which they are a member on net income derived for all earlier tax years, calculated on a year-by-year basis and aggregated:
 - (ii) for a farm-in party, the farm-in party and any consolidated group of which they are a member on net income derived for all earlier tax years, calculated on a year-by-year basis and aggregated.

Consolidated groups

- (5) For the purposes of subsection (4)(b), the amount of income tax paid by the consolidated group includes income tax paid on net income derived for tax years before the petroleum miner or farm-in party joined the group.

Treatment of trustees

- (6) For the purposes of subsection (4), if the petroleum miner or farm-in party is a trustee of a trust, the amount of tax paid for each earlier tax year is determined—
- (a) first, by reference to the amount of income tax paid under the obligations of a trustee under section HC 32 (Liability of trustee as agent); and
 - (b) secondly, by reference to the amount of tax paid on trustee income; and
 - (c) calculated on a year-by-year basis and aggregated.

Calculations on year-by-year basis

- (7) In subsections (4)(b) and (6)(c) a reference to a calculation on a year-by-year basis refers to a calculation starting with the immediately preceding tax year and working backwards to earlier tax years until the amount of tax paid is equal to or more than the amount referred to in subsection (4)(a).

Treatment of tax losses

- (8) To the extent to which the petroleum miner or farm-in party has a tax credit under this section, the amount of the net loss giving rise to the credit does not form part of a tax loss component for the petroleum miner or farm-in party.

Nature of tax credits

- (9) The tax credit is available for use under section LA 6(2) (Remaining refundable credits: PAYE, RWT, and certain other items).

Relationship with other sections

- (10) Subsection (8) overrides section IA 2 (Tax losses).

Defined in this Act: amount, amount of tax, Commissioner, consolidated group, decommissioning, deduction, farm-in party, income, income tax, income year, interest, net income, net loss, pay, permit area, petroleum miner, petroleum mining operations, petroleum permit, notify, return of income, tax credit, tax loss, tax loss component, tax year, trustee, trustee income

LT 2 Petroleum mining operations outside New Zealand

Section LT 1 applies with modifications

- (1) Section LT 1 applies as modified by this section to a petroleum miner undertaking petroleum mining operations or decommissioning outside New Zealand through a branch or a controlled foreign company in relation to those operations outside New Zealand.

Net losses

- (2) The net loss referred to in section LT 1(1)(c) for the petroleum miner is the net loss the petroleum miner would have if section DT 1A(4) (Ring-fenced allocations) did not apply.

Maximum amounts

- (3) The maximum amount of the credit referred to in section LT 1(4) for the petroleum miner in relation to the petroleum mining operations or decommissioning outside New Zealand must not be more than the lesser of—
- (a) the result of the formula in section LT 1(2); and
 - (b) the amount of income tax paid by the petroleum miner and any consolidated group of which the petroleum miner is a member on net income derived for all earlier tax years that relates to the petroleum mining operations or decommissioning outside New Zealand, calculated on a year-by-year basis and aggregated.

Consolidated groups, trustees, calculations on year-by year basis

- (4) Section LT 1(5), (6), and (7) applies, with any necessary modifications, for the purposes of subsection (3).

Defined in this Act: amount, consolidated group, controlled foreign company, decommissioning, farm-in party, income tax, net income, net loss, New Zealand, pay, petroleum miner, petroleum mining operations, tax credit, tax year

- (2) Subsection (1) applies for the 2018–19 and later income years.

163 Section MD 9 amended (Fifth requirement: full-time earner)

Replace section MD 9(2)(b) with:

- (b) income, other than from a PAYE income payment, to which section RD 3B or RD 3C (which relate to income other than PAYE) applies; or

164 Section MD 15 amended (Family scheme income for purposes of section MD 14)

In section MD 15(c), replace “income to which section RD 3(2) to (4) (PAYE income payments) applies” with “income, other than from a PAYE income payment, to which section RD 3B or RD 3C (which relate to income other than PAYE) applies”.

165 Section MX 1 amended (When subpart applies)

In section MX 1, before subsection (1), insert “*When this subpart applies*” as a subsection heading.

166 Section MX 4 amended (R&D loss tax credits)

In section MX 4, before subsection (1), insert “*Amount of tax credit*” as a subsection heading.

167 Section OA 2 amended (Memorandum accounts)

In section OA 2(3), replace “a tax year” with “a tax year and each subsequent tax year”.

168 Section OA 7 amended (Opening balances of memorandum accounts)

- (1) Replace section OA 7(2) with:

Credits and debits forming opening balances

- (2) The amount of each credit or debit that forms part of the opening balance of a memorandum account is treated as recorded in the relevant memorandum account on the date on which it was originally recorded.

- (2) Replace section OA 7(3), other than the heading, with:

- (3) If a consolidated group, company, or person starts a memorandum account during a tax year, the treatment of existing credits and debits is set out as follows:

- (a) when the companies of 2 or more consolidated imputation groups choose to combine to form, or to join, an imputation group, *see* section OP 3(2) (Changes in consolidated imputation groups):
 - (b) when the companies that are part of an imputation group choose to convert their status to that of a consolidated group that is a consolidated imputation group, *see* section OP 3(3):
 - (c) for a resident imputation subgroup associated with a trans-Tasman imputation group, *see* section OP 4 (Resident imputation subgroups).
- (3) In section OA 7, replace the list of defined terms with “amount, company, consolidated group, consolidated imputation group, imputation group, income year, memorandum account, resident imputation subgroup, tax year, trans-Tasman imputation group”.

169 Section OB 37 amended (ICA refund of tax credit)

- (1) Before section OB 37(2), insert:

Exclusion: refund after debit under section OB 41

- (1C) Despite subsection (1), an ICA company has an imputation debit for a refundable tax credit arising in a tax year after a debit arises under section OB 41, reduced by the lesser of—
- (a) the debit under section OB 41:
 - (b) the amount by which the refundable tax credit exceeds the total credits to the company’s imputation credit account, for amounts satisfying the company’s income tax liability, during the period from the date of the debit to the date on which the credit balance is to be determined under sections RM 13 and RM 14 (which relate to limits on refunds for ICA companies).
- (2) Subsection (1) applies for the 2018–19 and later income years.

170 Section OB 47B amended (Tax paid by recipients of R&D loss tax credits)

In section OB 47B(1) replace “section MX 6” with “section MX 7”.

171 Section OP 3 amended (Changes in consolidated imputation groups)

- (1) Replace section OP 3(4), other than the heading, with:
- (4) The opening balance for a tax year for the imputation credit account of the consolidated imputation group is determined as follows:
- (a) for an imputation group to which subsection (2) applies, the opening balance is equal to the amount that is the sum of the opening balances of each imputation group that is part of the consolidated imputation group:
 - (b) for an imputation group to which subsection (3) applies, the opening balance is the amount that is the sum of the opening balances of the imputation groups that chose to convert their status.

- (2) In section OP 3, in the list of defined terms, insert “amount” and “tax year”.

172 Section OP 4 amended (Resident imputation subgroups)

- (1) After section OP 4(2), insert:

Opening balances

- (3) The opening balance of the imputation credit account is an amount equal to the sum of the opening balances of each company that is part of the resident imputation subgroup.

- (2) In section OP 4, in the list of defined terms, insert “amount”.

173 Section OP 5 amended (When credits and debits arise only in consolidated imputation group accounts)

Repeal section OP 5(2)(bb).

174 Section OP 22 amended (Consolidated ICA group company’s credit)

- (1) In section OP 22(1)(c), replace “group company’s account.” with “group company’s account; and” and insert:

- (d) to the extent to which a debit referred to in paragraph (b) is not offset under paragraph (c), a debit balance immediately arises in the imputation credit account of the group.

- (2) After section OP 22(1), insert:

Amount of credit

- (1B) The amount of the credit referred to in subsection (1) that is transferred to the imputation credit account of the group is limited to the lesser of—

- (a) the amount of the debit balance in the imputation credit account of the group referred to in subsection (1)(d); and
- (b) the amount of the credit balance of the imputation credit account of the group company referred to in subsection (1)(a), determined at the time of the debit to the imputation credit account of the group referred to in subsection (1)(b).

- (3) Subsections (1) and (2) apply for the 2008–09 and later income years.

175 Section OP 35 amended (Consolidated ICA refund of tax credit)

- (1) Before section OP 35(2), insert:

Exclusion: refund after debit under section OP 42

- (1C) Despite subsection (1), a consolidated imputation group has an imputation debit for a refundable tax credit arising for a group company in a tax year after a debit arises under section OP 42, reduced by the lesser of—

- (a) the debit under section OP 42:

(b) the amount by which the refundable tax credit exceeds the total credits to the group’s imputation credit account, for amounts satisfying the group’s income tax liability, during the period from the date of the debit to the date on which the credit balance is to be determined under sections RM 13 and RM 14 (which relate to limits on refunds for ICA companies).

(2) Subsection (1) applies for the 2018–19 and later income years.

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

(1) In table O19, row 20, replace “non-resident withholding income” with “non-resident passive income”.

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

177 Tables of credits and debits in memorandum accounts amended

The tables of credits and debits in memorandum accounts are amended by repealing the row number in column 2 from the table in column 1.

Table reference	Repeal row number
Table O1: imputation credits	row 1
Table O2: imputation debits	row 1
Table O3: FDP credits	row 1
Table O4: FDP debits	row 1
Table O5: conduit tax relief credits	row 1
Table O6: conduit tax relief debits	row 1
Table O9: person’s branch equivalent tax credits	row 1
Table O10: person’s branch equivalent tax debits	row 1
Table O11: ASC credits	row 1
Table O12: ASC debits	row 1
Table O17: Maori authority credits	row 1
Table O18: Maori authority debits	row 1
Table O19: imputation credits of consolidated imputation groups	row 1
Table O20: imputation debits of consolidated imputation groups	row 1
Table O21: FDP credits of consolidated FDP groups	row 1
Table O22: FDP debits of consolidated FDP groups	row 1
Table O26: branch equivalent tax debits of consolidated BETA groups	row 1

178 Section RA 11 replaced (Adjustment to correct errors: certain underpayments)

Replace section RA 11 with:

RA 11 Adjustment to correct errors: certain underpayments

When this section applies

- (1) This section applies when—
- (a) a person (the **payer**) is required to withhold an amount of tax for resident passive income or non-resident passive income in relation to a payment to another person (the **payee**); and
 - (b) the payer, through an error, does not withhold some or all of the amount.

Adjustments for errors

- (2) To correct the error, the payer may make an adjustment by—
- (a) subtracting from a later payment to the payee an amount to correct the deficiency; or
 - (b) recovering from the payee an amount to correct the deficiency; or
 - (c) for a non-cash dividend, adjusting the amount that is subject to tax.

Timing of and limitations on adjustments

- (3) Subject to subsection (4),—
- (a) for an adjustment for an error discovered in the tax year in which it is made (**year 1**), the payer must, if it is reasonably practical to do so, make the adjustment under subsection (2) by the next regular reporting date for the delivery of investment income information relating to the payee;
 - (b) for an adjustment for an error discovered in a tax year following that in which the error is made (**year 2**), the payer may make an adjustment under subsection (2) by the next regular reporting date in year 2 but only to the extent to which the total adjustments made by the payer in year 2 relating to year 1 are no more than the greater of—
 - (i) \$2,000; or
 - (ii) 5% of the payer's withholding liability for RWT or NRWT, as applicable, for the tax year in which the first payment is made to the payee.

Requirements when recovering amounts from payees

- (4) For the purposes of subsection (2)(b), the recovery action must be taken in the same tax year in which the error is made.

When adjustments made

- (5) An adjustment under this section is treated as made on the due date for the amount of tax referred to in subsection (1)(a).

Notifying Commissioner of adjustments

- (6) The payer must notify the Commissioner of an adjustment made under subsection (3)(b) at the time it is made, including in their notification—
- (a) the information in schedule 6, table 1, rows 1 to 7, 10, 16, and 22 of the Tax Administration Act 1994, as applicable; and
 - (b) adjustments to the items referred to in schedule 6, table 1, rows 8, 9, 11, 14, 15, and 21 of that Act, as applicable.

Defined in this Act: amount, amount of tax, Commissioner, investment income information, non-cash dividend, non-resident passive income, notify, NRWT, pay, resident passive income, RWT, tax year

179 Section RA 12 amended (Adjustment to correct errors: certain excess amounts)

- (1) Replace section RA 12(2) with:

Refunding excess amounts of resident and non-resident passive income

- (2) For a payment of resident passive income or non-resident passive income, the payer may pay the excess amount to the payee at any time before the 20th of April after the end of the tax year in which the amount is withheld if the payer has not reported to the payee under section 26C, 29, or 31 of the Tax Administration Act 1994, providing the details set out in those provisions.
- (2) In section RA 12(3), replace “RWT” with “RWT or NRWT, as applicable”.
- (3) Replace section RA 12(4) with:

Notifying payee and Commissioner of excess amounts

- (4) If the payer has not refunded the amount to the payee, the payer must notify the following of the excess amount by the date referred to in subsection (2):
- (a) the payee;
 - (b) the Commissioner.

Notifying Commissioner of refunds paid

- (4B) If the payer has refunded the amount to the payee, the payer must notify the Commissioner of the payment and of the amount of the refund at the time of paying the refund.
- (4) In section RA 12(6), replace “if the excess amount has been refunded to the payee” with “if the payer has refunded the excess amount to the payee and has not received a refund from the Commissioner”.
- (5) In section RA 12(6)(a), replace “noting the action in the statement required under section 50 of the Tax Administration Act 1994” with “noting the action in the investment income information required under subpart 3E of the Tax Administration Act 1994”.
- (6) In section RA 12, in the list of defined terms,—
- (a) insert “investment income information” and “notify”:

- (b) delete “dividend”, “dividend treated as interest”, “interest”, “Maori authority”, “notice”, “RWT withholding certificate”, “shareholder dividend statement”, and “taxable Maori authority distribution”.

180 Section RA 15 amended (Payment dates for interim and other tax payments)

- (1) In section RA 15(4), replace “subsection (3)” with “subsection (3)(a)(ii)”.
- (2) Repeal section RA 15(5) and (6).

181 Section RA 16 amended (Payment date when taxable activity ends)

- (1) In section RA 16(3), replace “if the person continues to hold an RWT exemption certificate” with “if the person’s RWT-exempt status continues”.
- (2) In section RA 16, in the list of defined terms,—
 - (a) insert “RWT-exempt status”:
 - (b) delete “RWT exemption certificate”.

182 Section RA 17 amended (Payment date when RWT exemption certificate expires)

- (1) In section RA 17, in the section heading, replace “**when RWT exemption certificate expires**” with “**when RWT-exempt status ends**”.
- (2) In section RA 17(1), replace “when an RWT exemption certificate of a person expires” with “when a person’s RWT-exempt status ends”.
- (3) In section RA 17(2), replace “the certificate expires” with “the status ends”.
- (4) In section RA 17, in the list of defined terms,—
 - (a) insert “RWT-exempt status”:
 - (b) delete “RWT exemption certificate”.

183 Section RC 3 amended (Who is required to pay provisional tax?)

- (1) In section RC 3(2)(c), delete “certificate”.
- (2) In section RC 3, in the list of defined terms, delete “exemption certificate”.

184 Section RC 19 amended (Disposal of assets)

In section RC 19(2)(a), replace “of that Act” with “of the Goods and Services Tax Act 1985”.

185 New section RC 35B inserted (Treatment of overpaid provisional tax instalments calculated using AIM method)

- (1) After section RC 35, insert:

**RC 35B Treatment of overpaid provisional tax instalments calculated using
AIM method**

When this section applies

- (1) This section applies for the purposes of sections RC 5(5B), RC 7B, RC 9(4B), RC 10B, and RM 6B (Refunds for overpaid AIM method instalments) when—
- (a) a company uses the AIM method to calculate and pay a provisional tax liability; and
 - (b) the amount of an instalment of provisional tax is overpaid.

Overpaid amounts credited to shareholders

- (2) The company may ask the Commissioner to credit the overpaid amount to the account of a shareholder of the company, treating the amount as—
- (a) an amount transferred for the purposes of Part 7 of the Tax Administration Act 1994 as provided by section 120LB of that Act;
 - (b) a refund of income tax paid to the company for the purposes of section OB 32 (ICA refund of income tax).

Maximum amount

- (3) The amount that may be credited under subsection (2) must be no more than the least of the following:
- (a) an amount chosen by the company; and
 - (b) the amount of the shareholder’s residual income tax for the relevant tax year less the amount of any tax credit that the shareholder has under section LB 2 (Tax credits for provisional tax payments) for the tax year, treating a negative amount as zero; and
 - (c) the amount of the company’s tax credit under section LB 2 for the relevant tax year less the amount of the company’s residual income tax for the tax year, treating a negative amount as zero.

Defined in this Act: amount, Commissioner, company, income tax, pay, provisional tax, residual income tax, shareholder, tax credit

- (2) Subsection (1) applies for the 2018–19 and later income years.

186 Section RD 2 amended (PAYE rules and their application)

[Repealed]

Section 186: repealed, on 18 March 2019, by section 346 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

**187 Section RD 3B amended (Shareholders who are employees, for some
companies: income other than PAYE)**

- (1) In section RD 3B(1), replace “if” with “if the person elects to apply this section and”.
- (2) Replace section RD 3B(1)(a) with:

- (a) the person does not derive as an employee payments of salary or wages of a regular amount for regular pay periods of 1 month or less throughout the income year:
- (ab) the person derives less than 66% of their annual gross income as an employee from payments of salary or wages of a regular amount for regular pay periods throughout the income year:

(3) Repeal section RD 3B(2).

188 Section RD 3C amended (Shareholders who are employees, for some companies: PAYE and income other than PAYE)

- (1) In section RD 3C(1), replace “if” with “if the person elects to apply this section and”.
- (2) Repeal section RD 3C(2).

189 Section RD 4 replaced (Payment of amounts of tax to Commissioner)

Replace section RD 4 with:

RD 4 Payment of amounts of tax to Commissioner

Payments monthly or twice-monthly

- (1) An employer or PAYE intermediary who withholds an amount of tax for a PAYE income payment must pay the amount to the Commissioner as follows:
 - (a) on a monthly basis, if they are an employer to whom subsection (2) applies:
 - (b) for 2 payment periods in a month, if paragraph (a) does not apply.

Monthly payments

- (2) For the purposes of subsection (1)(a), an employer must pay the amount of tax withheld by the 20th day of the month following the month in which the PAYE income payment is made if they are—
 - (a) an employer who—
 - (i) is not a new employer; and
 - (ii) has, for the preceding tax year, gross amounts of tax of less than \$500,000 withheld under section RA 5(1)(a) and (c) (Tax obligations for employment-related taxes):
 - (b) a new employer who has, for the current tax year, gross amounts of tax withheld under section RA 5(1)(a) and (c) that total less than \$500,000.

Twice-monthly payments

- (3) An employer to whom subsection (1)(b) applies must pay the amount of tax withheld to the Commissioner by the dates referred to in section RA 15(2) (Payment dates for interim and other tax payments).

Liability when amount not withheld

- (4) If some or all of the amount of tax for a PAYE income payment is not withheld under subsection (1), the employee in relation to whom the payment is required to have been made must pay to the Commissioner under section RD 21 an amount equal to the amount of tax by the 20th day of the month following the month in which the PAYE income payment was made.

Amounts aggregated for threshold purposes

- (5) For the purposes of determining whether a threshold referred to in subsection (2)(a)(ii) and (b) is reached, if the employer ends their business and starts a new business, or operates 2 or more businesses at the same time, all amounts of tax withheld must be aggregated.

Persons treated as single employers

- (6) For the purposes of this section, the following are treated as 1 employer:
- (a) 2 or more companies if they are part of a group of companies at a time in the relevant tax year;
 - (b) all partners in a partnership;
 - (c) all persons in whom property has become vested, or to whom the control of property has passed in the case of—
 - (i) an estate of a deceased person; or
 - (ii) a trustee of a trust; or
 - (iii) a company in liquidation; or
 - (iv) an assigned estate; or
 - (v) another fiduciary relationship.

Threshold changes by Order in Council

- (7) The Governor-General may, on the recommendation of the Minister of Revenue, make an Order in Council amending the threshold amount referred to in subsection (2). Before making the recommendation, the Minister must undertake consultation on the proposed amendment that is appropriate and reasonable for the purposes of this section.

Defined in this Act: amount, amount of tax, business, Commissioner, company, employee, employer, gross, group of companies, partner, partnership, pay, PAYE income payment, PAYE intermediary, payment period, tax year, trustee

190 Section RD 6 amended (Certain benefits and payments)

- (1) In section RD 6(1)(d), replace “section CE 2(2) and (4) (Value and timing of benefits under share purchase agreements)” with “section CE 1(1)(d) (Amounts derived in connection with employment)”.
- (2) In section RD 6(3)(a),—

- (a) in subparagraph (i), replace “CE 2(10) (Value and timing of benefits under share purchase agreements)” with “CE 2(7) (Benefits under employee share schemes)”;
- (b) in subparagraph (i), replace “CE 2(11) (Value and timing of benefits under share purchase agreements)” with “CE 2(8)”;
- (c) in subparagraph (ii), replace “CE 2(10)” with “CE 2(7)”.

191 Section RD 6 amended (Certain benefits and payments)

- (1) In section RD 6(1)(d), replace “an election under section RD 7B.” with “an election under section RD 7B; or” and insert:

(e) a payment made to them as a person on a shadow payroll.

- (2) Replace section RD 6(3)(a) with:

(a) for a benefit referred to in subsection (1)(d), on the ESS deferral date on which the employee is treated as deriving the benefit under section CE 2(8) (Benefits under employee share schemes); or

- (3) After section RD 6(3), insert:

Employees on shadow payrolls

- (4) For the purposes of the PAYE rules, a payment referred to in subsection (1)(e) is treated as paid to the employee—

- (a) on the day that the amount is paid by the non-resident employer, that is the payday for the purposes of sections 23E to 23H and 23J(2) of the Tax Administration Act 1994;
- (b) on the 20th day after the amount is paid by the non-resident employer, that is the 20th day referred to in section 23J(3) of that Act.

Meaning of payment to person on shadow payroll

- (5) For the purposes of this section, a payment made to a person on a shadow payroll is a PAYE income payment paid by a non-resident employer to a person who undertakes employment services in New Zealand but who remains on the employer’s payroll system in a country or territory outside New Zealand.

- (4) In section RD 6, in the list of defined terms,—

- (a) insert “employment income information”, “ESS deferral date”, “New Zealand”, “non-resident”, and “PAYE income payment”;
- (b) delete “PAYE income payment form period”.

192 Section RD 7 amended (Extra pay)

In section RD 7(1)(bb), replace “section CE 2(2) and (4) (Value and timing of benefits under share purchase agreements)” with “section CE 1(1)(d) (Amounts derived in connection with employment)”.

193 Section RD 7 amended (Extra pay)

- (1) Replace section RD 7(1)(b)(iv) with:

(iv) as a result of a retrospective increase in salary or wages, but only to the extent to which it accrues from the start of the increase until the start of the first pay period in which the increase is included in salary or wages; and

- (2) Repeal section RD 7(2).

194 Section RD 7 amended (Extra pay)

- (1) After section RD 7(2), insert:

Remedial payments for certain entitlements

- (3) A remedial payment made in relation to 1 or more of a person's entitlements under the Holidays Act 2003, an employment agreement, or both, is treated as an extra pay if—
- (a) the payment is made to a person in connection with their employment; and
 - (b) but for this subsection, the payment would be a payment of salary or wages or an extra pay, or a combination of both; and
 - (c) the payment is made to the person to meet all or part of a shortfall in 1 or more previous payments to the person who has an entitlement under the Holidays Act 2003, or an employment agreement, or both.

Exclusion

- (4) A payment made to a person to address some or all of a failure to pay the person any salary or wages for a pay period is excluded from a remedial payment under subsection (3). If more than 1 payment is made to the person to address the failure, this subsection applies to exclude only the first of these payments.

Meaning of employment agreement

- (5) For the purposes of subsection (3), an **employment agreement** has the meaning given by section 5 of the Employment Relations Act 2000 except that—
- (a) it includes an individual employment contract continued in force by section 242(1) of that Act; and
 - (b) it excludes a contract for services described in paragraph (b) of the definition.

- (2) Subsection (1) does not apply to a person in relation to a tax position taken by them—
- (a) in the period from 1 April 2008 to 17 August 2017; and
 - (b) relating to the taxation treatment of a remedial payment made in relation to an entitlement under the Holidays Act 2003 or an employment agreement; and

- (c) relying on the treatment of the entitlement under the PAYE rules according to the character that the payment would have had if the entitlement had been paid at the time at which it should have been paid.

195 Section RD 7B amended (Treatment of certain benefits under employee share agreements)

- (1) In the heading to section RD 7B, replace “**agreements**” with “**schemes**”.
- (2) Replace section RD 7B(1) and (2) with:

When this section applies

- (1) This section applies for an employee or a former employee who receives a benefit under section CE 1(1)(d) (Amounts derived in connection with employment) in relation to an employee share scheme.
- (3) In section RD 7B(3), replace “share purchase agreement” with “employee share scheme”.
- (4) In section RD 7B, in the list of defined terms,—
- (a) insert “employee share scheme”;
- (b) delete “share purchase agreement”.

196 Section RD 7B amended (Treatment of certain benefits under employee share agreements)

- (1) Replace section RD 7B(3)(b) and (c) with:
- (b) including the value of the benefit in their employment income information under subpart 3C of the Tax Administration Act 1994.
- (2) In section RD 7B, in the list of defined terms,—
- (a) insert “employment income information”;
- (b) delete “employer monthly schedule”.

197 Section RD 8 amended (Schedular payments)

- (1) Replace section RD 8(1)(b)(iv) with:
- (iv) an exempt payment referred to in section 24H and schedule 5, part C, clause 6 of the Tax Administration Act 1994 applies; or
- (2) In section RD 8, in the list of defined terms, delete “exemption certificate”.

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

- (1) In section RD 10(1), replace “Subsections (2) and (3)” with “Subsections (2), (2B), (2C), (2D), and (3)”.
- (2) After section RD 10(2B), insert:

Rates for extra pays: non-resident seasonal workers

- (2C) The amount of tax for an extra pay that is paid to a non-resident seasonal worker is calculated at the rate set out in schedule 2, part B, table 1, row 1B

(Basic tax rates for PAYE income payments). This rate applies for both a worker who has notified their employer under section 24B of the Tax Administration Act 1994 of their tax code under schedule 2, part A, clause 8, and a worker to whom section 24B(3C) of that Act applies. This subsection overrides subsection (2).

Rates for extra pays: non-notified tax codes

(2D) The amount of tax for an extra pay that is paid to an employee who has not notified their employer of their tax code is calculated at the rate set out in schedule 2, part B, table 1, row 5.

(3) In section RD 10(2C),—

(a) replace “section 24B” with “section 24C”:

(b) replace “section 24B(3C)” with “schedule 5, part B, clause 3”.

(4) In section RD 10, in the list of defined terms, insert “non-resident seasonal worker”.

199 Section RD 10B amended (Amounts of tax for schedular payments)

(1) Replace section RD 10B(2) to (4) with:

Basic rates

(2) When the person making the schedular payment has been notified under section 24I of the Tax Administration Act 1994 of the payee’s name and tax file number, the person must withhold an amount of tax for the payment at—

(a) the payee’s elected rate, for a payee, other than a payee referred to in paragraph (b), who chooses a tax rate under section 24F(3) of that Act:

(b) the special tax rate set by the Commissioner, for a payee who has been provided with a special tax rate under section 24G of that Act:

(c) in other cases, the applicable tax rate set out in schedule 4 (Standard rates of tax for schedular payments).

Rates set by Commissioner

(3) Despite subsection (2), if the person making the schedular payment has been notified of a rate under section 24F(4) of that Act, the person must use that rate in relation to the payment, subtracting the amount notified or the amount equal to the percentage prescribed, as applicable, and paying the amount to the Commissioner.

Default rates

(4) When the person making the schedular payment has not been notified of the payee’s name and tax file number under section 24I, the person must withhold an amount of tax for the payment that is—

(a) for a payee that is a company that is non-resident, 20% of the amount of the payment:

(b) in all other cases, 45% of the amount of the payment.

- (2) In section RD 10B, in the list of defined terms, insert “amount” and “Commissioner”.

200 New section RD 10C inserted (Calculating amounts of tax following changes to rates or thresholds)

After section RD 10B, insert:

RD 10C Calculating amounts of tax following changes to rates or thresholds

When a change occurs to a rate or threshold in this Act or the Tax Administration Act 1994 affecting the amount of tax for a PAYE income payment, the calculation of the amount of tax must be made using the rate applying on the day on which the PAYE income payment is paid or is otherwise under this Act treated as paid.

Defined in this Act: amount of tax, pay, PAYE income payment

201 Section RD 12 replaced (Multiple payments of salary or wages)

Replace section RD 12 with:

RD 12 Multiple payments of salary or wages

When this section applies

- (1) This section applies when an employee receives more than 1 payment of salary or wages from their employer in a week or part of a week. The employment may relate to 1 or more employment situations with that employer.

What this section does not apply to

- (2) This section does not apply to salary or wages from employment as a casual agricultural employee, election-day worker, or non-resident seasonal worker.

Treatment as 1 payment

- (3) The total amount of tax for all payments of salary or wages is the amount that would be required to be withheld if all the payments were treated as 1 payment made by the employer for the week.

Defined in this Act: amount of tax, casual agricultural employee, election-day worker, employee, employer, employment, non-resident seasonal worker, pay, salary or wages

202 Section RD 13 replaced (Advance payments of salary or wages)

Replace section RD 13 with:

RD 13 Advance payments

When this section applies

- (1) This section applies when an employee receives from their employer—
- (a) an advance payment of salary or wages referred to in section RA 5(1)(a) and (c) (Tax obligations for employment-related taxes):
 - (b) an amount of holiday pay that is paid—

- (i) in a lump sum before the employee takes their holiday; and
- (ii) when the employee's employment is continuing.

Employers' elections

- (2) The employer may choose to treat the amount as—
 - (a) an extra pay; or
 - (b) a lump sum paid and spread over the pay period or periods to which it relates.

Choosing to treat amounts as lump sum payments

- (3) Subsections (4) and (5) apply when an employer chooses under subsection (2)(b) to treat the amount as a lump sum.

Calculating amounts of tax for lump sum payments

- (4) The amount of tax for the lump sum payment is determined by—
 - (a) apportioning the lump sum to the pay period or pay periods to which it relates based on the employee's usual hours of work; and
 - (b) calculating the amount of tax for each portion of the lump sum, treating the portion as if it were the only payment of salary or wages paid by the employer to the employee for the particular pay period; and
 - (c) adding together the amounts of tax for each portion.

Calculating amounts of tax for salary or wages

- (5) The amount of tax for a payment of salary or wages for a pay period referred to in subsection (4)(a) that is made after the payment of the lump sum is found by—
 - (a) adding together—
 - (i) the amount of the payment of salary or wages for the pay period; and
 - (ii) the portion of the lump sum that relates to the pay period as determined under subsection (4)(a); and
 - (b) calculating the amount of tax that must be withheld for the total amount referred to in paragraph (a), treating that amount as if it were a single payment of salary or wages paid by the employer to the employee for the pay period; and
 - (c) subtracting the amount of tax for the portion of the lump sum that relates to the pay period as described in subsection (4)(b).

Defined in this Act: amount, amount of tax, employee, employer, employment, extra pay, pay, pay period, salary or wages

203 Section RD 13B amended (Adjustments for payroll donations)

- (1) In section RD 13B(2), replace “record the information in the relevant employer monthly schedule” with “include in their employment income information the

items described in schedule 4, table 1, row 5(a) of the Tax Administration Act 1994”.

- (2) In section RD 13B, in the list of defined terms,—
- (a) insert “employment income information”;
 - (b) delete “employer monthly schedule”.

204 Section RD 14 repealed (Changes to tax rates for salary or wages)

Repeal section RD 14.

205 Section RD 16 amended (Payments to private domestic workers)

In section RD 16(2), replace “and RD 4(2)” with “and RD 4(4)”.

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

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

Exclusion: non-resident seasonal workers and non-notified tax codes

- (1C) This section does not apply to—
- (a) a non-resident seasonal worker who—
 - (i) has a tax code under section 24B(3C) of the Tax Administration Act 1994; or
 - (ii) has notified their employer of their tax code under section 24B(3)(gb) of that Act:
 - (b) an employee who has a no notification tax code under section 24B(3B) of that Act.

- (2) Replace section RD 17(1C), other than the heading, with:

- (1C) This section does not apply to —
- (a) a non-resident seasonal worker—
 - (i) who has notified their employer of their tax code, for which *see* section RD 10(2C):
 - (ii) to whom schedule 5, part B, clause 3 of the Tax Administration Act 1994 applies:
 - (b) an employee who has a non-notified tax code referred to in schedule 2, part A, clause 3.

- (3) In section RD 17(3), replace “section 24B(3)(bb), (c), (d), or (e)” with “schedule 5, part A, clause 4, rows 3 to 6”.
- (4) In section RD 17, in the list of defined terms, insert “non-resident seasonal worker” and “tax code”.

207 Section RD 21 amended (When amounts of tax not withheld or payment insufficient)

- (1) Replace section RD 21(1)(a) with:
 - (a) provide the relevant employment income information under section 23I of the Tax Administration Act 1994 to the Commissioner; and
- (2) In section RD 21(3), replace “section RD 4(2)” with “section RD 4(4)”.
- (3) In section RD 21, in the list of defined terms,—
 - (a) insert “employment income information”;
 - (b) delete “employer monthly schedule”.

208 Section RD 22 replaced (Returns for amounts of tax paid to Commissioner)

Replace section RD 22 with:

RD 22 Providing employment income information to Commissioner

Employment income information

- (1) An employer or PAYE intermediary who withholds an amount of tax for a PAYE income payment must provide the relevant employment income information to the Commissioner under sections 23E to 23H of the Tax Administration Act 1994 by the dates set out in those provisions.

Special tax codes or rates of tax

- (2) Subsection (1) also applies to require an employer or PAYE intermediary to deliver employment income information in relation to an employee who has—
 - (a) a special tax code of zero provided by the Commissioner under section 24D of the Tax Administration Act 1994;
 - (b) a special tax rate of zero provided by the Commissioner under section 24G of that Act.

Benefits under employee share schemes

- (3) For a benefit that an employee or former employee of an employer receives under an employee share scheme, the employer or PAYE intermediary must provide the relevant employment income information to the Commissioner under sections 23E to 23H of that Act as modified by section 23K of that Act.

Exception

- (4) Subsection (3) does not apply—
 - (a) when the employee share scheme beneficiary is a former employee for whom the employer has not chosen under section RD 7B to withhold an amount of tax:

(b) to a benefit under an exempt ESS.

Defined in this Act: amount of tax, Commissioner, employee share scheme, employee share scheme beneficiary, employer, employment income information, exempt ESS, pay, PAYE income payment, PAYE intermediary

209 Section RD 23 amended (Bonds given by employers of certain non-resident employees)

- (1) In section RD 23(3)(b), replace “an employer monthly schedule” with “employment income information”.
- (2) In section RD 23(3)(c), replace “section 24B(3)(h)” with “section 24B(3B)”.
- (3) In section RD 23(3)(c), replace “the **no notification** rate referred to in section 24B(3B)” with “a non-notified tax code under section 24E”.
- (4) In section RD 23, in the list of defined terms,—
 - (a) insert “employment income information”;
 - (b) delete “employer monthly schedule”.

210 Section RD 24 amended (Exemption certificates for non-resident contractors)

- (1) In section RD 24, in the section heading, replace “**Exemption certificates**” with “**Exemptions**”.
- (2) In section RD 24(2),—
 - (a) replace the subsection heading with “*Exemptions*”;
 - (b) replace “an exemption certificate under section 24M” with “an exemption under section 24H”.
- (3) In section RD 24, in the list of defined terms, delete “exemption certificate”.

211 Section RD 36 amended (Repayment of employment-related loans)

- (1) In section RD 36(2), in the words before the paragraphs, replace “income” with “an amount”.
- (2) Replace section RD 36(2)(b) with:
 - (b) is payable by the relevant employer without any amount of tax being withheld and paid under the PAYE rules, the RWT rules, or the NRWT rules, or is a fully imputed dividend; and

212 Section RD 51 amended (Calculation of all-inclusive pay)

Replace section RD 51(6)(b) with:

- (b) income, other than from a PAYE income payment, to which section RD 3B or RD 3C applies; and

213 Section RD 52 amended (Calculation for certain employees when information lacking)

In section RD 51(1)(a), replace “income to which section RD 3(2) or (4) applies” with “income, other than from a PAYE income payment, to which section RD 3B or RD 3C applies”.

214 Section RD 57 amended (Private use of motor vehicle: when schedular value used)

- (1) In section RD 57(3), replace “schedule 5, clause 6(b), (c), (d), or (e)” with “schedule 5, clause 10(b) to (e)”.
- (2) Subsection (1) applies for the 2008–09 and later income years.

215 Section RD 64 amended (ESCT rules and their application)

[Repealed]

Section 215: repealed, on 18 March 2019, by section 346 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

216 Section RD 65 amended (Employer’s superannuation cash contributions)

In section RD 65(3), replace “section RD 22(3)” with “RD 4(2)”.

217 New section RD 67B inserted (Calculating amounts of tax following changes to rates or thresholds)

After section RD 67, insert:

RD 67B Calculating amounts of tax following changes to rates or thresholds

When a change occurs to a rate or threshold in this Act or the Tax Administration Act 1994 affecting the amount of tax for an employer’s superannuation cash contribution, the calculation of the amount of tax must be made using the rate applying on—

- (a) the day on which the PAYE income payment to which the contribution relates is paid or is otherwise under this Act treated as paid; or
- (b) for a contribution that is not tied to a particular PAYE income payment, the day on which the contribution is paid.

Defined in this Act: amount of tax, employer’s superannuation cash contribution, pay, PAYE income payment

218 Section RE 2 amended (Resident passive income)

- (1) In section RE 2(3)(b), replace “who holds an RWT exemption certificate issued” with “who has RWT-exempt status”.
- (2) Repeal section RE 2(5)(a)(iii).
- (3) In section RE 2(5)(d), replace “who holds an RWT exemption certificate issued” with “who has RWT-exempt status”.

- (4) In section RE 2(5)(g), replace “at the time of the payment:” with “at the time of the payment, other than a dividend referred to in section CW 10(3):”.
- (5) In section RE 2, in the list of defined terms,—
 - (a) insert “RWT-exempt status”:
 - (b) delete “RWT exemption certificate”.
- (6) Subsection (4) applies for the 2019–20 and later income years.

219 Section RE 4 amended (Persons who have withholding obligations)

- (1) In section RE 4(3)(a), replace “holds an RWT exemption certificate” with “has RWT-exempt status under section RE 27”.
- (2) In section RE 4, in the list of defined terms,—
 - (a) insert “RWT-exempt status”:
 - (b) delete “RWT exemption certificate”.

220 Section RE 5 amended (No withholding obligation in certain circumstances)

- (1) In section RE 5(2), replace “holds an RWT exemption certificate issued” with “has RWT-exempt status”.
- (2) After section RE 5(2), insert:

No obligation in relation to non-cash dividends

- (2B) Section RE 4 does not apply in relation to a dividend referred to in section RE 14C.
- (3) In section RE 5, in the list of defined terms, insert “dividend”.
- (4) In section RE 5, in the list of defined terms,—
 - (a) insert “RWT-exempt status”:
 - (b) delete “RWT exemption certificate”.
- (5) Subsection (2) applies for the 2017–18 and later income years.

221 Section RE 7 amended (When resident passive income paid to trustees)

- (1) In section RE 7(1)(c)(i), replace “does not hold an RWT exemption certificate” with “does not have RWT-exempt status under section RE 27”.
- (2) In section RE 7, in the list of defined terms,—
 - (a) insert “RWT-exempt status”:
 - (b) delete “RWT exemption certificate”.

222 Section RE 8 amended (When resident passive income paid to nominees)

- (1) In section RE 8(1)(c)(i), replace “holds an RWT exemption certificate” with “has RWT-exempt status under section RE 27”.
- (2) In section RE 8, in the list of defined terms,—

- (a) insert “RWT-exempt status”;
- (b) delete “RWT exemption certificate”.

223 Section RE 10 amended (Special rule relating to payments of interest)

- (1) Replace section RE 10(1)(b) and (c) with:

- (b) either does not have RWT-exempt status under section RE 27 at the time of the payment or is a person described in section 32E(2)(k) or (l) of the Tax Administration Act 1994 or is a person with RWT-exempt status under section 32I of that Act; and
- (c) has paid an amount of resident passive income consisting of interest that is equal to or less than \$5,000 in the tax year before the tax year in which the payment is made; and

- (2) After section RE 10(2), insert:

Interest payments made in relation to taxable activities

- (3) For the purposes of subsection (2), and despite section RE 4(3)(b), a person who pays an amount of resident passive income consisting of interest in relation to the carrying on of a taxable activity in a tax year is required to withhold RWT for the resident passive income only if the amount that relates to the taxable activity is more than \$5,000 for the tax year. This subsection does not apply in relation to a person referred to in subsection (1)(b) other than a person who does not have RWT-exempt status.
- (3) In section RE 10, in the list of defined terms,—
- (a) insert “RWT-exempt status” and “taxable activity”;
 - (b) delete “RWT exemption certificate”.

224 Section RE 14 amended (Non-cash dividends other than certain share issues)

- (1) After section RE 14(1)(b), insert:

- (c) a dividend referred to in section RE 14C.

- (2) Subsection (1) applies for the 2017–18 and later income years.

225 New section RE 14C inserted (Non-cash dividends distributed through intermediaries)

- (1) After section RE 14B, insert:

RE 14C Non-cash dividends distributed through intermediaries

Sections RE 5 and RE 14 do not apply in relation to a non-cash dividend when—

- (a) a company or trustee of a trust—
 - (i) derives the dividend from a foreign company; and

- (ii) distributes the dividend to a shareholder in the company or to a beneficiary of the trust, as applicable, who is in either case a natural person; and
- (iii) acts as an intermediary in relation to the distribution of the dividend; and
- (b) the distribution is made in the same income year in which the dividend is derived.

Defined in this Act: company, foreign company, income year, non-cash dividend, shareholder, trustee

- (2) Subsection (1) applies for the 2017–18 and later income years.

226 Cross-heading and section RE 27 amended

- (1) Replace the cross-heading before section RE 27 with “*Persons with RWT-exempt status*”.
- (2) In section RE 27, replace the section heading with “**RWT-exempt status**”.
- (3) Replace section RE 27(1), other than the heading, with:
 - (1) A person may apply to the Commissioner for RWT-exempt status if they are a person listed in section 32E(2) of the Tax Administration Act 1994.
- (4) Replace section RE 27(2) with:

When status ends

- (2) A person ceases to have RWT-exempt status if—
 - (a) they no longer meet the requirements in subsection (1); or
 - (b) the Commissioner revokes the status under section 32L of the Tax Administration Act 1994.
- (5) In section RE 27(3), replace “the holder of an RWT exemption certificate” with “a person who has RWT-exempt status”.
- (6) After section RE 27(3), insert:

Notifying investment providers

- (4) A person who has RWT-exempt status must notify their investment provider of their status and of a change in their status. For a list of investment providers, see section 25E(1) of the Tax Administration Act 1994.
- (7) In section RE 27, in the list of defined terms,—
 - (a) insert “RWT-exempt status”;
 - (b) delete “RWT exemption certificate”.

227 Section RE 28 amended (When certificates expire)

- (1) In section RE 28, replace the section heading with “**When RWT-exempt status ends**”.
- (2) In section RE 28(1), replace “a person’s RWT exemption certification expires” with “a person’s RWT-exempt status ends”.

- (3) In section RE 28(2), replace “the certificate expired” with “the status ends”.
- (4) In section RE 28, in the list of defined terms,—
 - (a) insert “RWT-exempt status”:
 - (b) delete “RWT exemption certificate”.

228 Section RE 29 replaced (Establishing whether person holds certificate)

Replace section RE 29 with:

RE 29 Establishing whether persons have RWT-exempt status

- (1) This section applies for the purposes of section RE 5(2) to set out the ways for person A to establish—
 - (a) whether person B is a person who has RWT-exempt status; and
 - (b) that the status has not ended.
- (2) Person A may establish that—
 - (a) they have made a search of the electronic register that the Commissioner provides on which the details of persons with RWT-exempt status are listed; or
 - (b) they have taken reasonable steps to confirm that person B is a person listed in section 32E(2)(a) to (h) of the Tax Administration Act 1994; or
 - (c) except in relation to a person listed in section 32E(2)(k) or (l) of that Act or to whom the Commissioner has provided RWT-exempt status under section 32I of that Act, they have been given person B’s tax file number and have been notified that person B has RWT-exempt status.

Defined in this Act: Commissioner, notify, RWT-exempt status, tax file number

229 Section RE 30 amended (When unincorporated bodies hold certificates)

- (1) In section RE 30, in the section heading, replace “**hold certificates**” with “**have RWT-exempt status**”.
- (2) In section RE 30(1)(a), replace “holds an RWT exemption certificate” with “has RWT-exempt status”.
- (3) In section RE 30, in the list of defined terms,—
 - (a) insert “RWT-exempt status”:
 - (b) delete “RWT exemption certificate”.

230 Section RF 2B amended (Non-resident financial arrangement income: outline and concepts)

In section RF 2B(1), replace “sections RF 2C, and” with “sections RF 2C and”.

231 Section RL 1 amended (Residential land withholding tax)

- (1) In section RL 1(2)(a), replace “2 years” with “5 years”.

- (2) Subsection (1) applies to a person’s disposal of residential land if the date that the person first acquires an estate or interest in the residential land is on or after the date on which the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 receives the Royal assent.
- (3) Despite subsection (2), subsection (1) does not apply to a person’s disposal of a freehold estate in residential land that the person acquired as the owner of a leasehold estate with a perpetual right of renewal, if the person was granted the leasehold estate before 29 March 2018.
- (4) Despite subsection (2), subsection (1) does not apply to a person’s disposal of an estate or interest in residential land that the person acquired as the result of the completion of a land development or subdivision, if before 29 March 2018 the person entered into the agreement under which they acquired the estate or interest upon the completion of the land development or subdivision.

Section 231(3): inserted, on 18 March 2019 (with effect on 29 March 2018), by section 347 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section 231(4): inserted, on 18 March 2019 (with effect on 29 March 2018), by section 347 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

232 Section RL 4 amended (How much RLWT?)

- (1) In section RL 4(8)(b), replace “NBDT, as defined in section 4 of the Non-bank Deposit Takers Act 2013” with “non-bank deposit taker”.
- (2) In section RL 4, in the list of defined terms, insert “licensed non-bank deposit taker”.

233 Section RM 8 amended (Overpaid RWT or NRWT)

- (1) Replace section RM 8(5)(c) with:
 - (c) they provide, in relation to the amount, a statement that they will not include particulars in their investment income information under sections 25F to 25H and make disclosure under section 25N of the Tax Administration Act 1994.
- (2) In section RM 8, in the list of defined terms, insert “investment income information”.

234 Section RM 15 amended (Changes in credit balances)

After section RM 15(2), insert:

Credit balance increased: refund after debit under section OB 41

- (3) For a company that has a refundable tax credit for a tax year after a debit to the company’s imputation credit account arises under section OB 41 (ICA debit for loss of shareholder continuity), a credit balance for the tax year is increased by an amount equal to the lesser of—
 - (a) the debit under section OB 41:

- (b) the amount by which the refundable tax credit exceeds the total credits to the company's imputation credit account, for amounts satisfying the company's income tax liability, during the period from the date of the debit to the date on which the credit balance is to be determined under sections RM 13 and RM 14.

235 Section RP 2 amended (PAYE intermediaries)

- (1) In section RP 2(1),—
- (a) delete “or 15G”:
- (b) delete “or a listed PAYE intermediary”.
- (2) In section RP 2(2), delete “or listed PAYE intermediary”.
- (3) In section RP 2(3), replace “or a listed PAYE intermediary for an employer has the rights and obligations under the PAYE rules and ESCT rules of a PAYE intermediary or listed PAYE intermediary, as applicable,” with “for an employer has the rights and obligations under the PAYE rules and ESCT rules of a PAYE intermediary”.
- (4) In section RP 2, in the list of defined terms, delete “listed PAYE intermediary”.

236 Section RP 3 repealed (Requirements for listed PAYE intermediaries)

Repeal section RP 3.

237 Section RP 4 amended (Payment of subsidies to certain PAYE intermediaries)

- (1) In section RP 4(1), replace “to whom section RD 22(3) or (4) (PAYE income payment forms for amounts of tax paid to Commissioner) applies” with “to whom subsection (1B) applies”.
- (2) After section RP 4(1), insert:

Requirements for employers

- (1B) For the purposes of subsection (1), the employer must have, for the preceding tax year, a total gross amount of tax of less than \$50,000 withheld under section RA 5(1)(a) and (c) (Tax obligations for employment-related taxes) for—
- (a) PAYE income payments:
- (b) employer's superannuation cash contributions.

New employers

- (1C) For the purposes of the threshold amount in subsection (1B), an employer who is a new employer may estimate whether the total gross amount of tax for the tax year is likely to be less than the threshold amount.

Commissioner's discretion

- (1D) Despite subsection (1B), the Commissioner may regard the employer as continuing to meet the requirements of that subsection even though the total gross

amount of tax exceeds the threshold amount if the excess relates to an amount that is not a recurring amount, for example, a redundancy payment or a payment on retirement.

- (3) In section RP 4(4)(a), replace “the employer monthly schedule” with “the employment income information”.
- (4) In section RP 4, in the list of defined terms,—
 - (a) insert “employer’s superannuation cash contribution”, “employment income information”, “gross”, and “tax year”:
 - (b) delete “employer monthly schedule”.

238 Sections RP 4 and RP 5 repealed

Repeal sections RP 4 and RP 5.

239 Section RP 8 replaced (Information required from employers)

Replace section RP 8 with:

RP 8 Information for PAYE intermediaries

An employer must provide the information sought by a PAYE intermediary within the time agreed by the employer and intermediary.

Defined in this Act: employer, PAYE intermediary

240 Section RP 14 amended (Collection, payment, and information requirements)

- (1) *[Repealed]*
- (2) Replace section RP 14(b) with:
 - (b) provide the relevant employment income information to the Commissioner under subpart 3C of that Act in electronic form and by means of an electronic communication as prescribed by the Commissioner; and
- (3) Repeal section RP 14(c).
- (4) In section RP 14(d), replace “section 24 of the Tax Administration Act 1994” with “section 22AA of that Act”.
- (5) In section RP 14, in the list of defined terms,—
 - (a) insert “employment income information”:
 - (b) delete “employer monthly schedule” and “PAYE income payment form”.

Section 240(1): repealed, on 18 March 2019, by section 348 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

241 Section RZ 13 amended (Treatment of prepayments)

In section RZ 13, in the list of defined terms, replace “approved issuer levy” with “approved issuer”.

242 New section RZ 14 inserted (Listed PAYE intermediaries: transitional provision)

After section RZ 13, insert:

RZ 14 Listed PAYE intermediaries: transitional provision

Despite the repeal of sections RP 4 and RP 5, sections 15H, 15G, 15I, 15M, 185C, and 185D of the Tax Administration Act 1994, and the Income Tax (Payroll Subsidy) Regulations 2006 (which relate to the payment of subsidies to certain PAYE intermediaries) by the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018, those provisions continue to apply in relation to the payment of an amount of a subsidy or a claim for a subsidy to which a listed PAYE intermediary becomes entitled before the date of the repeal.

Defined in this Act: amount, pay, PAYE intermediary

243 Section YA 1 amended (Definitions)

- (1) This section amends section YA 1.
- (2) In the definition of **asset**, insert after paragraph (b):
 - (c) is defined in section HR 12(6) (Non-exempt charities: treatment of tax exempt accumulations) for the purposes of that section
- (3) Insert, in appropriate alphabetical order:

ASX-listed Australian company is defined in section ED 2B(8) (Transfers to shareholders by ASX-listed Australian company of shares in subsidiary)
- (4) In the definition of **bright-line date**, replace “2 years” with “5 years” in each place where it appears.
- (5) In the definition of **charitable purpose**, paragraph (b)(ii), replace “or not used for a purpose that is a charitable purpose other than under this paragraph” with “or are used for a purpose that is a charitable purpose”.
- (6) In the definition of **company**,—
 - (a) after paragraph (abb), insert:

(abc) does not include a company that is acting in the capacity of trustee:
 - (b) in paragraph (c), replace “includes a group investment fund” with “includes a trustee of a group investment fund”:
 - (c) after paragraph (j), insert:

(k) is defined in section HD 15(9) (Asset stripping of companies) for the purposes of that section:
- (7) In the definition of **company dividend statement**, replace “section 67” with “section 25G”.
- (8) Repeal the definition of **conduct**.
- (9) In the definition of **continuity provisions**, after paragraph (b), insert:

- (bb) Section HA 6 (Corporate requirements); and
- (10) In the definition of **controlled petroleum mining holding company**, replace paragraph (b)(i) with:
- (i) shares in petroleum miners that are companies:
- (11) In the definition of **date of acquisition**, replace “2 years” with “5 years” in each place where it appears.
- (12) Insert, in appropriate alphabetical order:
- decommissioning**, for a petroleum miner or farm-in party, means—
- (a) dismantling, demolishing, or removing petroleum mining assets other than those referred to in section CT 6B(2)(a) (Meaning of petroleum mining operations):
- (b) plugging and abandoning the following wells on a site, or former site, of petroleum mining operations:
- (i) a well (a **commercial well**), including any associated processing facility connected to the well, used for the commercial production of petroleum:
- (ii) an exploratory well that has been plugged and abandoned in a permit area together with a commercial well geologically contiguous with the exploratory well as part of an arrangement between the petroleum miner or farm-in party and another person who plugs and abandons wells in the permit area:
- (iii) a well used for water injection, water disposal, gas reinjection, or gas disposal in the commercial production of petroleum:
- (c) restoring a site, or former site, of petroleum mining operations other than a part of the site that has been used only for an activity referred to in section CT 6B(2)(a):
- (d) the ongoing monitoring of—
- (i) a commercial well, exploratory well, or other well referred to in paragraph (b) that has been plugged and abandoned:
- (ii) a site or former site referred to in paragraph (c) that has been restored:
- (e) planning and managing an activity referred to in paragraphs (a) to (d)
- (13) Insert, in appropriate alphabetical order:
- detached tax credit** is defined in section LB 3(8) (Tax credits for resident withholding tax) for the purposes of that section and sections HC 6 and RE 2 (which relate to RWT substitution payments)
- (14) In the definition of **dispose**, repeal paragraph (d).
- (15) In the definition of **distinctive work clothing**, replace “clothing) and section CW 17CC (Payment for distinctive work clothing)” with “clothing)”.

- (16) In the definition of **dwelling**,—
- (a) in paragraph (a), replace “place; but” with “place”:
 - (b) in paragraph (b)(vi), replace “ground” with “ground”:
 - (c) in paragraph (c), replace “2 years” with “5 years”.
- (17) In the definition of **employee**,—
- (a) in paragraph (ab), delete “who has chosen under section RD 3(3) to treat amounts paid to them in the income year in their capacity as employee as income other than from a PAYE income payment”:
 - (b) in paragraph (b), replace “section RD 3(2) to (4) (PAYE income payments)” with “section RD 3B or RD 3C (which relate to income other than PAYE)”.
- (18) In the definition of **employee**, replace paragraph (d) with:
- (d) is defined in section CW 26D (Meaning of employee) for the purposes of section CW 26C (Meaning of exempt ESS)
- (19) Insert, in appropriate alphabetical order:
- employee share scheme** is defined in section CE 7 (Meaning of employee share scheme)
 - employee share scheme beneficiary** is defined in section CE 7C (Meaning of employee share scheme beneficiary)
- (20) Repeal the definition of **employer monthly schedule**.
- (21) Insert, in appropriate alphabetical order:
- employer’s workplace** is defined in section CW 17CB(7B) (Payments for certain work-related meals) for the purposes of that section
- (22) Repeal the definition of **employing company**.
- (23) Replace the definition of **employment income** with:
- employment income** means an amount that is income under section CE 1 (Amounts derived in connection with employment), and includes—
 - (a) salary or wages to which section RD 3B or RD 3C (which relate to income other than PAYE) applies:
 - (b) income, other than from a PAYE income payment, to which section RD 3B or RD 3C applies
- (24) Insert, in appropriate alphabetical order:
- employment income information** is defined in section 23C of the Tax Administration Act 1994
- (25) Replace the definition of **end date** with:
- end date**—
 - (a) is defined in section HR 12(7) (Non-exempt charities: treatment of tax-exempt accumulations) for the purposes of that section:

- (b) is defined in section RA 15(3) (Payment dates for interim and other tax payments) for the purposes of that section
- (26) Insert, in appropriate alphabetical order:
ESS deferral date is defined in section CE 2(9) (Benefits under employee share schemes) for the purposes of that section and sections RD 6 and RD 7B (which relate to amounts of tax for benefits under employee share schemes)
- (27) Repeal the definition of **established activity**.
- (28) Insert, in appropriate alphabetical order:
exempt ESS is defined in section CW 26C (Meaning of exempt ESS)
- (29) In the definition of **exempt interest**, in paragraph (c), delete “or CW 64 (Exemption under other Acts)”.
- (30) Repeal the definition of **exemption certificate**.
- (31) Repeal the definition of **existing farmer**.
- (32) Insert, in appropriate alphabetical order:
farm-in party, in relation to petroleum miner, means the person referred to in the definition of farm-out arrangement who has an arrangement as described in that definition with the petroleum miner
- (33) Replace the definition of **formation loss** with:
formation loss, for a PIE,—
- (a) means an amount of tax loss or a loss balance arising from a period before the entity became a PIE as described in sections HM 66 to HM 70 (which relate to the treatment of formation losses); and
- (b) includes a loss balance of a multi-rate PIE when the loss balance is carried forward under section HM 44(3) (Provisional tax calculation option) because the PIE—
- (i) has chosen for an income year to calculate its income tax liability using the provisional tax calculation option under section HM 44; and
- (ii) for the next corresponding tax year, chooses to use either the exit calculation option under section HM 42 (Exit calculation option) or the quarterly calculation option under section HM 43 (Quarterly calculation option) to calculate its income tax liability
- (34) In the definition of **fully imputed**, in paragraph (a), replace “RF 8, RF 10” with “RF 8, and RF 10”.
- (35) In the definition of **goods**, replace “and of **services**” with “and **services**”.
- (36) In the definition of **grandparented charity**, replace “a charity” with “a tax charity”.
- (37) In the definition of **high-priced livestock**, in paragraph (a), replace “for a acquisition price” with “for an acquisition price”.

- (38) Replace the definition of **income from employment**, paragraph (c) with:
- (c) in sections DA 2(4) and DE 1, includes—
 - (i) salary or wages to which section RD 3B or RD 3C (which relate to income other than PAYE) applies:
 - (ii) income, other than from a PAYE income payment, to which section RD 3B or RD 3C applies
- (39) Repeal the definition of **income from personal exertion**.
- (40) In the definition of **land**, repeal paragraph (e).
- (41) Replace the definition of **liabilities** with:
- liabilities**—
- (a) is defined in section EZ 68 (Definitions) for the purposes of sections EZ 64 to EZ 67 (which relate to New Zealand Railways Corporation restructure):
 - (b) is defined in section HR 12(6) (Non-exempt charities: treatment of tax-exempt accumulations) for the purposes of that section
- (42) Insert, in appropriate alphabetical order:
- licensed non-bank deposit taker** means a licensed NBDT as defined in section 4 of the Non-bank Deposit Takers Act 2013
- (43) Repeal the definition of **listed PAYE intermediary**.
- (44) Insert, in appropriate alphabetical order:
- Lloyd’s of London** means a person who is a Lloyd’s underwriter who carries on insurance business referred to in section 200 of the Insurance (Prudential Supervision) Act 2010 under a licence issued to Lloyd’s under section 205 of that Act
- (45) In the definition of **look-through company**, replace paragraph (eb) with:
- (eb) for which an owner that is a trustee of a trust does not make a distribution to a company that is directly or indirectly a beneficiary of the trust, unless the company is—
 - (i) a grandparented Maori authority for the entity:
 - (ii) a tax charity that has no control or influence in relation to the operation of the entity and no control or influence in relation to the distributions of the trust; and
- (46) In the definition of **member**, paragraph (d), replace “When unincorporated bodies hold certificates” with “When unincorporated bodies have RWT-exempt status”.
- (47) Replace the definition of **natural person** with:
- natural person**—
- (a) does not include a natural person who is acting in the capacity of trustee:

- (b) is further defined in section FE 4 (Some definitions) for the purposes of subpart FE (Interest apportionment on thin capitalisation)
- (48) In the definition of **net assets**, replace “charities: taxation” with “charities: treatment”.
- (49) Replace the definition of **normal retiring age** with:
normal retiring age is defined in section CW 26E (Meaning of normal retiring age) for the purposes of section CW 26C (Meaning of exempt ESS)
- (50) In the definition of **offered or was offered or entered into**, replace “in sections EY 12 (Meaning of life reinsurance) and EY 48 (Non-resident life insurers with life insurance policies in New Zealand)” with “in sections CR 3B, EY 12, EY 48, and YD 8B (which relate to life insurance and life reinsurance)”.
- (51) In the definition of **offshore RLWT person**, paragraph (c), in the words before the subparagraphs, replace “a person” with “a person, other than a statutory trustee company”.
- (52) *[Repealed]*
- (53) Insert, in appropriate alphabetical order:
payday has the meaning given in section 3(1) of the Tax Administration Act 1994
- (54) Repeal the definitions of **PAYE income payment form** and **PAYE income payment form period**.
- (55) In the definition of **PAYE intermediary**, in paragraph (a)(i), delete “or 15G”.
- (56) Repeal the definition of **period of restriction**.
- (57) In the definition of **petroleum development expenditure**, after paragraph (b)(ii), insert:
(iib) expenditure that relates to an amount for which a deduction is allowed under section DT 7B (Resuming commercial production: petroleum development expenditure), except as provided in that section
- (58) Repeal the definition of **petroleum mining company**.
- (59) In the definition of **principal settlor**, replace “2 years” with “5 years”.
- (60) In the definition of **profit distribution plan**, in paragraph (b), replace “share purchase agreement” with “employee share scheme”.
- (61) Replace the definition of **refundable tax credit** with:
refundable tax credit means a tax credit under a provision that is listed in section LA 6(1)(a) to (j) (Remaining refundable credits: PAYE, RWT, and certain other items)
- (62) Repeal the definition of **related activity**.
- (63) Repeal the definition of **removal or restoration operations**.

- (64) Insert, in appropriate alphabetical order:
replacement employee share scheme is defined in section CE 7D (Meaning of replacement employee share scheme)
- (65) Insert, in appropriate alphabetical order:
RWT-exempt status means the status of an eligible person under section RE 27 (RWT-exempt status) relating to the treatment of resident passive income derived by the person
- (66) Repeal the definition of **RWT exemption certificate**.
- (67) In the definition of **RWT withholding certificate**, replace “section 25” with “section 26C”.
- (68) In the definition of **savings product policy**, paragraph (b), replace “payback of a” with “payback of”.
- (69) In the definition of **schedular income**, after paragraph (i), insert:
(j) income under section CR 3B (Lloyd’s of London: income from life insurance premiums)
- (70) Repeal paragraph (b) of the definition of **self-remission**.
- (71) In the definition of **settlement**, paragraph (c), in the words before the subparagraphs, replace “2 years” with “5 years”.
- (72) In the definitions of **settlement of relationship property**, delete the second and third versions of the definition and retain only the definition that contains the reference to section FB 1B(a).
- (73) In the definition of **share**, repeal paragraph (f).
- (74) In the definition of **share**, replace paragraph (g) with:
(g) is further defined in section CW 26F (Meaning of share) for the purposes of section CW 26C (Meaning of exempt ESS)
- (75) Repeal the definition of **share purchase agreement**.
- (76) Repeal the definition of **share purchase scheme**.
- (77) Insert, in appropriate alphabetical order:
share scheme taxing date is defined in section CE 7B (Meaning of share scheme taxing date)
- (78) In the definition of **shareholder-employee**, paragraph (a), replace “salary, wages, or other income to which section RD 3(2) to (4) (PAYE income payments) applies” with “—”, and insert:
(i) salary or wages to which section RD 3B or RD 3C (which relate to income other than PAYE) applies:
(ii) income, other than from a PAYE income payment, to which section RD 3B or RD 3C applies
- (79) Replace the definition of **shareholder-employee** with:

- shareholder-employee** means a person who receives or is entitled to receive—
- (a) salary or wages to which section RD 3B or RD 3C (which relate to income other than PAYE) applies;
 - (b) income, other than from a PAYE income payment, to which section RD 3B or RD 3C applies
- (80) Repeal the definitions of **specified activity**, **specified activity net income**, and **specified activity net loss**.
- (81) In the definition of **statutory trustee company**, replace “is defined in” with “means a trustee company defined in”.
- (82) Repeal the definition of **subsidy claim form**.
- (83) In the definition of **tax file number**, replace paragraph (b) with:
- (b) specifically for the purposes of RWT-exempt status under section RE 27 (RWT-exempt status)
- (84) In the definition of **tax situation**, replace “sections HZ 4B and HZ 4D (which relate to the transition of a qualifying company into a partnership or sole trader-ship)” with “sections HZ 4B, HZ 4D, and HZ 4E (which relate to the transitional provisions for look-through companies)”.
- (85) In the definition of **time bar**, replace “sections 108 and 108B” with “sections 108, 108A, and 108B”.
- (86) In the definition of **trustee**, replace paragraph (f) with:
- (f) is defined in section CW 26G (Meaning of trustee) for the purposes of section CW 26C (Meaning of exempt ESS)
- (87) Insert, in appropriate alphabetical order:
- unused specified activity net loss** is the amount of specified activity net loss, under section IZ 1 as that section was immediately before its repeal by section 148 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018, that—
- (a) existed at the close of the 2017–18 income year; and
 - (b) had not been included in the tax loss for the 2017–18 tax year or for an earlier tax year
- (88) Subsections (42), (44), (50), and (69) apply for a life insurance premium that is derived on or after 1 April 2017 by Lloyd’s of London.
- (89) Subsection (9) applies for the 2017–18 and later income years.
- (90) Subsections (8), (12), (27), (31), (32), (39), (40), (57), (58), (61), (62), (63), (80), and (87) apply for the 2018–19 and later income years.
- (91) Subsections (4), (11), (16), (59), and (71) apply to a person’s disposal of residential land if the date that the person first acquires an estate or interest in the residential land is on or after the date on which the Taxation (Annual Rates for

2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 receives the Royal assent.

- (92) Despite subsection (91), subsections (4), (11), (16), (59), and (71) do not apply to a person’s disposal of a freehold estate in residential land that the person acquired as the owner of a leasehold estate with a perpetual right of renewal, if the person was granted the leasehold estate before 29 March 2018.
- (93) Despite subsection (91), subsections (4), (11), (16), (59), and (71) do not apply to a person’s disposal of an estate or interest in residential land that the person acquired as the result of the completion of a land development or subdivision, if before 29 March 2018 the person entered into the agreement under which they acquired the estate or interest upon the completion of the land development or subdivision.

Section 243(52): repealed, on 18 March 2019, by section 349(1) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section 243(92): inserted (with effect on 29 March 2018), on 18 March 2019, by section 349(2) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section 243(93): inserted (with effect on 29 March 2018), on 18 March 2019, by section 349(2) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

244 New section YA 5 inserted (General rule: capacity of trustees)

After section YA 4, insert:

YA 5 General rule: capacity of trustees

Trustees acting in separate capacity

- (1) A person who is acting as a trustee of a trust is acting in a capacity that is separate from their other capacities.

Other capacities

- (2) The other capacities of the person referred to in subsection (1) may include—
- (a) their personal capacity:
 - (b) their capacity as a body corporate that is a legal person:
 - (c) their capacity as a trustee of another trust or as an agent.

Defined in this Act: agent, trustee

245 Section YC 4 amended (Look-through rule for corporate shareholders)

- (1) In section YC 4(1), replace “is or is treated as having” with “has or is treated as having”.
- (2) Subsection (1) applies for the 2008–09 and later income years.

246 Section YD 1 amended (Residence of natural persons)

- (1) In section YD 1(1), replace “person who is not a company” with “natural person”.

- (2) In section YD 1(2), replace “person” with “natural person”.
- (3) In section YD 1(3), replace “person” with “natural person”.
- (4) In section YD 1(4), replace “person” with “natural person” in each place where it appears.
- (5) In section YD 1(5), replace “person” with “natural person”.
- (6) In section YD 1(6), replace “person” with “natural person”.
- (7) In section YD 1(7), replace “person” with “natural person”.
- (8) In section YD 1(8), replace “person” with “natural person”.
- (9) After section YD 1(11), insert:

Treatment of trustees

- (12) In this section, a natural person includes a natural person who is acting in the capacity of trustee.
- (10) In section YD 1, in the list of defined terms,—
 - (a) insert “natural person” and “trustee”:
 - (b) delete “company”.

247 Section YD 2 amended (Residence of companies)

- (1) After section YD 2(1), insert:

Treatment of trustees

- (1B) In this section, a company includes a company that is acting in the capacity of trustee.
- (2) In section YD 2, in the list of defined terms, insert “trustee”.

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

In section YD 4, in the compare note, replace “ss FB 2(2)” with “s FB 2(2)”.

249 Section YD 6 amended (Apportionment of income from sea transport)

- (1) In section YD 6(3)(b), replace “exempt from income tax” with “exempt from, or not liable to, income tax”.
- (2) Subsection (1) applies for the 2008–09 and later income years.

250 New section YD 8B inserted (Apportionment of life insurance premiums derived by Lloyd’s of London)

- (1) After section YD 8, insert:

YD 8B Apportionment of life insurance premiums derived by Lloyd’s of London

What this section applies to

- (1) This section applies when—

- (a) a premium is paid under a life insurance policy; and
- (b) the premium is derived by Lloyd's of London; and
- (c) the life insurance policy is described in subsection (4); and
- (d) the life insurance policy is offered or was offered or entered into within New Zealand.

Ten percent of premium from source in New Zealand

- (2) Ten percent of the gross premium is treated as having a source in New Zealand and the remainder of the gross premium is treated as not having a source in New Zealand.

Special rules

- (3) The following provisions apply in relation to taxation of the 10% amount:
 - (a) Lloyd's of London is denied a deduction for expenditure or loss incurred, under section DW 3B (Lloyd's of London: deductions for life insurance business):
 - (b) sections HD 3 (Agents' duties and liabilities), HD 17B (Lloyd's of London: agents for life insurance), and HR 13 (Lloyd's of London: life insurance) impose certain obligations to provide a return of income and pay income tax on the income.

Types of life insurance policies

- (4) The life insurance policy referred to in subsection (1) is a life insurance policy that—
 - (a) is made available to the general public; and
 - (b) is not a profit participation policy or a savings product policy or both; and
 - (c) does not provide for a benefit that is an annuity.

Defined in this Act: deduction, income, income tax, life insurance policy, Lloyd's of London, offered or was offered or entered into, pay, premium, profit participation policy, return of income, savings product policy, source in New Zealand

- (2) Subsection (1) applies in relation to a life insurance premium that is derived on or after 1 April 2017 by Lloyd's of London.

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

- (1) In schedule 1, part A, after clause 10, insert:

11 Scheduling taxable income: life insurance premiums derived by Lloyd's of London

The basic rate of income tax for a person on each dollar of the person's scheduling taxable income that is income under section CR 3B (Lloyd's of London: income from life insurance premiums) is 0.28.

- (2) In schedule 1, part D,—
- (a) in clause 3, table 2, rows 2 to 8, replace “section 25A” with “section 26B” in each place where it appears:
 - (b) in clause 3, table 2, row 1, replace “0.330” with “0.450”:
 - (c) in clause 4, table 3, row 4, replace “0.33” with “0.45”.
- (3) Subsection (1) applies in relation to a life insurance premium that is derived on or after 1 April 2017 by Lloyd’s of London.

252 Schedule 2 amended (Basic tax rates for PAYE income payments)

- (1) In schedule 2, in the shoulder references, delete “RD 14,”.
- (2) In schedule 2, part A, clause 2, replace “under section 24B(3)” with “referred to in schedule 5, part A, clause 4, row 1”.
- (3) In schedule 2, part A, clause 3, replace “section 24B(3)” with “section 24B(3B)”.
- (4) Replace schedule 2, part A, clause 3 with:

3 Non-notified tax code

If an employee’s tax code is a non-notified tax code under section 24E of the Tax Administration Act 1994, the basic tax rate amount for a payment of salary or wages is set by applying the rate of 0.45 for each dollar of the payment.

- (5) In schedule 2, clauses 4 to 8, replace “section 24B(3)” with “section 24C” in each place where it appears.
- (6) In schedule 2, clause 7, replace “casual agricultural worker” with “casual agricultural employee”.
- (7) In schedule 2, clause 9, replace “section 24B(3)(bb)” with “section 24C”.
- (8) In schedule 2, part B, table 1, insert in correct numerical order:

Row	Condition	Tax rate
1B	Section RD 10(2C) applies.	0.105
5	Section RD 10(2D) applies.	0.450

253 Schedule 6 amended (Prescribed rates: PIE investments and retirement scheme contributions)

- (1) In schedule 6, table 1B, row 9, replace “amount of interest referred to in row 4” with “amount of interest referred to in row 6”.
- (2) Subsection (1) applies for the 2012–13 and later income years.

254 Schedule 25 amended (Foreign investment funds)

In schedule 25, in the shoulder references, after “DN 6,” insert “ED 2B,”.

255 Schedule 31 amended (Annualised equivalent amount for Part M)

- (1) In schedule 31, column 1, replace the first 6 rows with:

Amount does not exceed \$42,700
Amount exceeds \$42,700 but does not exceed \$44,000

- (2) In schedule 31, column 2, replace the first 5 rows with:

\$42,700

256 Schedule 32 amended (Recipients of charitable or other public benefit gifts)

- (1) In schedule 32, insert, in appropriate alphabetical order, “Byond Disaster Relief New Zealand”, “Flying for Life Charitable Trust”, “Médecins Sans Frontières New Zealand Charitable Trust”, “Tony McClean Nepal Trust”, and “Zimbabwe Rural Schools Library Trust”.
- (2) In schedule 32, replace “The World Swim for Malaria Foundation (New Zealand)” with “Against Malaria Foundation (New Zealand)”.
- (3) In schedule 32, replace “Destiny Rescue Charitable Aid Trust” with “Child Rescue Charitable Trust”.
- (4) Subsection (1) applies for the 2017–18 and later income years.

257 Schedule 36 amended (Government enterprises)

In schedule 36, part A, insert, in appropriate alphabetical order, “Animal Control Products Limited” and “Kordia Group Limited”.

258 Consequential amendments to Income Tax Act 2007 related to trustee capacity

The Income Tax Act 2007 is amended as set out in schedule 1.

259 Consequential amendments to other enactments related to tax administration

The enactments referred to in schedule 2 are amended as set out in the schedule.

Part 3

Amendments to Tax Administration Act 1994

260 Tax Administration Act 1994

Part 3 amends the Tax Administration Act 1994.

261 Section 3 amended (Interpretation)

- (1) This section amends section 3(1).
- (2) Insert, in appropriate alphabetical order:

- contact address** in schedule 3, tables 1 and 2, schedule 4, tables 2 and 3, and schedule 6, table 1 has the meaning given in section 14G
- (3) Repeal the definition of **dividend treated as interest**.
- (4) In the definition of **employee**, replace “section 46(7)” with “section 23L(6)”.
- (5) Insert, in appropriate alphabetical order:
employment income information is defined in section 23C for the purposes of subpart 3C, sections 23, 36, 47, 80D, 124Q, 139A, 139AA(4), 141AA, 141ED, 142, 142G, and 227C, and schedules 3 and 4
- (6) Insert, in appropriate alphabetical order:
ESS deferral date has the meaning given by section CE 2(9) of the Income Tax Act 2007
- (7) In the definition of **exempt person**, replace “section 27(1)” with “section 27(2)”.
- (8) Repeal the definition of **exempt person**.
- (9) In the definition of **gift-exempt body**, replace paragraph (b) with:
(b) any other person who has RWT-exempt status following an application made under section 32E(2)(k) or (l) in relation to a tax year in which they have that status
- (10) Insert, in appropriate alphabetical order:
investment income is defined in section 25C for the purposes of subpart 3E, sections 142G, and 227E, and schedule 6
investment income information is defined in section 25D for the purposes of subpart 3E, sections 32H, 57, 57B, 139AA, 142G, and 227E, schedule 6, and sections RA 11, RA 12, and RM 8 of the Income Tax Act 2007
- (11) Insert, in appropriate alphabetical order:
natural person—
(a) does not include a natural person who is acting in the capacity of trustee:
(b) for the purposes of sections 177 and 177A, includes a natural person who is acting in the capacity of trustee
- (12) Repeal the definition of **non-exempt person**.
- (13) Insert, in appropriate alphabetical order:
payday in subpart 3C and schedule 4, means the day on which an employer makes a PAYE income payment to an employee
- (14) In the definition of **payment**, replace “in sections 67 and 120U” with “in section 120U, and for the purposes of section 25G and schedule 6, table 1, row 18,”.
- (15) Insert, in appropriate alphabetical order:

payroll software is defined in section 23P for the purposes of that section and section 23F

- (16) Repeal the definition of **reconciliation statement**.
- (17) In the definition of **record**, paragraph (b), replace “section 26” with “section 22AAB”.
- (18) In the definition of **record holder**, delete “and section 26”.
- (19) Replace the definition of **registered person** with:
 - (a) **registered person** has the meaning given by section 2(1) of the Goods and Services Tax Act 1985
- (20) In the definition of **responsible department**, in paragraph (b), replace “sections 24F and 24IB” with “section 24D”.
- (21) Repeal the definition of **RWT exemption certificate**.
- (22) Repeal the definitions of **special tax code certificate** and **special tax code notification**.
- (23) Insert, in appropriate alphabetical order:

START tax type means—

- (a) GST:
- (b) FBT:
- (c) RWT:
- (d) NRWT:
- (e) approved issuer levy:
- (f) RLWT:
- (g) gaming-machine duty:
- (h) income tax liability of portfolio investment entities to which section HM 42 or HM 43 of the Income Tax Act 2007 applies

- (24) In the definition of **tax**, repeal paragraph (a)(xiii).
- (25) Insert, in appropriate alphabetical order:

tax code is defined in section 24B(1)

- (26) Repeal the definitions of **tax code certificate** and **tax code notification**.
- (27) In the definition of **tax position**, repeal paragraph (o).
- (28) Replace the definition of **tax shortfall** with:

tax shortfall, for a return period, means—

- (a) the difference between the tax effect of a taxpayer’s tax position for the return period and the correct tax position for that period, when the taxpayer’s tax position—
 - (i) results in too little tax paid or payable by the taxpayer or another person:

- (ii) overstates a tax benefit, credit, or advantage of any type or description whatever by or benefiting the taxpayer or another person; but
- (b) for a person that has taken a tax position for section 46(6B) (the **tax position**) and has not made an election under section RD 7B of the Income Tax Act 2007, the amount of tax that they would have been liable to pay, if they had made an election under section RD 7B of that Act for the period, for the difference between the tax position and the correct tax position

Section 261(5): amended, on 1 April 2019, by section 350 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

262 Section 14G amended (Contact addresses)

In section 14G, insert as subsection (2):

- (2) For the purposes of the delivery of income information, a person’s contact address is the address described in subsection (1)(a) to (c).

263 Section 15C amended (PAYE intermediaries and listed PAYE intermediaries)

[Repealed]

Section 263: repealed, on 18 March 2019, by section 346 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

264 Section 15F amended (Fitness of applicants)

In section 15F(2), replace “; or” with “; and” in each place where it appears.

265 Sections 15G, 15H, and 15I repealed

[Repealed]

Section 265: repealed, on 18 March 2019, by section 346 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

266 Section 15J amended (Employers’ arrangements with PAYE intermediaries)

[Repealed]

Section 266: repealed, on 18 March 2019, by section 346 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

267 Section 15L amended (Amended monthly schedules)

- (1) In section 124Q, replace the section heading with “**Amended employment income information**”.
- (2) In section 124Q, replace “make an amended monthly schedule relating to the employee and a pay period” with “provide the amended employment income information relating to the employee and a payday”.

Section 267(1): amended, on 1 April 2019, by section 351 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section 267(2): amended, on 1 April 2019, by section 351 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

268 Section 15M repealed (Subsidy claim forms)

[Repealed]

Section 268: repealed, on 18 March 2019, by section 346 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

269 New subpart heading inserted (Commissioner’s powers to obtain information)

Replace the cross-heading before section 16 with “Subpart 3A—Commissioner’s powers to obtain information”.

270 New subpart heading inserted (Taxpayers’ obligations to keep records)

Replace the cross-heading before section 21B with “Subpart 3B—Taxpayers’ obligations to keep records”.

271 Section 22 amended (Keeping of business and other records)

[Repealed]

Section 271: repealed, on 18 March 2019, by section 346 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

272 New section 22AA inserted (Records to be kept by employers and PAYE intermediaries)

After section 22, insert:

22AA Records to be kept by employers and PAYE intermediaries

- (1) An employer who makes a PAYE income payment to an employee must keep proper records in English relating to the payment, the amount of tax withheld for the payment, and the other items of information set out in schedule 3, table 1, as required under this Act, the Child Support Act 1991, the KiwiSaver Act 2006, or the Student Loan Scheme Act 2011.
- (2) A person acting as a PAYE intermediary for an employer must keep proper records relating to their activity as a PAYE intermediary in relation to an employee of the employer.
- (3) An employer or PAYE intermediary must take reasonable steps to ensure the safe-keeping of their records for a period of not less than 7 years after the making of the payments to which the records relate, except to the extent to which—
 - (a) the Commissioner has notified the employer or PAYE intermediary that retention is not required; or
 - (b) the employer or PAYE intermediary has delivered the records to the Commissioner as required by this Act or the Income Tax Act 2007.

- (4) On application by the person, the Commissioner may authorise the keeping of records under this section in a language other than English.

273 New section 22AAB inserted (Records to be kept by payers of passive income)

Before section 22A, insert:

22AAB Records to be kept by payers of passive income

- (1) This section applies when a person—
- (a) is liable under the RWT rules to withhold RWT for resident passive income paid to or derived by another person:
 - (b) is liable under the NRWT rules to withhold NRWT for non-resident passive income paid to or derived by another person.
- (2) The person must keep proper records in English relating to the income paid by them, and RWT or NRWT withheld by them, or liable to be withheld by them, sufficient to enable the Commissioner to ascertain readily at any time the information set out in schedule 3, table 2.
- (3) A person referred to in subsections (1) and (2) must take reasonable steps to ensure the safe-keeping of their records for a period of not less than 7 years after the making of the payments to which the records relate, except to the extent to which—
- (a) the Commissioner has notified the person that retention of the records is not required; or
 - (b) the records are required by law to be delivered to a person other than the Commissioner; or
 - (c) the person is a company that has been liquidated.
- (4) The Commissioner may, before the end of the 7-year period referred to in subsection (3), notify the person that they are required to retain records specified by the Commissioner for a further period of up to 3 years after the end of the 7-year period if—
- (a) the affairs of the person are or have been under audit or investigation by the Commissioner; or
 - (b) the affairs of a person to whom the records relate are or have been under audit or investigation by the Commissioner; or
 - (c) the Commissioner intends to conduct, or is actively considering, an audit or investigation before the end of the extended retention period.
- (5) On application by the person, the Commissioner may authorise the keeping of records under this section in a language other than English.

274 Section 23 amended (Keeping of returns where information transmitted electronically)

Replace section 23(2) with:

- (2) This section does not require the retention of—
- (a) a return for which the Commissioner has given notice that retention is not required; or
 - (b) a return of a company that has been liquidated; or
 - (c) employment income information that has been provided to the Commissioner.

275 New subpart 3C inserted (Employment income information)

After section 23, insert:

Subpart 3C—Employment income information

23B Employment income information: outline of provisions

- (1) This subpart sets out—
- (a) what is meant by employment income information for reporting purposes;
 - (b) when employment income information must be provided to the Commissioner and how it must be delivered;
 - (c) the information that must be provided for new and departing employees;
 - (d) the rules for the correction of errors.
- (2) For the purposes of this subpart, an employer includes a PAYE intermediary, as the context requires.
- (3) For the provisions related to—
- (a) the making of regulations, *see* section RA 21 of the Income Tax Act 2007;
 - (b) late filing penalties, *see* section 139A;
 - (c) non-electronic filing penalties, *see* section 139AA;
 - (d) employers' withholding payment penalties, *see* section 141ED;
 - (e) the application of the penalties provisions to PAYE intermediaries, *see* section 141JB;
 - (f) the recovery of tax from employers or PAYE intermediaries, *see* sections 167 to 169.

23C Meaning of employment income information

- (1) **Employment income information**, for the purposes of the Inland Revenue Acts, means the items of information that are listed in schedule 4, tables 1 to 3, as applicable, and that—

- (a) an employer to whom section RD 22 of the Income Tax Act 2007 applies, must provide to the Commissioner under sections 23E to 23H and 23K to 23M; or
 - (b) an employee to whom section RD 4(4) of that Act applies, must provide to the Commissioner under section 23I.
- (2) The Commissioner must prescribe 1 or more electronic forms and 1 or more means of electronic communication by which employment income information must be delivered by an employer for the purposes of this subpart.
- (3) The requirements relating to a form or a means of communication may relate to an employer or a class of employers, and may be subject to the conditions specified by the Commissioner, whether generally or in a specific case.
- (4) For the purposes of the delivery of employment income information, a requirement to deliver the information twice-monthly means that, in determining the date on which the information may be delivered, a payment or benefit is treated as being paid or received on a day in or, at the latest, by the last day of—
- (a) the first payment period in a month when the relevant day falls between the 1st and 15th days of the month; or
 - (b) the second payment period in a month when the relevant day falls between the 16th and last day of the month.

23D Employers' groups for delivery of information

- (1) For the delivery of employment income information to the Commissioner, an employer is included in 1 of the following groups of employer, according to the circumstances applying to the employer:
- (a) the online group; or
 - (b) the non-electronic group, if they meet the requirements of section 23F or have an exemption under section 23G; or
 - (c) the new group, if they meet the requirements of section 23H.
- (2) For the delivery of employment income information,—
- (a) a PAYE intermediary is included in the online group;
 - (b) an employer who delivers employment income information electronically, whether through a service or platform provided by the Commissioner or through the use of payroll software, is included in the online group.
- (3) Despite sections 23E to 23H and 23L, an employer may deliver their employment income information at any time before the dates set out in those sections.
- (4) Despite subsections (1) and (2) and the means of delivery set out in sections 23E to 23H, an employer may ask the Commissioner for approval to deliver employment income information in another way. For this purpose, the Commissioner may—

- (a) give consent with terms and conditions:
- (b) vary the terms and conditions:
- (c) cancel the consent at any time.

23E Online group of employers

- (1) An employer is included in the **online group** if the employer is not included in—
 - (a) the non-electronic group; or
 - (b) the new group.
- (2) An employer in the online group must deliver their employment income information for a payday—
 - (a) in electronic form and by means of an electronic communication as prescribed by the Commissioner; and
 - (b) within 2 working days after payday.

23F Non-electronic group of employers

- (1) An employer is included in the **non-electronic group** if the employer—
 - (a) meets either of the requirements set out in subsection (5) or has an exemption under section 23G; and
 - (b) does not deliver their employment income information electronically, whether through a service or platform provided by the Commissioner or through the use of payroll software; and
 - (c) is not included in the new group.
- (2) An employer in the non-electronic group must deliver their employment income information for a payday—
 - (a) in a format prescribed by the Commissioner; and
 - (b) within 10 working days after payday.
- (3) For the purposes of subsection (2)(b), an employer in the non-electronic group may choose to treat the payday as—
 - (a) the day on which the employer makes a PAYE income payment to an employee; or
 - (b) 1 of the following, as applicable:
 - (i) for an amount paid or benefit provided between the 1st and 15th days of a month, the 15th of the month; and
 - (ii) for an amount paid or benefit provided between the 16th and last day of the month, the last day of the month.
- (4) An employer who chooses to use, as a payday, a day referred to in subsection (3)(b)(i) or (ii), must deliver the employment income information set out in

schedule 4, table 1, rows 4 to 6 for each payment made or benefit provided in the relevant period.

- (5) The requirements are that, for a tax year and an amount of tax for a PAYE income payment and an employer's superannuation cash contribution,—
 - (a) an employer other than an employer referred to in paragraph (b), must have gross amounts of tax payable for the preceding tax year that are below the threshold amount:
 - (b) a new employer must have total accumulated amounts of tax that are below the threshold amount.
- (6) The threshold amount referred to in subsection (5) is—
 - (a) \$50,000; or
 - (b) the amount set by the Governor-General by Order in Council under subsection (8).
- (7) If the accumulated amount referred to in subsection (5)(b) reaches the threshold amount during a tax year, the employer is included in the new group for the remaining months of the 6-month period referred to in section 23H(2) and, following that period, is included in the online group of employers.
- (8) The Governor-General may, on the recommendation of the Minister of Revenue, make an Order in Council setting or amending the threshold amount referred to in subsection (6)(b). Before making the recommendation, the Minister must undertake consultation on the proposed amendment that is appropriate and reasonable for the purposes of this section.

23G Exemption for certain employers in online group

- (1) The Commissioner may exempt an employer in the online group from the online group requirements if it is reasonable in the circumstances, taking into account—
 - (a) the nature and availability of digital services to the employer, including the reliability of those services for the purposes of the employer; and
 - (b) the capability of the employer relating to the use of computers; and
 - (c) the costs that the employer would incur in complying with the requirements if those costs would be unreasonable in the circumstances.
- (2) The Commissioner must provide a statement of reasons for the exemption.
- (3) Subject to subsection (4), an exemption under this section remains valid until the Commissioner notifies the employer that the exemption is to be cancelled. The exemption expires on the date that is 6 months after that given in the Commissioner's notice.
- (4) In making an exemption under this section, the Commissioner may set a time limit on the exemption, stating a start date and an end date, as applicable, for the exemption and the reason for setting the limit.

- (5) An exemption under this section is neither a legislative instrument nor a disallowable instrument for the purposes of the Legislation Act 2012 and does not have to be presented to the House of Representatives under section 41 of that Act.

23H New group of employers

- (1) An employer is included in the **new group** if the employer becomes an employer in a tax year.
- (2) The new-employer period is the 6-month period that starts on the date in the tax year on which the employer starts employing employees.
- (3) An employer in the new group may choose to deliver their employment income information for a payday in the new-employer period—
- (a) in a format prescribed by the Commissioner; and
 - (b) within 10 working days after payday.
- (4) Despite subsection (3)(b), if an employer in the new group meets the requirements of section 23F(1)(a) and (b), they may choose to treat a payday in the way described in section 23F(3) and (4).
- (5) If an employer in the new group chooses to deliver their employment income information electronically, whether through a service or platform provided by the Commissioner or through the use of payroll software, the employer is immediately included in the online group.

23I Employment income information requirements for employees

An employee who is required to provide employment income information relating to a PAYE income payment to the Commissioner under section RD 21(1)(a) of the Income Tax Act 2007 must deliver the information in the prescribed format within 10 working days after the end of the month in which the payment is made.

23J Delivery of employment income information for certain special payments

- (1) This section applies for the purposes of sections 23E to 23H in relation to—
- (a) a schedular payment described in section RD 8 of the Income Tax Act 2007;
 - (b) a payment made to a person on a shadow payroll;
 - (c) a payment that an employer makes to an employee outside the regular payment cycle for the employee's employment income.
- (2) For a schedular payment referred to in subsection (1)(a), an employer may deliver their employment income information relating to the payment either—
- (a) on a payday basis under sections 23E to 23H, as applicable; or
 - (b) twice-monthly as described in section 23C(4), treating the payday as the relevant day.

- (3) For a payment referred to in subsection (1)(b), a non-resident employer has 20 days after an amount is paid to the person before the requirement to provide employment income information arises. The employer may—
- (a) treat the 20th day as the payday for the purposes of sections 23E to 23H, as applicable; or
 - (b) provide their employment income information relating to the payment twice-monthly as described in section 23C(4), treating the 20th day as the relevant day.
- (4) For an out-of-cycle payment referred to in subsection (1)(c), an employer may deliver their employment income information relating to the payment either—
- (a) on a payday basis under sections 23E to 23H, as applicable; or
 - (b) together with their information for the employer's next regular reporting date for the delivery of information relating to the employee.
- (5) Despite subsection (4), if the next regular reporting date referred to in subsection (4)(b) falls after the employer's end date for the payment, as described in section RA 15(3)(a) and (b) of the Income Tax Act 2007, and would mean that, for reconciliation purposes, the information relating to the payment and the employee would appear to be reported as if the payment related to a later period, the employer must treat the payment as if it were made on a date that is not later than the end date.
- (6) For the purposes of subsection (1)(b), a payment made to a person on a shadow payroll is a PAYE income payment paid by a non-resident employer to a person who undertakes employment services in New Zealand but who remains on the employer's payroll system in a country or territory outside New Zealand.
- (7) Section 23F(3)(b) and (4) overrides this section.

23K Employment income information requirements relating to employee share schemes

- (1) For the purposes of sections 23E to 23H and a benefit under an employee share scheme, the employer may—
- (a) treat the ESS deferral date as the payday; or
 - (b) provide their employment income information twice-monthly as described in section 23C(4), treating the ESS deferral date as the relevant day.
- (2) For reporting purposes,—
- (a) employment income information does not include information on—
 - (i) a benefit under an employee share scheme received by a former employee if the employer has not chosen to withhold an amount of tax in relation to the benefit;
 - (ii) a benefit arising under an exempt ESS:

- (b) for a benefit that an employee receives under an employee share scheme, employment income information includes the value of the benefit, and if the employer has chosen under section RD 7B of the Income Tax Act 2007 to withhold an amount of tax for the benefit, the amount of tax withheld.

23L Employment income information for new and departing employees

- (1) When an employee starts employment with an employer, the employer must provide the information referred to in schedule 4, table 2 to the Commissioner.
- (2) When an employee's employment ends, the employer must provide the information referred to in schedule 4, table 3 to the Commissioner.
- (3) The information referred to in subsection (1) about new employees must be delivered to the Commissioner by the date on which the employer is required to deliver employment information for the employee's first payday or, if the employer chooses, at an earlier time.
- (4) The information referred to in subsection (2) about departing employees must be delivered to the Commissioner by the date on which the employer is required to deliver employment income information for the payday on which the employee was last paid or, if the employer chooses, at an earlier time.
- (5) Despite subsections (1) to (4), if information about the relevant employee is delivered to the Commissioner as part of electronic payday reporting that includes income information about the employee, the only additional information required from the employer is,—
 - (a) for a new employee, schedule 4, table 2, rows 5, 6, 7, and 10:
 - (b) for a departing employee, schedule 4, table 3, row 5.
- (6) In this section, **employee** includes a person who receives or is entitled to receive a payment that would, but for section RD 3B or RD 3C of the Income Tax Act 2007, be a PAYE income payment.

23M Employment income information when employment ended

An employer who stops employing employees, intending that the cessation is permanent, must notify the Commissioner that employment has ended within 30 working days after the date on which they stop employing employees.

23N Correction of errors

- (1) This section provides a regulation-making power for matters relating to the correction of errors in employment income information and the manner in which corrections may be made.
- (2) The Governor-General may, by Order in Council on the recommendation of the Minister of Revenue, make regulations, providing—
 - (a) the nature and type of errors that are able to be corrected by an employer:

- (b) the manner in which errors in employment income information may be corrected, and the specifications for the correction of particular errors in employment income information:
 - (c) the periods to which corrections may relate, including past periods and future periods.
- (3) Before making a recommendation under subsection (2), the Minister must undertake consultation on the proposed regulation that is appropriate and reasonable for the purposes of this section.

23O Setting electronic and non-electronic filing requirements

- (1) For the delivery of employment income information by an employer or a class of employers, the Commissioner—
- (a) must prescribe—
 - (i) an electronic form and means of electronic communication:
 - (ii) a form or mode of delivery other than by electronic means:
 - (b) may from time to time set specifications for payroll software for use in the delivery of that information.
- (2) To enable the processing of a payment made to the Commissioner by an employer in relation to an employee, the Commissioner may notify an employer, or a class of employers, that certain items of employment income information must accompany the payment.

23P Employment income information: payroll software

For the purposes of sections 23H(5) and 23O, **payroll software** means a commercially available payroll system or service, or another bespoke equivalent, that enables the calculation of amounts of salary or wages and amounts that are required to be withheld under the PAYE rules.

23Q Employment income information: variation of requirements

The Commissioner may vary the requirements set out in this subpart and schedule 4 for an employer or a class of employers, and the requirements apply as varied.

276 Cross-heading and section 24 repealed

Repeal the cross-heading before section 24 and section 24.

277 Cross-heading and section 24BA repealed

Repeal the cross-heading before section 24BA and section 24BA.

278 Section 24B amended (PAYE tax codes)

- (1) In section 24B(3), words before paragraph (a), replace “section 24BA(1D)” with “subsection (3C)”.

- (2) In section 24B(3)(c), replace “annual income is not” with “annual income is more than \$14,000 but not”.
- (3) After section 24B(3B), insert:
- (3C) Despite subsections (3) and (3B), an employee who is a non-resident seasonal worker under the recognised seasonal employer (RSE) instructions has a tax code of **NSW** for the first month of a period of employment in New Zealand.

279 Sections 24B to 24IB replaced

Replace sections 24B to 24IB with:

Subpart 3D—Tax codes and tax rates for certain payments

24B PAYE tax codes

- (1) For the purposes of the PAYE rules, a **tax code** means—
 - (a) a code applying to an employee’s earnings set out in the table in schedule 5, part A as notified by the employee under section 24C:
 - (b) a tax code provided by the Commissioner under section 24D:
 - (c) a tax code provided under schedule 5, part B, clause 3:
 - (d) a non-notified tax code under section 24E.
- (2) A tax code does not apply in relation to—
 - (a) a schedular payment, *see* sections 24F, 24G, and 24H, and schedule 5, part C:
 - (b) an extra pay, *see* sections RD 7 and RD 17 of the Income Tax Act 2007.
- (3) The amount of tax for a payment of an income-tested benefit is determined under section RD 11(3) of the Income Tax Act 2007.
- (4) The basic tax rates for payments of salary or wages for particular tax codes, including a non-notified tax code, are set out in the Income Tax Act 2007, schedule 2, part A.

24C Notified tax codes

- (1) An employee must notify their employer of the tax code applicable to their circumstances or of a change in their tax code. The notification must be in a form authorised by the Commissioner.
- (2) This section does not apply in relation to—
 - (a) a tax code provided by the Commissioner to the employer under schedule 5, part A, clause 2(2):
 - (b) a tax code for a non-resident seasonal worker under schedule 5, part B, clause 3.

24D Tax codes provided by the Commissioner

An employee may apply to the Commissioner for—

- (a) a special tax code under schedule 5, part B, clause 1 to apply to either—
 - (i) their New Zealand superannuation income or veteran's pension income; or
 - (ii) their other employment income from 1 or more employers:
- (b) a tax code under schedule 5, part B, clause 2 for their employment as a private domestic worker.

24E Non-notified tax codes

- (1) An employee, other than a person referred to in section 24D, has a non-notified tax code if—
 - (a) the employee has not notified their employer of—
 - (i) their name; and
 - (ii) their tax file number; and
 - (iii) their tax code; and
 - (b) the Commissioner has not provided the employer with a tax code or change in tax code under schedule 5, part A, clause 3; and
 - (c) the employee is not a non-resident seasonal worker referred to in schedule 5, part B, clause 3.
- (2) For the purposes of subsection (1)(a)(i), a person's name is their full name that is sufficient to enable the Commissioner to ascertain a correct tax file number for the person.

24F Rates of tax for schedular payments: standard, payee, and set rates

- (1) In this section, and sections 24G, 24H, and 24I, and in schedule 5, part C,—
 - (a) a person who is making a schedular payment is referred to as the **payer**;
 - (b) a person who is entitled to receive a schedular payment is referred to as the **payee**.
- (2) The standard rates of tax for schedular payments are set out in schedule 4 of the Income Tax Act 2007.
- (3) A payee may choose the rate of tax for the payment under schedule 5, part C, clause 3. Minimum rates apply, *see* clause 3(1).
- (4) If a payee has a liability under the Inland Revenue Acts that has not been met, the Commissioner may, from time to time, set a rate of tax for a schedular payment of the payee under schedule 5, part C, clause 4.

24G Special tax rates for schedular payments

A payee, other than a non-resident entertainer, may apply to the Commissioner, under schedule 5, part C, clause 5, for a special rate of tax that applies to some or all of a schedular payment.

24H Exempt schedular payments

- (1) The Commissioner may notify a payee under schedule 5, part C, clause 6 that 1 or more schedular payments that they are entitled to receive are payments for which no amount of tax is to be withheld.
- (2) This section does not apply to—
 - (a) a payment made to a non-resident entertainer:
 - (b) a payment described in schedule 4, part J of the Income Tax Act 2007 that is made to a payee who is a New Zealand resident.

24I Notification requirements

- (1) A payee, other than a non-resident entertainer, must notify the payer of their name and tax file number. The notification must be in a form authorised by the Commissioner.
- (2) The payee must also notify the payer of the rate of tax applying to the payment if—
 - (a) they choose the rate of tax as described in section 24F(3):
 - (b) they are using a rate of tax set by the Commissioner under section 24F(4):
 - (c) they are using a special rate of tax referred to in section 24G.

24IB Variation of requirements

The Commissioner may vary the requirements of section 24B and schedule 5, part A, clause 4, for a person or class of persons at any time.

280 Cross-heading and section 24J repealed

Repeal the cross-heading before section 24J and section 24J.

281 Section 24K amended (Certain information required in returns)

- (1) Renumber section 24K as section 56B.
- (2) In section 56B,—
 - (a) in subsection (3)(a), replace “section 67” with “section 25G”:
 - (b) in subsection (5), replace “section 68B” with “section 25I”.

282 Sections 24L, 24LB, 24LC, 24M, 24N, and 24P repealed

Repeal sections 24L, 24LB, 24LC, 24M, 24N, and 24P.

283 Cross-heading and section 24Q amended

[Repealed]

Section 283: repealed, on 18 March 2019, by section 346 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

284 New heading inserted (RWT rates, certificates, and records)

Replace the cross-heading before section 25A with “Subpart 3E—RWT rates, certificates, and records”.

285 Section 25A amended (Use of inconsistent RWT rates)

- (1) Renumber section 25A as section 26B.
- (2) *[Repealed]*

Section 285(2): repealed, on 18 March 2019, by section 352 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

286 Section 25 amended (RWT withholding certificates)

- (1) In section 25(2), replace “the tax deduction certificate” with “the RWT withholding certificate”.
- (2) Renumber section 25 as section 26C.
- (3) Replace section 26C(1) with:
 - (1) Subsection (1B) applies for a tax year when a payer withholds RWT for resident passive income for the following amounts paid to or derived by a payee who has not provided the payer with their tax file number:
 - (a) interest:
 - (b) a dividend treated as interest:
 - (c) a dividend to which section RE 9(2) of the Income Tax Act 2007 applies.
- (4) In section 26C(4), replace “a person who continues to hold an RWT exemption certificate issued to that person” with “a person with RWT-exempt status”.
- (5) In section 26C(5),—
 - (a) replace “a person holding an RWT exemption certificate issued to that person” with “a person with RWT-exempt status”:
 - (b) replace “notwithstanding such cessation in holding an RWT exemption certificate” with “despite the ending of the person’s RWT-exempt status”.

287 New subpart 3E inserted (Investment income information)

Insert before section 26, replacing the subpart heading:

Subpart 3E—Investment income information

25B Investment income information: outline of provisions

- (1) This subpart sets out the information that a person who makes a payment of investment income is required to provide to the Commissioner and, in particular,—
 - (a) what is meant for reporting purposes by investment income and investment income information:
 - (b) who must provide investment income information to the Commissioner:
 - (c) when investment income information must be provided and how it must be delivered:
 - (d) when information is required in relation to certain types of investment:
 - (e) the correction of errors:
 - (f) when information may be filed in non-electronic form.
- (2) In this subpart, and in schedule 6,—
 - (a) a person who makes a payment of investment income is called the **payer**:
 - (b) a person who derives or receives a payment of investment income is called the **payee**.
- (3) For the provisions related to—
 - (a) the use of inconsistent RWT rates, *see* section 26B:
 - (b) RWT withholding certificates, *see* section 26C:
 - (c) shareholder dividend statements, *see* section 29:
 - (d) Maori authority notices, *see* section 31:
 - (e) notification requirements for multi-rate PIEs, *see* section 31C:
 - (f) further requirements for multi-rate PIEs, *see* section 57B:
 - (g) non-electronic filing penalties, *see* section 139AA.

25C Investment income

For the purposes of this subpart and section 227E, and schedule 6, **investment income** means—

- (a) resident passive income under section RE 2(1)(a) to (c) of the Income Tax Act 2007, subject to the withholding obligations set out in sections RE 3 and RE 4 of that Act:
- (b) non-resident passive income under section RF 2(1) of that Act:
- (c) attributed income of investors in portfolio investment entities under sections CP 1, CX 56, and CX 56B of that Act.

25D Investment income information

- (1) **Investment income information** means the items of information listed in schedule 6, table 1 relating to an amount of investment income, that a payer referred to in section 25E must either provide to the Commissioner under this subpart or retain under section 22AAB.
- (2) The information must be provided for each relevant reporting period rather than on a cumulative basis.
- (3) If an investment is owned jointly by 2 or more investors, and the payer of the investment income holds the relevant information, the payer must include in their investment income information the information set out in schedule 6, table 1, row 16 in relation to each owner.
- (4) Subsection (3) does not apply to a payer in relation to a payment to or for joint owners that is received in their capacity as—
 - (a) beneficiaries of a trust:
 - (b) shareholders in a company:
 - (c) partners in a partnership, unless the partners are not required to file a separate return.
- (5) Despite subsection (1), if the following items of information have been obtained before 1 April 2018, the requirement to include the item in investment income information provided to the Commissioner applies only when it is held in electronic form:
 - (a) a person's date of birth:
 - (b) for joint owners, the names, tax file numbers, dates of birth, and contact addresses.

25E Who must provide investment income information to Commissioner

- (1) The persons who must provide their investment income information to the Commissioner by the relevant date set out in this subpart are—
 - (a) a person who is required to withhold an amount of tax for a payment of interest, *see* section 25F:
 - (b) a person who chooses under section 32M to pay approved issuer levy in relation to a debt, other than a debt in relation to which the interest payments are administered by an offshore paying agent:
 - (c) a company that pays a taxable dividend to a person, including a dividend described in section RE 9 of the Income Tax Act 2007, *see* section 25G:
 - (d) a person who pays a royalty to a non-resident person, *see* section 25H:
 - (e) a Maori authority that makes a taxable distribution to a member of the authority, other than a retirement scheme contribution, *see* section 25I:

- (f) a multi-rate PIE, other than a superannuation fund or retirement savings scheme, that attributes income to an investor or a proxy for an investor, *see* section 25J;
 - (g) a multi-rate PIE that is a superannuation fund or retirement savings scheme that attributes income to an investor or a proxy for an investor, *see* section 25K;
 - (h) a public unit trust that pays an amount that is treated as a taxable dividend on a withdrawal from the trust, *see* section 25L;
 - (i) an emigrating company that is treated under section FL 2 of the Income Tax Act 2007 as paying a dividend to shareholders, *see* section 25M;
 - (j) a person who would be liable to pay an amount referred to in paragraph (a) but for the circumstances described in subsection (2).
- (2) The circumstances referred to in subsection (1)(j) are that a person who pays interest for which RWT is not required to be withheld because—
- (a) the amount—
 - (i) is not paid by the person in the course or furtherance of a taxable activity; or
 - (ii) is an amount to which section RE 10 of the Income Tax Act 2007 applies; and
 - (b) the amount is allowed as a deduction under that Act; and
 - (c) the amount is paid to a person other than a person with RWT-exempt status.

25F Information on interest

- (1) A payer referred to in section 25E(1)(a) and (b) must deliver the investment income information for the payment of interest as set out in schedule 6, table 1, rows 1 to 11, 16, 21, and 22, as applicable, to the Commissioner—
- (a) in electronic form and by means of an electronic communication as prescribed by the Commissioner; and
 - (b) by the 20th of the month following the month in which the amount of investment income is paid to or derived by the payee.
- (2) Despite subsection (1), when an investor is a nominee, the investment income information required from a payer referred to in section 25E(1)(b) is limited to information held in relation to the nominee unless the payer has access to information on the ultimate investor.

25G Information on dividends

A payer referred to in section 25E(1)(c) must deliver the investment income information for the payment of the dividend as set out in schedule 6, table 1, rows 1 to 11, 14, and 16 to 22, as applicable, to the Commissioner—

- (a) in electronic form and by means of an electronic communication as prescribed by the Commissioner; and
- (b) by the 20th of the month following the month in which the amount of investment income is paid to or derived by the payee.

25H Information on royalties paid to non-residents

A payer referred to in section 25E(1)(d) must deliver the investment income information for the payment of the royalty as set out in schedule 6, table 1, rows 1 to 11, 16, 21, and 22, as applicable, to the Commissioner—

- (a) in electronic form and by means of an electronic communication as prescribed by the Commissioner; and
- (b) by 31 May after the end of the tax year.

25I Information on Maori authority distributions

A payer referred to in section 25E(1)(e) must deliver the investment income information for the payment of a Maori authority distribution as set out in schedule 6, table 1, rows 1 to 10, 15, 16, 21, and 22, as applicable, to the Commissioner—

- (a) in electronic form and by means of an electronic communication as prescribed by the Commissioner; and
- (b) by the 20th of the month following the month in which the amount of investment income is paid to or derived by the payee.

25J Information on attributed PIE income: non-locked-in funds

A payer referred to in section 25E(1)(f) must deliver the investment income information for the relevant attributed PIE income as set out in schedule 6, table 1, rows 1 to 10, 12, 13, 14, 16, 21, and 22, as applicable, for a tax year to the Commissioner—

- (a) in electronic form and by means of an electronic communication as prescribed by the Commissioner; and
- (b) by the following relevant date:
 - (i) 15 May after the end of the tax year, if the PIE has a corresponding income year that does not end after the end of the tax year;
 - (ii) the end of the second month after that in which the PIE's corresponding income year ends, if the PIE has a corresponding income year that ends after the end of the tax year;
 - (iii) the end of the third month after that in which the PIE loses PIE status, if the cessation occurs in the corresponding income year.

25K Information on attributed PIE income: locked-in funds

A payer referred to in section 25E(1)(g) must deliver the investment income information for the relevant attributed PIE income as set out in schedule 6,

table 1, rows 1 to 10, 12, 13, 14, 16, 21, and 22, as applicable, for a tax year to the Commissioner—

- (a) in electronic form and by means of an electronic communication as prescribed by the Commissioner; and
- (b) by the following relevant date:
 - (i) 30 June after the end of the tax year, if the PIE has a corresponding income year that does not end after the end of the tax year:
 - (ii) the end of the second month after that in which the PIE's corresponding income year ends, if the PIE has a corresponding income year that ends after the end of the tax year:
 - (iii) the end of the third month after that in which the PIE loses PIE status, if the cessation occurs in the corresponding income year.

25L Information from public unit trusts

A payer referred to in section 25E(1)(h) must deliver the investment income information set out in schedule 6, table 1, rows 1 to 11, 14, 16, 21, and 22 for a tax year—

- (a) in electronic form and by means of an electronic communication as prescribed by the Commissioner; and
- (b) by 15 May after the end of the tax year.

25M Information from emigrating companies

A payer referred to in section 25E(1)(i) must deliver the investment income information set out in schedule 6, table 1, rows 1 to 11, 14, 16, 21, and 22, as applicable, for a tax year to the Commissioner—

- (a) in electronic form and by means of an electronic communication as prescribed by the Commissioner; and
- (b) within 3 months after the time of emigration.

25N Information from payers with no withholding obligation

A payer referred to in section 25E(1)(j) must deliver the investment income information described in schedule 6, table 1, rows 4 to 8, 16, 21, and 22, as applicable, for a tax year to the Commissioner—

- (a) in electronic form and by means of an electronic communication as prescribed by the Commissioner; and
- (b) with their return of income for the corresponding income year.

25O Correction of errors in investment income information

An adjustment may be made under section RA 11 or RA 12 of the Income Tax Act 2007 to correct certain errors that a payer has made in relation to an amount of tax for RWT or NRWT.

25P Non-electronic filing of investment income information

- (1) Despite sections 25F to 25N, the Commissioner may exempt a payer from the requirement to deliver their investment income information in electronic form and by means of an electronic communication. The Commissioner must provide a statement of reasons for the exemption.
- (2) In determining whether to exempt a payer under subsection (1), the Commissioner must have regard to—
 - (a) the nature and availability of digital services to the payer, including the reliability of those services for the purposes of the payer; and
 - (b) the capability of the payer relating to the use of computers; and
 - (c) the costs that the payer would incur in complying with the requirements, if those costs would be unreasonable in the circumstances.
- (3) Subject to subsection (4), an exemption under this section remains valid until the Commissioner notifies the payer that the exemption is to be cancelled. The exemption expires on the date that is 6 months after that given in the Commissioner's notice.
- (4) In making an exemption under this section, the Commissioner may set a time limit on the exemption, stating a start date and an end date, as applicable, for the exemption and the reason for setting a time limit.
- (5) An exemption under this section is neither a legislative instrument nor a disallowable instrument for the purposes of the Legislation Act 2012 and does not have to be presented to the House of Representatives under section 41 of that Act.

25Q Setting electronic and non-electronic filing requirements

For the delivery of investment income information, the Commissioner—

- (a) must prescribe—
 - (i) an electronic form and means of electronic communication;
 - (ii) a form or mode of delivery other than by electronic means;
- (b) may from time to time set specifications for software for use in the delivery of that information.

25R Investment income information: variation of requirements

The Commissioner may vary the requirements set out in subpart 3E and schedule 6 for a person or a class of persons, and the requirements apply as varied.

288 Section 26 repealed (Records to be kept for RWT purposes)

Repeal section 26.

289 Section 27 amended (Provision of tax file numbers)

Repeal section 27(2).

290 Section 28B replaced (Notification of investors' tax rates)

Replace section 28B with:

28B Notification of investors' tax file numbers

- (1) An investor in a multi-rate PIE must notify the PIE of their tax file number within 6 weeks of the date on which they become an investor in the PIE.
- (2) Subsection (1) does not apply to an investor who—
 - (a) is non-resident; and
 - (b) does not have a tax file number; and
 - (c) provides the equivalent of their tax file number for the country or territory where they reside for tax purposes, or a declaration if they are unable to provide this number.
- (3) Despite subsection (2), if an investor in a multi-rate PIE is a non-resident who becomes a resident, the investor must immediately notify the PIE that they have become resident. The 6-week period referred to in subsection (1) starts to run from the date of the notification of residency.

291 New subpart heading inserted (Statements, notices, and certificates)

Before section 29, insert new heading “Subpart 3F—Statements, notices, and certificates”.

292 Section 31B amended (Notification requirements for PIEs)

After section 31B(1), insert:

- (1B) A multi-rate PIE choosing to calculate and pay its income tax liability under an option set out in section HM 42, HM 43, or HM 44 of the Income Tax Act 2007 must comply with the notice requirements for making the election set out in the relevant provision.

293 Section 32E amended (Applications for RWT exemption certificates)

- (1) In section 32E, in the section heading, replace “**RWT exemption certificates**” with “**RWT-exempt status**”.
- (2) In section 32E(1), replace “an RWT exemption certificate” with “RWT-exempt status”.
- (3) In section 32E(2)(k), replace “and CW 63” with “and CW 64”.
- (4) After section 32E(2)(kc), insert:
 - (kd) a tertiary education subsidiary that derives exempt income under section CW 55BA of the Income Tax Act 2007:
- (5) Subsection (3) applies for the 2008–09 and later income years.

294 Section 32G amended (Evidence of annual gross income and consequences of failure to meet threshold)

- (1) In section 32G(1), replace “an RWT exemption certificate” with “RWT-exempt status”.
- (2) In section 32G(4), replace “had they not held an RWT exemption certificate” with “had they not had RWT-exempt status”.
- (3) In section 32G(7), replace “provide an RWT exemption certificate to, or allow it to be retained by” with “provide RWT-exempt status to, or allow RWT-exempt status to be retained by”.

295 Section 32H replaced (Providing RWT exemption certificate when person meets requirements)

Replace section 32H with:

32H RWT-exempt status when persons meet requirements

- (1) When a person who meets the requirements of section 32E applies to the Commissioner for RWT-exempt status, the Commissioner must—
 - (a) publish the person’s tax file number and the start date and, if applicable, the end date on the electronic register of persons with RWT-exempt status; and
 - (b) notify the person of the issue of the status, and the start and end date, as applicable.
- (2) A person’s RWT-exempt status takes effect on the start date provided in the electronic register.
- (3) For the purposes of the provisions relating to investment income information, if a person has been issued with, or holds, or retains, or is allowed to retain, an RWT exemption certificate that remains current, they are treated as having RWT-exempt status if their details appear on the electronic register referred to in subsection (1).

296 Section 32I amended (Providing RWT exemption certificate to person who does not meet requirements)

- (1) In section 32I, in the section heading, replace “**RWT exemption certificate**” with “**RWT-exempt status**”.
- (2) In section 32I(1), replace “provide an RWT exemption certificate for a period, including an unlimited period, to a person who does not meet the requirements” with “provide RWT-exempt status to the person when they do not meet the requirements”.
- (3) In section 32I(2), replace “may not provide an RWT exemption certificate to a person” with “may not provide RWT-exempt status to a person”.
- (4) Repeal section 32I(4) and (5).

297 Section 32J replaced (RWT exemption certificates for unincorporated bodies)

Replace section 32J with:

32J RWT-exempt status for unincorporated bodies

- (1) When the Commissioner provides RWT-exempt status to an unincorporated body described in section RE 30 of the Income Tax Act 2007,—
 - (a) the named body has the RWT-exempt status; and
 - (b) no member of the body may have RWT-exempt status in relation to a taxable activity carried on by the body.
- (2) For the purposes of the RWT rules and RWT-exempt status, a notice to the body is treated as served on the body and on each member of the body.

298 Section 32K amended (Failing to meet basis of exemption)

- (1) In section 32K(1), replace “a holder of an RWT exemption certificate” with “a person who has RWT-exempt status”.
- (2) Replace section 32K(2) with:
 - (2) If the person becomes aware that they no longer meet the requirements, they must notify the Commissioner within a period of 5 days after the day on which they become aware.
- (3) In section 32K(3), replace “the holder to provide the full name and last known address of all persons to whom they have shown the certificate” with “the person to provide the full name and last known address of all persons to whom they have advised their RWT-exempt status”.

299 Section 32L replaced (Cancellation of RWT exemption certificates)

Replace section 32L with:

32L Revocation of RWT-exempt status

- (1) The Commissioner may revoke a person’s RWT-exempt status at any time if—
 - (a) the Commissioner reasonably believes that the person no longer meets the requirements on which their exemption is based; or
 - (b) the person did not meet the requirements on which their exemption was based, having acquired the status through misleading information; or
 - (c) the person should not have been provided with RWT-exempt status; or
 - (d) the person’s RWT-exempt status was based on a ground set out in section 32E(2)(i) or (j), and the evidence provided under section 32G—
 - (i) shows the person did not meet the threshold; or
 - (ii) is unsatisfactory; or
 - (iii) is materially incorrect or misleading; or

- (e) the person is liable for income tax that remains unpaid by the due date for payment.
- (2) The Commissioner must notify the person whose status has been revoked within 30 working days of the revocation. The Commissioner may also make a request under section 32K(3) with which the person must comply.
- (3) Despite subsection (1), if the Commissioner considers that a person referred to in subsection (1)(a) to (d) is a person to whom section 32G applies and has a further basis for RWT-exempt status, the Commissioner must not revoke the status.
- (4) A person referred to in subsection (2) must, within 5 days of being notified by the Commissioner, notify every person that they have advised of their RWT-exempt status and from whom they expect to receive further payments of resident passive income that their status has been revoked.
- (5) The Commissioner must publish on an electronic register, a list of all persons whose RWT-exempt status has been revoked.

300 Section 33 amended (Returns)

Replace the heading before section 33 with “Subpart 3G—Returns”.

301 Section 33AA amended (Exceptions to requirement for return of income)

- (1) In section 33AA(1)(b), replace “issued under section 24F” with “notified by the Commissioner under schedule 5, part B, clause 1”.
- (2) In section 33AA(1)(l), replace “holds an RWT exemption certificate” with “has RWT-exempt status”.
- (3) In section 33AA(3)(c), replace “section 25(7)” with “section 26C(7)”.

302 Section 36 amended (Commissioner may approve furnishing of return information by electronic means)

Repeal section 36(4).

303 Section 36A repealed (Electronic format of employer monthly schedule and PAYE payment form)

Repeal section 36A.

304 Section 36AB repealed (Electronic return requirements for multi-rate PIEs)

Repeal section 36AB.

305 Section 36B repealed (Other formats of employer monthly schedule)

Repeal section 36B.

306 New section 36BD inserted (Electronic filing requirements for registered persons)

After section 36BC, insert:

36BD Electronic filing requirements for registered persons

- (1) The Commissioner must prescribe 1 or more electronic forms or means of electronic communication that—
 - (a) a registered person may use to file a return required under the Goods and Services Tax Act 1985; or
 - (b) a registered person whose taxable supplies exceed the threshold set out in subsection (2) must use to file a return under that Act.
- (2) The Governor-General may, on the recommendation of the Minister of Revenue, make an Order in Council setting a threshold for the value of taxable supplies of a registered person that means the person is required to use an electronic form or means of electronic communication for filing a return under that Act. Before making the recommendation, the Minister must undertake consultation on the proposed threshold that is appropriate and reasonable for the purposes of this section.
- (3) The Commissioner may exempt a registered person, or a class of registered persons, whose taxable supplies exceed the threshold from the requirement to file in the prescribed electronic form or by the prescribed means of electronic communication. The Commissioner must provide a statement of reasons for the exemption.
- (4) In determining under subsection (3) whether to exempt the person or class of persons, the Commissioner must have regard to—
 - (a) the nature and availability of digital services to the person or persons in the class, including the reliability of those services for the purposes of the person or persons; and
 - (b) the capability of the person or persons in the class relating to the use of computers; and
 - (c) the costs that the person or persons in the class would incur in complying with the requirements if those costs would be unreasonable in the circumstances.
- (5) Subject to subsection (6), an exemption under this section remains valid until the Commissioner notifies the employer that the exemption is to be cancelled. The exemption expires on the date that is 6 months after that given in the Commissioner's notice.
- (6) In making an exemption under this section, the Commissioner may set a time limit on the exemption, stating a start date and an end date, as applicable, for the exemption and the reason for setting the limit.

- (7) An exemption under subsection (3) is neither a legislative instrument nor a disallowable instrument for the purposes of the Legislation Act 2012 and does not have to be presented to the House of Representatives under section 41 of that Act.

307 Section 36C amended (Particulars furnished in electronic format)

In section 36C(1), replace “36BB, or 36BC” with “36BB, 36BC, or 36BD”.

308 Sections 36CA, 36D, and 36E repealed

Repeal sections 36CA, 36D, and 36E.

309 New cross-heading inserted before section 37 (Returns and return dates)

Before section 37, insert “*Returns and return dates*” as a cross-heading.

310 Section 46 amended (Employer to make returns as to employees)

- (1) In section 46(6B), replace “section CE 2(2) or (4)” with “section CE 1(1)(d)”.
- (2) In section 46(6B)(b)(i), replace “share purchase agreement” with “employee share scheme”.

311 Section 46 amended (Employers to make returns as to employees)

In section 46(7), replace “section RD 3(2) to (4)” with “section RD 3B or RD 3C”.

312 Section 46 amended (Employers to make returns as to employees)

After section 46(7), insert:

- (8) For the purposes of the new rules relating to the delivery of employment income information set out in section 200 of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018, the Governor-General may, by Order in Council, on the recommendation of the Minister of Revenue, make regulations providing—
- (a) the nature and type of errors that are able to be corrected by an employer or PAYE intermediary;
- (b) the manner in which errors in employment income information may be corrected and the specifications for the correction of particular errors in employment income information;
- (c) the periods to which corrections may relate, including past periods and future periods.
- (9) Before making a recommendation under subsection (8), the Minister must undertake consultation on the proposed regulation that is appropriate and reasonable for the purposes of this section.

313 Section 46 repealed (Employers to make returns as to employees)

Repeal section 46.

314 Section 46C amended (FBT returns for years)

After section 46C(3), insert:

- (3B) Subsection (3C) applies to an employer who—
 - (a) chooses to pay under the close company option; and
 - (b) is linked to a tax agent to whom section 37(4) and section RA 13(2)(a)(i) and (4) of the Income Tax Act 2007 apply.
- (3C) Despite subsection (3), during the period of co-existence of 2 Inland Revenue software platforms, the employer may provide the return by the due date for the month that is specified in schedule 3, part A, column H of the Income Tax Act 2007. The employer is liable to pay the amount calculated by the same date. This subsection expires and is repealed on 31 December 2021.

315 Section 47 amended (ESCT statements provided by employers and others)

Replace section 47(2) with:

- (2) The employer, person, or PAYE intermediary must deliver their employment income information to the Commissioner by the relevant dates set out in sections 23E to 23H showing the amount of the employer’s superannuation cash contribution, the amount of ESCT relating to the contribution, and any other particulars required by the Commissioner.

316 Section 48 repealed (Special arrangements for supply of information by employer or PAYE intermediary to Commissioner)

Repeal section 48.

317 Section 49 amended (NRWT withholding certificates and annual reconciliations)

- (1) In section 49(1B), replace “31 May” with “15 May”.
- (2) In section 49(4C)(a), replace “31 May” with “15 May”.
- (3) After section 49(4C), insert:
 - (4D) Despite subsections (1B) and (4C)(a), the information required to be provided for a royalty paid to a non-resident person must be provided by 31 May after the end of the tax year.
- (4) Subsections (1) and (2) apply for the 2018–19 and 2019–20 tax years.

318 Sections 49 and 50 repealed

Repeal sections 49 and 50.

319 Section 51 amended (RWT withholding reconciliation statements)

In section 51(1B), replace “RWT.” with “RWT by 15 May after the end of the tax year in which the amount is withheld.”

320 Sections 51, 52, 53, and 54 repealed

Repeal sections 51, 52, 53, and 54.

321 Section 54C amended (Information in relation to payment of RLWT)

- (1) In section 54C(1), in the words before the paragraphs, replace “2 years” with “5 years”.
- (2) Subsection (1) applies to a person’s disposal of residential land if the date that the person first acquires an estate or interest in the residential land is on or after the date on which the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 receives the Royal assent.
- (3) Despite subsection (2), subsection (1) does not apply to a person’s disposal of a freehold estate in residential land that the person acquired as the owner of a leasehold estate with a perpetual right of renewal, if the person was granted the leasehold estate before 29 March 2018.
- (4) Despite subsection (2), subsection (1) does not apply to a person’s disposal of an estate or interest in residential land that the person acquired as the result of the completion of a land development or subdivision, if before 29 March 2018 the person entered into the agreement under which they acquired the estate or interest upon the completion of the land development or subdivision.

Section 321(3): inserted, on 18 March 2019 (with effect on 29 March 2018), by section 353 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Section 321(4): inserted, on 18 March 2019 (with effect on 29 March 2018), by section 353 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

322 Section 55 amended (Consequence of inability to provide tax file numbers)

In section 55(a), replace “in accordance with section 52 or section 53 or section 54” with “under the reporting requirements in sections 25F to 25I and 25N”.

323 New section 55B inserted (Information relating to offshore persons and tax file numbers)

After section 55, insert:

55B Information relating to offshore persons and tax file numbers

- (1) The Commissioner must not allocate a tax file number requested by an offshore person until the Commissioner—
 - (a) receives a current bank account number for the offshore person:
 - (b) is satisfied that the information available to the Commissioner relating to the offshore person provides the Commissioner with an assurance of the identity and background of the offshore person.
- (2) Subsection (1) does not apply to a person—

- (a) who needs a tax file number solely because they are a non-resident supplier of goods and services under the Goods and Services Tax Act 1985;
 - (b) who is registered, or has applied to be registered, under section 54B of that Act;
 - (c) for whom a reporting entity under the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 has conducted the procedures for customer due diligence required under that Act and regulations made under that Act.
- (3) Despite subsection (1), a non-resident seasonal worker under the recognised seasonal employer (RSE) instructions is not required to provide the Commissioner with a current bank account number for the first month of a period of employment in New Zealand.
- (4) A person who has a tax file number and a current bank account must immediately provide the person's current bank account number to the Commissioner if the person,—
- (a) after 1 October 2015, becomes an offshore person under paragraph (b) of the definition of offshore person; and
 - (b) has not previously provided the person's current bank account number to the Commissioner.

324 Section 57 amended (Maori authority to make returns of income)

After section 57(1), insert:

- (1B) Section 25I sets out how and when investment income information for a Maori authority distribution must be delivered to the Commissioner.

325 Section 57B amended (Return requirements for multi-rate PIEs)

- (1) In section 57B, in the section heading, replace “**Return requirements**” with “**Requirements**”.
- (2) Replace section 57B(1) with:
- (1) This section sets out the responsibilities for a multi-rate PIE or a proxy for an investor in the PIE. Sections 25J and 25K set out how and when investment income information on attributed PIE income must be delivered to the Commissioner.
- (3) Replace section 57B(2)(a) with:
- (a) to file a return in the prescribed form—
 - (i) showing the amount of the tax liability of the entity for the period; and
 - (ii) providing the investment income information required under sections 25J and 25K, as applicable; and

(iii) providing further information that the Commissioner considers relevant; and

- (4) In section 57B(7)(a), replace “31 May” with “15 May”.
- (5) Repeal section 57B(7).
- (6) After section 57B(6), insert:
- (8) The Commissioner must prescribe 1 or more electronic forms and means of electronic communication in which or by which a return must be provided under this section. The Commissioner may specify conditions relating to the format, either general or in a particular case.
- (7) Subsection (4) applies for the 2018–19 and later tax years.

326 Section 61 amended (Disclosure of interest in foreign company or foreign investment fund)

In section 61(1C), replace “section 57B(7)” with “section 25J or 25K, as applicable”.

327 New section 63B inserted (Disclosure requirements for exempt ESSs)

After section 63, insert:

63B Disclosure requirements for exempt ESSs

- (1) A company must notify the Commissioner, in the form prescribed by the Commissioner, that there is an exempt ESS for its employees that meets the criteria in section CW 26C(2) to (9) of the Income Tax Act 2007.
- (2) For a tax year, a company that has an exempt ESS for its employees must notify the Commissioner annually, in the form prescribed by the Commissioner, of the following:
- (a) grants of shares made to employees for the tax year:
 - (b) any other information required by the Commissioner.
- (3) The form described in subsection (2) must be given to the Commissioner on or before the 31 May following the end of the relevant tax year.

328 Section 67 repealed (Company dividend statement when ICA company declares dividend)

Repeal section 67.

329 Section 68B repealed (Distribution statement required when Maori authority makes distribution)

Repeal section 68B.

330 Section 70 amended (Annual ICA return to be furnished if: required by Commissioner; requirement for imputation credit account ceases; or balance retrospectively reduced to debit or to less than refund)

In section 70(2), replace “an imputation return” with “an annual ICA return”.

331 Section 74 amended (Annual ICA return to be furnished in respect of consolidated imputation group)

In section 74(1)(b)(iii), replace “an imputation group:” with “an imputation group; and”.

332 Section 78D amended (Evidential requirements for tax credits)

[Repealed]

Section 332: repealed, on 23 March 2020, by section 272 of the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5).

333 Section 80A amended (Application)

- (1) In section 80A(1)(a)(ii), replace “(k) to (n)” with “(k) to (p)”.
- (2) In section 80A(1)(b), replace “section 80C(4)” with “section 80C”.
- (3) Subsection (1) applies for the 2016–17 and later income years.
- (4) Subsection (2) applies for the 2009–10 and later income years.

334 Section 80D amended (Commissioner must issue income statement)

In section 80D(1)(c)(iii), replace “section RD 4(2) of the Income Tax Act 2007 to provide to the Commissioner an employer monthly schedule” with “section RD 22(1) of the Income Tax Act 2007 to provide to the Commissioner employment income information”.

335 Section 80F amended (Taxpayer obligations and assessment on receipt of income statement)

In section 80F(5), replace “section 25(7)” with “section 26C(7)”.

336 Section 80KT amended (Details of payments of tax credits)

- (1) In section 80KT(2), replace “give the Commissioner details of the payment in an employer monthly schedule.” with “provide details of the payment at a time and in a manner agreed by the chief executive and the Commissioner.”
- (2) Repeal section 80KT(3) and (4).

337 Section 85H amended (Disclosure of information for purposes of Parental Leave and Employment Protection Act 1987)

In section 85H(2), replace “spouse” with “spouse, civil union partner, or de facto partner”.

338 Section 91AAQ amended (Determination on insurer as non-attributing active CFC)

- (1) Repeal section 91AAQ(2)(c).
- (2) Replace section 91AAQ(3)(a) with:
 - (a) the group is a group of companies that—
 - (i) is controlled by a New Zealand resident; and
 - (ii) has, in a country or territory outside New Zealand, a business of insurance that is registered under the laws of the country or territory relating to the business of insurance; and

339 Section 91FD amended (Disclosure requirements)

In section 91FD(1)(bb), replace “correct:” with “correct; and”.

340 Section 91G amended (Effect of legislative change on binding ruling)

In section 91G, replace “in the ruling.” with “in the ruling. For a limited purpose and period, section 100(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 overrides this section.”

341 Section 91GA amended (Applying for ruling on effect of change in legislation)

After section 91GA(3), insert:

- (4) For a limited purpose and period, section 100(2) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 overrides this section.

342 Section 108B amended (Extension of time bars)

- (1) In section 108B(3)(d), replace “section 108(1) and (1A)” with “section 108(1), (1A), and (1B)”.
- (2) In section 108B(3)(d), replace “section 108(1), (1A), and (1B)” with “section 108(1), (1A), (1B), and (1C)”.

343 Section 110 amended (Evidence of returns and assessments)

In section 110(2), delete “, or section 36A,”.

344 Section 120C amended (Definitions)

- (1) In section 120C(1), in the definition of **date interest starts**, paragraph (c)(i)(A), replace “the 15th working day” with “the 10th working day”.
- (2) Subsection (1) applies for taxable periods ending on or after 1 April 2018.

345 Section 120KBB amended (Interest for most standard method and some estimation method provisional taxpayers)

- (1) In section 120KBB(4)(c)(iii), replace “treating section YB 3 of the Income Tax Act 2007” with “treating, for the purposes of the definition of **associated**, section YB 3”.
- (2) Subsection (1) applies for the 2017–18 and later income years.

346 Section 120KD amended (Provisional tax instalments in transitional years)

- (1) After section 120KD(1), insert:
- (1B) This section does not apply to a person that section 120KBB applies to.
- (2) Subsection (1) applies for the 2017–18 and later income years.

347 Section 120KD amended (Provisional tax instalments in transitional years)

- (1) In section 120KD(1B), replace “section 120KBB applies to” with “section 120KBB applies to, unless the person is a new provisional taxpayer”.
- (2) Subsection (1) applies for the 2018–19 and later income years.

348 New section 120LB inserted (Meaning of unpaid tax and overpaid tax for certain transferees under AIM method)

After section 120L, insert:

120LB Meaning of unpaid tax and overpaid tax for certain transferees under AIM method

- (1) This section applies for the purposes of section RC 35B of the Income Tax Act 2007 when a provisional taxpayer who uses the AIM method to calculate and pay a provisional tax liability asks the Commissioner to transfer an overpayment of provisional tax to a shareholder who is an employee of the taxpayer.
- (2) For the purposes of determining an amount of unpaid tax, overpaid tax, or interest under a provision of this Part—
 - (a) the total amount transferred to the person for the tax year under section RC 35B(2) is pro-rated against all their instalments for the tax year:
 - (b) for an amount of unpaid tax or overpaid tax for an instalment, the pro-rated amount referred to in paragraph (a) is subtracted from the underpaid amount or added to the overpaid amount, as applicable:
 - (c) to the extent to which paragraph (b) does not apply for the pro-rated amount, the amount is overpaid tax for the instalment.
- (3) Subsection (2) does not apply to a person to whom section 120KBB(2) applies. In these circumstances,—
 - (a) for an amount of unpaid tax or overpaid tax for the last instalment for the tax year, the total amount transferred to the person is subtracted from the

underpaid amount or added to the overpaid amount, as applicable, under that section:

- (b) to the extent to which paragraph (a) does not apply in relation to the total amount transferred, the amount is overpaid tax under section 120KBB(2) for the last instalment.

349 New section 120X inserted (Petroleum miners' tax losses)

- (1) After section 120W, insert:

120X Petroleum miners' tax losses

If a taxpayer allocates an amount to an earlier tax year under section EJ 14 of the Income Tax Act 2007, the amount allocated does not reduce the taxpayer's tax payable for that year for the purpose of this Part.

- (2) Subsection (1) applies for a taxpayer and to a tax position—
 - (a) taken by the taxpayer in a tax return filed after the date of introduction of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018; and
 - (b) with regard to a reduction under section IS 5(2) of the Income Tax Act 2007 in their tax loss.

350 Section 120X repealed (Petroleum miners' tax losses)

- (1) Repeal section 120X.
- (2) Subsection (1) applies for the 2018–19 and later income years.

351 Section 125 amended (Certain rights of objection not conferred)

In section 125(j)(iv), replace “36 to 46” with “23B to 23Q, 36 to 44D”.

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

- (1) In section 139A(1), replace “and the employer monthly schedule required to be provided under section RD 22(1) to (5) of the Income Tax Act 2007” with “and the employment income information required to be provided under sections 23E to 23J”.
- (2) In section 139A(2)(a)(iv), replace “an employer monthly schedule” with “their employment income information”.
- (3) In section 139A(4), replace “employer monthly schedule” with “employment income information”.
- (4) In section 139A(5), in the words before paragraph (a), replace “an employer monthly schedule” with “employment income information”.
- (5) Replace section 139A(6) and (7) with:
- (6) Subsections (7) to (9) apply in relation to a late filing penalty when a taxpayer fails to provide employment income information to the Commissioner by a due

date when, for the 12-month period before the due date, the taxpayer has delivered on time all the required income information.

- (7) Subject to subsection (9), the Commissioner must notify the taxpayer,—
 - (a) first, that a late filing penalty will be payable for a further failure to provide income information on time;
 - (b) secondly, that the penalty is payable when a further failure occurs after the notice referred to in paragraph (a) has been given.
- (8) For employment income information, the maximum penalty that may be imposed in relation to a month, regardless of the number of failures to provide employment income information, is \$250.
- (9) Despite subsection (7), a taxpayer is not liable to pay a late filing penalty in relation to employment income information if the Commissioner considers that, in a particular case or class of cases, a penalty should not be imposed. However, the Commissioner’s discretion may be exercised only if—
 - (a) it is necessary because of resource constraints imposed on the Commissioner during the period of co-existence of 2 Inland Revenue software platforms; and
 - (b) the taxpayer’s non-compliance is not serious or unreasonable.

353 Section 139AA amended (Non-electronic filing penalty)

- (1) In section 139AA(1)(a), replace “section RD 22(2) and (2B) of the Income Tax Act 2007” with “section 23E”.
- (2) After section 139AA(1)(a), insert:
 - (aba) a person who is required to provide investment income information to the Commissioner under sections 25F to 25M and 25N; and
- (3) After section 139AA(1)(ac), insert:
 - (ad) a registered person; and
- (4) In section 139AA(2), replace “A person who is an employer, a portfolio investment entity, a portfolio investor proxy, or a PAYE intermediary” with “The person”.
- (5) In section 139AA(3), replace “under section 36B(1) to furnish the employer monthly schedule” with “under sections 23D(4) and 23G to provide their employment income information”.
- (6) Replace section 139AA(4) with:
 - (4) For employment income information, the maximum penalty that may be imposed in relation to a month, regardless of the number of failures to provide employment income information, is the greater of \$250 or \$1 for each employee whose employment income information is not in the prescribed electronic form or delivered by the prescribed means of electronic communication at any time in the month.

- (7) After section 139AA(4), insert:
- (5) For GST purposes, the non-electronic filing penalty is \$250.
- (8) After section 139AA(5), insert:
- (6) For investment income information, the non-electronic filing penalty is \$250.
- (7) Despite subsection (2), a person is not liable to pay a non-electronic filing penalty if the Commissioner considers that, in a particular case or class of cases, a penalty should not be imposed. However, the Commissioner’s discretion may be exercised only if—
- (a) it is necessary because of resource constraints imposed on the Commissioner during the period of co-existence of 2 Inland Revenue software platforms; and
 - (b) the taxpayer’s non-compliance is not serious or unreasonable.

354 Section 141AA amended (Shortfall penalty if non-resident contractor relieved from all liability to pay tax on contract payment)

In section 141AA(1) and (3),—

- (a) replace “each return period” with “each month” in each place where it appears;
- (b) replace “an employer monthly schedule” with “employment income information” in each place where it appears.

355 Section 141ED amended (Not paying employer monthly schedule amount)

- (1) In section 141ED, replace the section heading with “**Penalty for unpaid amounts of employers’ withholding payments**”.
- (2) Replace section 141ED(1) with:
 - (1) A taxpayer is liable to pay a shortfall penalty (the **employers’ withholding payment penalty**) if—
 - (a) the taxpayer—
 - (i) provides employment income information to the Commissioner under subpart 3C; and
 - (ii) is required to pay to the Commissioner an amount of tax (the **required amount**) under section RD 4(1) of the Income Tax Act 2007; and
 - (iii) fails to pay some or all of the required amount (the **unpaid amount**) to the Commissioner by the due date; and
 - (b) the Commissioner, after the due date for the payment of the required amount, gives the taxpayer notice (the **Commissioner’s notice**)—
 - (i) that the taxpayer is liable to pay a penalty for failing to pay the unpaid amount by the due date and of how the penalty is calculated; and

- (ii) of the circumstances in which further penalties will be imposed and of how a further penalty will be calculated; and
 - (iii) of actions that the taxpayer may take to avoid the imposition of further penalties; and
 - (c) subsection (3) does not apply to the taxpayer.
- (3) In section 141ED(2), replace “the returned amount” with “the required amount”.
- (4) In section 141ED(3),—
- (a) replace “a penalty for not paying employer monthly schedule amount” with “an employers’ withholding payment penalty”;
 - (b) replace paragraph (a)(i) with:
 - (i) appointed after the end of the month in which the employment income information is provided to the Commissioner; and
- (5) In section 141ED(4),—
- (a) replace “A penalty payable for not paying employer monthly schedule amount” with “An employers’ withholding payment penalty payable”;
 - (b) in paragraph (a), replace “the returned amount” with “the required amount”.
- (6) In section 141ED(5), replace “the penalty for not paying employer monthly schedule amount” with “the employers’ withholding payment penalty”.
- (7) In section 141ED(5B),—
- (a) replace “the returned amount” with “the required amount”;
 - (b) replace “the employer monthly schedule” with “the employment income information”.
- (8) In section 141ED(6), replace “1 penalty for not paying employer monthly schedule amount arising from an employer monthly schedule” with “1 employers’ withholding payment penalty arising from the employment income information”.
- (9) In section 141ED(7), replace “the returned amount” with “the required amount”.

356 Section 141JA amended (Application of Part 9 to non-filing taxpayers)

In section 141JA(a), replace “section RD 4(2)” with “section RD 4(4)”.

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

- (1) In section 142(1), replace “an employer monthly schedule” with “employment income information”.
- (2) Replace section 142(1A) with:

(1A) The due date for the payment of a late filing penalty for failing to provide employment income information is 30 days after the end of the month in which the employer is required to deliver their employment income information to the Commissioner.

(3) In section 142(2), delete “, **employer monthly schedule**,”.

358 Section 142A amended (New due date for payment of tax that is not a penalty)

(1) Before section 142A(1), insert:

(1A) This section applies for the transitional period described in subsection (10).

(2) After section 142A(9), insert:

(10) For the purposes of subsection (1), the transitional period is the period of co-existence of 2 Inland Revenue software platforms that starts on the date on which the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 receives the Royal assent and ends on the date by which the last Order in Council made under section 142AB(5) brings that section into force for a particular tax type.

(11) Section 142AB overrides this section, but this section continues to apply for an amount of tax in relation to which an incremental late payment penalty is payable under section 139B.

359 New section 142AB inserted (New due date for new and increased assessments)

After section 142A, insert:

142AB New due date for new and increased assessments

(1) This section applies, subject to the particular commencement dates for different tax types described in subsection (5), when the Commissioner makes either of the following assessments for a taxpayer, other than an assessment (a **default assessment**) made in the absence of a return and to which section 106(1) applies:

(a) an assessment (the **new assessment**) of tax for the taxpayer, if they have not been assessed earlier for the tax:

(b) an amended assessment (the **increased assessment**)—

(i) of an amount of tax that is more than the amount for which the taxpayer is liable immediately before the increased assessment; and

(ii) made less than 30 days before, or on or after, the due date for the tax for which the taxpayer is liable immediately before the increased assessment; and

(iii) that is not an increased assessment to a default assessment.

- (2) The Commissioner must—
 - (a) fix a date that is 30 or more days after the date of the notice of the assessment for the payment of—
 - (i) the tax under a new assessment;
 - (ii) the increase of tax under an increased assessment; and
 - (b) notify the taxpayer of the date in the notice of assessment.
- (3) Subsection (2) does not apply—
 - (a) to an amount of provisional tax that remains unpaid on an instalment date; or
 - (b) when the Commissioner has notified the taxpayer before the due date for the payment of the tax that subsection (2) will not apply to the tax as calculated by the taxpayer or to an amount of tax estimated by the taxpayer; or
 - (c) when the Commissioner considers that setting a new due date may prejudice the Commissioner's ability to recover the tax or increased tax.
- (4) In this section, **tax** does not include a civil penalty.
- (5) This section comes into force on a date appointed by the Governor-General by Order in Council, and 1 or more orders may be made appointing different dates for different tax types and for different purposes. To the extent to which it is not previously brought into force, this section comes into force on 1 April 2023.
- (6) For a tax type in relation to which an order is made under subsection (5), this section applies to a new assessment for the tax type or an increased assessment for the tax type and section 142A does not apply for that tax type.

360 Section 142G replaced (Due date for payment of non-electronic filing penalty)

- (1) In section 142G, insert as subsection (2):
- (2) For GST purposes, a non-electronic filing penalty is due and payable 30 days after the end of the month in which the registered person is required to provide the GST information to the Commissioner.
- (2) Replace section 142G with:

142G Due date for payment of non-electronic filing penalties

A non-electronic filing penalty under section 139AA is due and payable,—

- (a) for employment income information, 30 days after the end of the month in which the employer is required to provide to the Commissioner the information in the prescribed electronic form or by means of the prescribed electronic communication:

- (b) for GST purposes, 30 days after the end of the month in which the registered person is required to provide to the Commissioner the GST information in the prescribed electronic form or by means of the prescribed electronic communication.
- (3) After section 142G(b), insert:
 - (c) for investment income information, 30 days after the end of the month in which the payer of investment income is required to provide to the Commissioner the information in the prescribed electronic form or by means of the prescribed electronic communication.

361 Section 157 amended (Deduction of tax from payments due to defaulters)

In section 157(10), in the definition of **income tax**, paragraph (c), replace “section RD 4(2)(a)” with “section RD 4(4)”.

362 Section 173L amended (Transfer of excess tax within taxpayer’s accounts)

- (1) In section 173L(2)(a), replace “a day after the end of the GST return period in which the refund arose” with “the applicable date set out in subsection (2B)”.
- (2) After section 173L(2), insert:
 - (2B) For the purposes of subsection (2)(a), the applicable date is—
 - (a) when the taxpayer files their return before the due date, the earlier of—
 - (i) the day after the date on which the return is filed;
 - (ii) the day after the end of the GST return period in which the refund arose;
 - (b) when the taxpayer files their return on the due date, the day after the end of the GST period in which the refund arose;
 - (c) when the taxpayer files their return after the due date, the day after the date on which the return is filed.
- (3) Subsections (1) and (2) apply for taxable periods ending on or after 1 April 2018.

363 Section 183A amended (Remission for reasonable cause)

- (1) In section 183A(1)(i), replace “a penalty for not paying employer monthly schedule amount” with “an employers’ withholding payment penalty”.
- (2) In section 183A(1A)(b), replace “the tax return or an employer monthly schedule, or not furnishing an employer monthly schedule” with “the tax return or their employment income information, or not furnishing their employment income information”.

364 Section 183C amended (Cancellation of interest)

- (1) Replace section 183C(4B) and (4C) with:
- (4B) Subsection (4C) applies, if—

- (a) the Commissioner issues another statement of account (the **second statement**) to a taxpayer within 30 days of a statement of account described in subsection (4) (the **first statement**); and
 - (b) the first and second statements are for a START tax type and any penalties related to the START tax type; and
 - (c) the START tax type and any related penalties in the first statement, together with any interest payable under Part 7 in relation to the period before the date of the first statement is paid to the Commissioner on or before the 30th day after the date on which the first statement is issued, or the due date of the tax, whichever occurs first.
- (4C) The Commissioner shall cancel the taxpayer’s liability to pay interest under Part 7 in relation to the START tax type and related penalties for the period commencing on the day after the date on which the first statement is issued and ending with the day on which the payment described in subsection (4B)(c) is made.
- (4D) Subsection (4E) applies, if—
- (a) the Commissioner issues another notice of assessment (the **second assessment**) to a taxpayer within 30 days of a notice of assessment described in subsection (1) or (3) (the **first assessment**); and
 - (b) the first and second assessments are for a START tax type and any penalties related to the START tax type; and
 - (c) the START tax type and any related penalties in the second assessment, together with any interest payable under Part 7 in relation to the period before the date of the second assessment is paid to the Commissioner on or before the 30th day after the date on which the second assessment is issued, or the due date of the tax, whichever occurs first.
- (4E) The Commissioner shall cancel the taxpayer’s liability to pay interest under Part 7 in relation to the START tax type and related penalties for the period commencing on the day after the date on which the second assessment is issued and ending with the day on which the payment described in subsection (4D)(c) is made.
- (2) Subsection (1) applies for a second statement or assessment issued by the Commissioner on or after 1 April 2018.

365 Section 183D amended (Remission consistent with collection of highest net revenue over time)

In section 183D(1)(bd), replace “a penalty for not paying employer monthly schedule amount” with “an employers’ withholding payment penalty”.

366 Section 183F amended (Small amounts of penalties and interest not to be charged)

- (1) In section 183F(1)(a), replace “amount of income tax or ancillary tax” with “amount of tax”.
- (2) In section 183F(1)(b), replace “amount of income tax or ancillary tax” with “amount of tax”.

367 Section 183F amended (Small amounts of penalties and interest not to be charged)

In section 183F(1)(c), replace “a penalty for not paying employer monthly schedule amount” with “an employers’ withholding payment penalty”.

368 Section 185 amended (Payment out of Crown Bank Account)

- (1) In section 185(1)(f), replace “Act; or” with “Act—”.
- (2) Repeal section 185(1)(g).

369 Sections 185C and 185D repealed

Repeal sections 185C and 185D.

370 New sections 227C and 227D inserted

After section 227B, insert:

227C Transitional provision: voluntary application of employment income information provisions

- (1) This section applies for the purposes of this Act and the Income Tax Act 2007, when an employer or PAYE intermediary, other than an employer who provides their employment income information by non-electronic means, is required to provide an employer monthly schedule and a PAYE income payment form in the period that starts on 1 April 2018 and ends on 31 March 2019 (the **transitional period**).
- (2) Despite the commencement provisions in the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (the **amendment Act**) relating to the provision of employment income information, the application of new thresholds, and the consequential amendments to the KiwiSaver Act 2006, the employer may choose to apply the provisions in the amendment Act for the transitional period, or a part of it, in place of the provisions in this Act and the Income Tax Act 2007 for the delivery of the employer monthly schedule and PAYE income payment form.
- (3) For the purposes of subsection (2), an employer who chooses to report their employment income information using the provisions of the amendment Act must also apply the other relevant provisions relating to the delivery of that information or to the interpretation of those provisions, whether or not the relevant provision is listed in subsection (8).

- (4) When an employer makes an election under subsection (2), they must include in their employment income information the required items relating to a benefit received by an employee or former employee under section CE 1(1)(d) of the Income Tax Act 2007, applying the provisions of the amendment Act in relation to all benefits under employee share schemes, as defined in the amendment Act, received by employees or former employees on or after the date that is 20 days before the date of their election.
- (5) For the purposes of subsection (4), for an item relating to a benefit under an employee share scheme received by an employee in the part of the transitional period that falls before the date referred to in section 2(34) of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018, the ESS deferral date referred to in section CE 2(9) of the Income Tax Act 2007 is the 20th day after the employee receives the benefit.
- (6) For the purposes of the application of a late filing penalty under section 139A(6) to (8), the rules relating to further failures apply for the transitional period as if it were a continuation of the previous period or periods.
- (7) For the purposes of the correction of errors in employment income information that is provided in the transitional period, a regulation-making power is set out in section 46(8) and (9).
- (8) For the purposes of subsections (2) and (4), and despite the relevant commencement provisions in section 2,—
 - (a) sections 17(2) and (3)(b), 20, 153, 158, 159, 191, 196, 203, 207 to 209, 239, 240, 243(20), (24), (26), (53), and (54), 261(2), (5), (13), and (26), 267, 272, 274 to 276, 279, 280, 303, 313, 315, 334, 352 to 357, 360, 363 to 367, 372(1)(a) to (c), 374 to 380, 383 to 388, and 406 of the amendment Act are treated as having a commencement date of 1 April 2018 and as applying for, or in relation to, an employer from the date on which they choose to apply the relevant provisions:
 - (b) the due dates for employment income information under sections 23E to 23I do not apply in the transitional period for the purposes of determining a penalty under section 139A(6) to (8) or 142.
- (9) An employer who makes an election under subsection (2) may not revert to the provisions for the delivery of the employer monthly schedule and PAYE income payment form under this Act or the Income Tax Act 2007, and must continue to apply the provisions of the amendment Act for the remainder of the transitional period unless the employer and Commissioner agree otherwise. As a consequence, the early commencement and application dates set out in subsection (8) no longer apply.

227D Transitional provision for certain filing requirements of employers

- (1) For the purposes of this Act and the Income Tax Act 2007, when an employer or PAYE intermediary is required to provide an employer monthly schedule and a PAYE income payment form relating to the last month of the transitional period referred to in section 227C(1), the usual rules apply for the delivery of the schedule and form despite the fact that the transitional period is expressed to end on 31 March 2019. This subsection does not apply in relation to an obligation referred to in subsection (3).
- (2) For the purposes of this Act and the Income Tax Act 2007, when an employer chooses to apply the provisions in the amendment Act for the transitional period under section 227C(2) in a month (the **month of the election**), they must provide an employer monthly schedule and a PAYE income payment form relating to the previous month by the due date in the month of the election.
- (3) For the purposes of this Act and the Income Tax Act 2007, in relation to a benefit received by an employee or former employee under an employee share scheme for the period that starts on 16 March 2019 and ends on 31 March 2019, an employer to whom section RD 4(1)(b) of the Income Tax Act 2007 applies must—
 - (a) apply the provisions in the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 in relation to the tax treatment of the benefit; and
 - (b) provide their employment income information in relation to the benefit under the provisions in subpart 3C rather than including the information in the employer monthly schedule and PAYE income payment form.

371 New section 227E inserted (Transitional provision: application of investment income information provisions)

After section 227D, insert:

227E Transitional provision: application of investment income information provisions

- (1) This section applies for the purposes of this Act and the Income Tax Act 2007 to a person who pays an amount of investment income in the period that starts on 1 April 2019 and ends on 31 March 2020 (the **transitional period**).
- (2) Despite the commencement provisions in the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 (the **amendment Act**) for the provision of investment income information, a person may choose to apply the provisions of the amendment Act relating to the delivery of investment income information under subpart 3E and the correction of errors under section 250 for the transitional period or a part of it.

- (3) A person who makes an election under subsection (2) may not revert to the provisions in this Act and the Income Tax Act 2007 relating to the returns of income, and must continue to apply the relevant provisions of the amendment Act for the remainder of the transitional period, unless the person and Commissioner agree otherwise.

372 New schedules inserted

- (1) After schedule 2 of the Tax Administration Act 1994, insert as set out in schedule 3 of this Act the following schedules:
- (a) schedule 3 (Record-keeping requirements):
 - (b) schedule 4 (Reporting of employment income information):
 - (c) schedule 5 (Certain codes and rates):
 - (d) schedule 6 (Reporting of investment income information).
- (2) In schedule 3, in the empowering provisions, replace “25, 26, 49, 51” with “22AAB”.

Part 4

Amendments to other enactments

KiwiSaver Act 2006

373 KiwiSaver Act 2006

Sections 374 to 389 amend the KiwiSaver Act 2006.

374 Section 4 amended (Interpretation)

- (1) In section 4(1),—
- (a) in the definition of **employer**, paragraph (b), replace “or RD 4(2)” with “or RD 4(4)” in each place where it appears:
 - (b) repeal the definition of **employer monthly schedule**:
 - (c) insert, in appropriate alphabetical order:
employment income information has the meaning set out in section 23C of the Tax Administration Act 1994
 - (d) insert, in appropriate alphabetical order:
KiwiSaver status means the information that an employee must give their employer in a form authorised by the Commissioner, as follows:
 - (a) whether or not they are a member of an existing KiwiSaver scheme or are choosing to opt in to a scheme:
 - (b) if they are an existing member,—
 - (i) their deduction rate:
 - (ii) whether they are on a contribution holiday:

- (iii) whether they wish to cease deductions under section 112B(1) of the KiwiSaver Act 2006:
- (iv) whether they have chosen to opt out of a scheme:
- (c) if they are a new member, the information as required by the Commissioner, including the nomination of a contribution rate

- (2) In section 4(1), repeal the definition of **KiwiSaver deduction notice**.
- (3) In section 4(1), repeal the definition of **remittance certificate**.

375 Section 17 amended (How to opt out)

Replace section 17(5) with:

- (5) An employer who receives an opt-out notice must give notice of that opt-out to the Commissioner no later than the time the employer is next required to provide their employment income information for payday reporting to the Commissioner under section RD 22 of the Income Tax Act 2007 and sections 23E to 23I of the Tax Administration Act 1994.

376 Section 22 amended (Employees giving information to employers)

- (1) Replace section 22(1)(c)(i) with:
 - (i) notify his or her employer of their KiwiSaver status; or
- (2) In section 22(2), replace “given as soon” with “given, in a form authorised by the Commissioner, as soon”.
- (3) In section 22(3), replace “may give their temporary employer a KiwiSaver deduction notice” with “may notify their temporary employer of their KiwiSaver status”.

377 Section 23 amended (Employers must give information to Commissioner)

In section 23(2),—

- (a) replace “an employer monthly schedule” with “their employment income information for payday reporting”;
- (b) replace “sections 24J and 24P” with “sections 23E to 23I”.

378 Section 34 amended (Opting in by person 18 years or more)

- (1) In section 34(1)(b), replace “give his or her employer a KiwiSaver deduction notice” with “notify his or her employer of a change in their KiwiSaver status”.
- (2) In section 34(2), replace “by giving his or her employer a KiwiSaver deduction notice” with “by notifying his or her employer of a change in their KiwiSaver status”.
- (3) In section 34(4),—
 - (a) replace “an employer monthly schedule” with “their employment income information for payday reporting”;

(b) replace “sections 24J and 24P” with “sections 23E to 23I”.

379 Section 42 amended (Employer must supply information pack to certain employees)

In section 42(1)(b), replace “giving the employer the KiwiSaver deduction notice” with “notifying his or her employer of a change in their KiwiSaver status”.

380 Section 60 amended (Application of subpart)

In section 60(1)(b), replace “has given the employer a KiwiSaver deduction notice” with “has notified his or her employer of their KiwiSaver status and of any changes in that status”.

381 Section 64 amended (Contribution rate)

After section 64(3), insert:

(3B) For a contribution rate under subsection (1)(a), when a change occurs to a rate in this Act, or in regulations made under this Act, affecting the contribution that must be deducted from a payment of salary or wages, the calculation of the amount of the contribution must be made at the rate applying on the day on which the salary or wages are paid.

382 Section 67 amended (PAYE rules apply to deductions)

- (1) In section 67(3)(a), replace “RD 10, RD 16” with “RD 10, RD 10B, RD 13, RD 16”.
- (2) In section 67(3)(a), replace “sections 24B to 24P” with “subpart 3D and schedule 5”.

383 Section 73 amended (Deductions entered in and paid out of holding account)

- (1) In section 73(1)(b), replace “shown on an employer monthly schedule delivered under section RD 4 of the Income Tax Act 2007” with “included in employment income information provided under section RD 22 of the Income Tax Act 2007”.
- (2) In section 73(2), replace “that monthly schedule” with “that employment income information”.
- (3) In section 73(6), replace “entered on an employer monthly schedule” with “included in employment income information”.

384 Section 93 amended (Employer contributions paid via Commissioner)

- (1) In section 93(2), replace “a PAYE payment form” with “the relevant employment income information”.
- (2) In section 93(4), replace “and RD 4(2)” with “and RD 4(4)”.

- (3) In section 93(5), replace “on the employer monthly schedule” with “in their employment income information”.

385 Section 97 replaced (Commissioner must give notice if employer contributions not remitted)

Replace section 97 with:

97 Commissioner must give notice if employer contributions not remitted

- (1) This section applies for a PAYE period when—
- (a) an employer is required to provide a return in relation to an amount of employer contribution under this subpart, and includes a reference to the payment in their employment income information under the Tax Administration Act 1994; and
 - (b) the Commissioner does not receive the payment in full by the due date for the payment.
- (2) The Commissioner must notify the employer that the payment has not been received.

386 Section 98 amended (Short payments by employers if not enough money remitted to Commissioner to cover all of employees’ deductions and employer contributions)

- (1) In section 98(1),—
- (a) in paragraph (a), replace “on either or both of a remittance certificate or an employer monthly schedule” with “in their employment income information”;
 - (b) in paragraph (b), replace “on either or both of the remittance certificate or employer monthly schedule” with “in the employment income information”.
- (2) In section 98(2), replace “on the remittance certificate and employer monthly schedule” with “in their employment income information”.

387 Section 98A amended (Quantifying short payments for the purposes of Income Tax Act 2007 and Tax Administration Act 1994)

In section 98A(b), replace “shown on either or both of a PAYE payment form and an employer monthly schedule” with “included in their employment income information”.

388 Section 99 amended (Short payments if not enough employer contribution remitted to cover all employees)

- (1) In section 99(1),—
- (a) in paragraph (a), replace “on a remittance certificate or employer monthly schedule” with “in their employment income information”;

- (b) in paragraph (b), replace “on the remittance certificate and employer monthly schedule” with “in the employment income information”.
- (2) In section 99(2), replace the items in the formula with:
- a is the total employer contributions received by the Commissioner under this subpart for all of the employer’s employees for the month:
 - b is the employer contribution included in their employment income information for the relevant employee for the month referred to in item a:
 - c is the total employer contributions included in their employment income information for all the employer’s employees for the month referred to in item a.

389 Section 101D amended (Compulsory employer contribution amount: general rule)

- (1) Replace section 101D(4) with:
- (4) **CEC rate** is 3%.
- (2) After section 101D(4), insert:
- (4B) When a change occurs to the CEC rate affecting the amount of a compulsory employer contribution, the calculation of the amount of the contribution must be made at the rate applying on the day on which the salary or wages are paid.

Student Loan Scheme Act 2011

390 Student Loan Scheme Act 2011

Sections 391 to 395 amend the Student Loan Scheme Act 2011.

391 Section 34 amended (Repayment codes for New Zealand-based borrowers who derive salary or wages)

In section 34(2)(a), replace “section 24F” with “section 24D(a) and schedule 5, part B, clause 1”.

392 Section 37 amended (Deduction rates that apply to standard deductions from salary or wages)

After section 37(3), insert:

- (3B) When a change occurs to a rate in this Act, or in regulations made under this Act, affecting the deduction from primary employment earnings paid to the borrower or secondary employment earnings paid to the borrower, the calculation of the amount of the deduction must be made at the rate applying on the day on which the employment earnings are paid to the borrower.

393 Section 84 amended (Due dates for payment of interim payments)

In section 84(2)(a), replace “a GST ratio” with “a GST ratio, or the AIM method provided in section RC 5(5B) of the Income Tax Act 2007,”.

394 Section 202 amended (Provisions of Tax Administration Act 1994 and Income Tax Act 2007 to apply to this Act)

In section 202,—

- (a) replace “24F, 24H” with “section 24D(a)”; and
- (b) replace “and 114” with “114, and schedule 5, part A, clause 4 and part B, clause 1”.

395 Schedule 2 amended (Application of PAYE rules for purposes of section 70)

- (1) In schedule 2, clause 2(a)(i), replace “RD 8 to RD 10, RD 13B” with “RD 8 to RD 10, RD 13, RD 13B”.
- (2) In schedule 2, replace clause 2(a) with:

- (a) the following do not apply to salary or wage deductions:
 - (i) sections BC 1, LA 6, RC 2(1), RC 6, RC 7, RC 16, RC 17, RD 8 to RD 10B, RD 13B, RD 17(2) and (3), and RD 18 to RD 20 of the Income Tax Act 2007;
 - (ii) sections 24F, 24G, 24H, and 24I, and schedule 5, part C of the Tax Administration Act 1994.

Goods and Services Tax Act 1985**396 Goods and Services Tax Act 1985**

Sections 397 to 402 amend the Goods and Services Tax Act 1985.

397 Section 2 amended (Interpretation)

In section 2(1), insert in appropriate alphabetical order:

Pharmac is defined in section 25 for the purposes of that section
Pharmac agreement is defined in section 25 for the purposes of that section
pharmaceutical is defined in section 25 for the purposes of that section

398 Section 2A amended (Meaning of associated persons)

After section 2A(1)(h), insert:

- (hb) A trustee of a trust and a person who has a power of appointment or of removal of the trustee, except if the person—
 - (i) holds the power as a provider of professional services; and
 - (ii) is subject to a professional code of conduct, and disciplinary process intended to enforce compliance with the code, of an approved organisation as that term is defined in section 3(1) of the Tax Administration Act 1994, for such providers of professional services; and
 - (iii) has not benefited from the trust; and

(iv) is not eligible to benefit from the trust:

399 Section 20H amended (Goods and services tax incurred in making financial services for raising funds)

In section 20H(1), replace “section 20(3)(hc)” with “section 20(3)(hd)”.

400 Section 25 amended (Credit and debit notes)

(1) In section 25(1)(b), after “has been altered”, insert “(except as provided in subsection (1B))”.

(2) After section 25(1), insert:

(1B) For the purposes of subsection (1)(b), the previously agreed consideration for the supply of a pharmaceutical is not altered if part of the consideration for the supply has been rebated to Pharmac (acting on its own account or as an agent for a public authority) under a Pharmac agreement.

(3) After section 25(6), insert:

(7) In this section,—

Pharmac means the Pharmaceutical Management Agency established by section 46 of the New Zealand Public Health and Disability Act 2000

Pharmac agreement means an agreement to which Pharmac is a party and under which Pharmac agrees to list a pharmaceutical on the pharmaceutical schedule as defined in section 6 of the New Zealand Public Health and Disability Act 2000

pharmaceutical means a pharmaceutical as defined in section 6 of the New Zealand Public Health and Disability Act 2000.

(4) Subsections (1), (2), and (3) apply in relation to a rebate that is paid on or after 1 July 2018.

401 Section 25AB amended (Consequences of change in contract for secondhand goods)

(1) In section 25AB(1), words before paragraph (a), after “registered person”, insert “for which the registered person returns input tax determined under section 3A(3)”.

(2) In section 25AB(1)(d), replace “debit note” with “credit note”.

402 Section 53 amended (Registered person to notify change of status)

Replace section 53(1)(ca) with:

(ca) any change whereby that registered person now satisfies the conditions of section 15(4):

*Child Support Act 1991***403 Child Support Act 1991**

Sections 404 to 406 amend the Child Support Act 1991.

404 Section 89D amended (Exemption for long-term prisoners)

Replace section 89D(1)(a) with:

- (a) the person’s income for the whole period, or that part, will be or was nil or will include or included no income other than income from—
 - (i) investments:
 - (ii) employment under section 66 of the Corrections Act 2004; and

405 Section 89F amended (Exemption does not apply at any time during child support year if income criteria not met at any time during relevant period)

In section 89F(1)(a)(ii), replace “investments” with “investments, or employment under section 66 of the Corrections Act 2004,”.

406 Section 163 amended (Payment of deductions to Commissioner)

Replace section 163(1) with:

- (1) A payer who has made a deduction under this Part from money payable to a liable person must—
 - (a) pay to the Commissioner the sum deducted to the credit of the liable person by the date required by section RD 4 of the Income Tax Act 2007; and
 - (b) provide the Commissioner with the employment income information referred to in section RD 22 of that Act and sections 23E to 23H of the Tax Administration Act 1994 by the date set out in that section.

*Accident Compensation Act 2001***407 Accident Compensation Act 2001**

Sections 408 to 411 amend the Accident Compensation Act 2001.

408 Section 6 amended (Interpretation)

In section 6,—

- (a) in the definition of **employee**, paragraph (b), replace “section RD 3(2) to (4)” with “section RD 3B or RD 3C”;
- (b) in the definition of **employer**, paragraph (a)(ii), replace “section RD 3(2) to (4)” with “section RD 3B or RD 3C”.

409 Section 15 amended (Earnings as a shareholder-employee)

In section 15(2)(b), replace “section RD 3(2) to (4)” with “section RD 3B or RD 3C”.

410 Section 246 amended (Information available to Corporation)

In section 246,—

- (a) in subsection (1), replace “section RD 3(2) to (4)” with “section RD 3B or RD 3C”;
- (b) in subsection (3), replace “section RD 3(2) to (4)” with “section RD 3B or RD 3C”;
- (c) in subsection (4), replace “section RD 3(2) to (4)” with “section RD 3B or RD 3C”;
- (d) in subsection (4A)(a), replace “section RD 3(2) to (4)” with “section RD 3B or RD 3C”;
- (e) in subsection (4A)(b), replace “section RD 3(2) to (4)” with “section RD 3B or RD 3C”.

411 Schedule 4 amended (Deductions on account of earner levies)

In schedule 4, clause 9, replace “sections 24B to 24P” with “subpart 3D and schedule 5”.

Income Tax Act 2004

412 Income Tax Act 2004

Sections 413 and 414 amend the Income Tax Act 2004.

413 Section CD 33 amended (Available capital distribution amount)

- (1) In section CD 33(9)(a), replace “the adjusted tax value” with “for property that is a building for which no depreciation loss arises under section EE 41(2) and (3) (Effect of disposal or event), the adjusted tax value”.
- (2) Subsection (1) applies for the 2005–06 and later income years.

414 Section EA 2 amended (Other revenue account property)

- (1) In section EA 2(1)(e), replace “sections EJ 11 to EJ 18” with “sections DT 1, DT 5, and EJ 11 to EJ 18”.
- (2) Replace section EA 2(1)(f) with:
 - (f) property under a specified lease or a lease to which section EJ 9 (Personal property lease payments) applies:

***Taxation (Annual Rates for 2016–17, Closely Held Companies, and
Remedial Matters) Act 2017***

415 Section 2 amended (Commencement)

- (1) Repeal section 2(5).
- (2) In section 2(6), delete “386(1) and (2),”.
- (3) In section 2(32), replace “367” with “367(1) and (2)”.

***Taxation (Business Tax, Exchange of Information, and Remedial Matters)
Act 2017***

**416 Section 32 repealed (Section LA 6 amended (Remaining refundable
credits: PAYE, RWT, and certain other items))**

Repeal section 32 of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017.

**417 Section 57 repealed (New section 120LB inserted (Meaning of unpaid tax
and overpaid tax for tax credit transferees under AIM method))**

Repeal section 57 of the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017.

Health and Safety at Work Act 2015

418 Section 201 amended (Funding levy)

In section 201(2)(c) of the Health and Safety at Work Act 2015, replace “section RD 3(2) to (4)” with “section RD 3B or RD 3C”.

Compensation for Live Organ Donors Act 2016

419 Schedule 2 amended (Setting rate of earnings compensation)

In schedule 2, clause 1(1) of the Compensation for Live Organ Donors Act 2016,—

- (a) in the definition of **employee**, replace paragraph (b) with:
- (b) any income to which section RD 3B or RD 3C of the Income Tax Act 2007 applies
- (b) in the definition of **employee**, replace paragraph (a)(ii) with:
 - (ii) any income to which section RD 3B or RD 3C of the Income Tax Act 2007 applies; but

Regulations

420 Income Tax (Payroll Subsidy) Regulations 2006

Revoke the Income Tax (Payroll Subsidy) Regulations 2006.

421 Anti-Money Laundering and Countering Financing of Terrorism (Class Exemptions) Notice 2014

In the schedule to the Anti-Money Laundering and Countering Financing of Terrorism (Class Exemptions) Notice 2014, part 3, clause 2, in the definition of **PAYE intermediary**, delete “(and includes a PAYE intermediary who is approved as a listed PAYE intermediary under section 15G of that Act)”.

422 Accident Compensation (Earners’ Levy) Regulations 2017

In regulation 4(1)(d) of the Accident Compensation (Earners’ Levy) Regulations 2017, replace “for pay periods ending” with “paid, or treated as paid,”.

423 Income Tax (Employment-related Remedial Payments) Regulations 2017

Revoke the Income Tax (Employment-related Remedial Payments) Regulations 2017.

Schedule 1

Consequential amendments to Income Tax Act 2007 related to trustee capacity

s 258

Section CQ 5 amended (When FIF income arises)

In section CQ 5(1)(d), delete “and not acting as a trustee”.

Section DG 3 amended (Meaning of asset for this subpart)

In section DG 3(3), delete “and, for the purposes of this subpart, a reference in the definition of **close company** to a natural person includes a reference to a trustee”.

Section DG 14 amended (Interest expenditure: non-corporate shareholders)

In section DG 14(1)(b)(i), delete “, other than a company acting as a trustee”.

In section DG 14, in the list of defined terms, delete “trustee”.

Section DN 6 amended (When FIF loss arises)

In section DN 6(1)(d), delete “and not acting as a trustee”.

Section EX 68 amended (Measurement of cost)

In section EX 68(1)(a), delete “natural person”.

Section FE 3 amended (Interest apportionment for individuals)

In section FE 3(1)(a), delete “other than a trustee”.

Section FE 4 amended (Some definitions)

In section FE 4(1), in the definition of **excess debt entity**, paragraph (c), delete “other than a person acting as a trustee”.

In section FE 4(1), replace the definition of **natural person** with:

natural person, for an income year, is a natural person who meets the requirements of section FE 2 in the income year

Section HA 7 amended (Shareholding requirements)

In section HA 7(1)(a), delete “other than a trustee”.

Section MA 1 amended (What this Part does)

In section MA 1, replace “person” with “natural person”.

Section OB 1 amended (General rules for companies with imputation credit accounts)

Repeal section OB 1(2)(a)(ii).

Section OB 2 amended (Australian companies choosing to have imputation credit accounts)

In section OB 2(2)(a)(i), replace “section OB 1(2)(a)(ii) to” with “section OB 1(2)(a)(iii) or”.

Section RE 11 amended (Notification by companies)

In section RE 11(1), delete “a trustee or”.

In section RE 11, in the list of defined terms, delete “trustee”.

Section RE 12 amended (Interest)

In section RE 12(5)(a)(ii), delete “a trustee or”.

In section RE 12, in the list of defined terms, delete “trustee”.

Section YA 1 amended (Definitions)

In the definition of **close company**, replace paragraphs (a)(i) and (ii) with:

- (i) at the time there are 5 or fewer natural persons or trustees the total of whose voting interests in the company is more than 50% (treating all natural persons associated at the time as 1 person); or
- (ii) at the time a market value circumstance exists for the company and there are 5 or fewer natural persons or trustees the total of whose market value interests in the company is more than 50% (treating all natural persons associated at the time as 1 person); and

In the definition of **initial provisional tax liability**, in paragraph (a), delete “or a person who is a natural person and a trustee of a trust,”.

In the definition of **initial provisional tax liability**, in paragraph (b), delete “and not a trustee of a trust”.

In the definition of **look-through counted owner**, repeal paragraph (a)(i).

In the definition of **look-through interest**, in paragraph (c), delete “corporate”.

Section YB 3 amended (Company and person other than company)

Repeal section YB 3(5).

Section YC 9 amended (Shares or options held by trustees)

After section YC 9(3), insert:

Company acting as trustee

(3B) A reference to company in subsection (3)(b) includes a company that is acting in the capacity of trustee.

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

In schedule 1, part D, replace clause 4 with:

4 Interest: most companies

- (1) The payment rate for a payment of resident passive income that consists of interest is set out in table 3 if the recipient of the payment is a company that is not a Maori authority.
- (2) For the purposes of subclause (1), a company includes a company that is acting in the capacity of trustee for a portfolio investment entity.

Schedule 2
**Consequential amendments to other enactments related to tax
administration**

s 259

Companies Act 1993

In schedule 7, clause 1(2)(aa), replace “section 24Q” with “section 169B”.

Education Act 1989

In section 303(3F), in the definition of **standard tax**, replace “section 24B” with “schedule 5, part A, clause 4, table row 1”.

Housing Restructuring and Tenancy Matters Act 1992

In section 2, in the definition of **standard tax**, replace “section 24B” with “schedule 5, part A, clause 4, table row 1”.

Insolvency Act 2006

In section 274(2)(aa), replace “section 24Q” with “section 169B”.

New Zealand Superannuation and Retirement Income Act 2001

In section 15(1), in the definition of **standard tax**, replace “section 24B” with “schedule 5, part A, clause 4, table row 1”.

In schedule 1, item 3, replace “section 24B” with “schedule 5, part A, clause 4, table row 1”.

Veterans’ Support Act 2014

In section 170(2), in the definition of **standard tax**, replace “section 24B” with “schedule 5, part A, clause 4, table row 1”.

Schedule 2: amended, on 1 April 2019, by section 354(a) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Schedule 2: amended, on 1 April 2019, by section 354(b) of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

Schedule 3
New schedules 3 to 6 inserted

s 372

Schedule 3
Record-keeping requirements

ss 22AA, 25, 26, 49, 51

Table 1—Record-keeping requirements for employers and PAYE intermediaries

Row	Records
1	The amount of a PAYE income payment
2	The amount of tax for a PAYE income payment
3	The amount of an advance pay
4	The amount of a payroll donation
5	The amount of employer's superannuation contribution
6	The amount of a benefit under an employee share scheme
7	The amount of personal service rehabilitation payment
8	The amount of tax credits under section LD 4 of the Income Tax Act 2007
9	The amount of child support deductions
10	The amount of salary or wage deductions under the Student Loan Scheme Act 2011
11	The amount of employer KiwiSaver contributions made under the KiwiSaver Act 2006
12	The amount of employee KiwiSaver contribution deductions under the KiwiSaver Act 2006
13	The name, tax file number, tax code, date of birth, and contact addresses of every person who derives or receives an amount in rows 1 to 11
14	The records, receipts, certificates, notifications, declarations relating to the items in rows 1 to 13

Table 2—Record-keeping requirements for passive income

Row	Records
1	The name of every person who derives or is paid resident passive income or non-resident passive income
2	The tax file number of every person who derives or is paid resident passive income or non-resident passive income
3	The contact address of every person who derives or is paid resident passive income or non-resident passive income

Row	Records
4	The date of birth of every person who derives or is paid resident passive income or non-resident passive income, if supplied by them
5	The type and amount of resident passive income and the amount of RWT withheld
6	The tax rate applying to the resident passive income
7	The date on which RWT was withheld, and if there is more than 1 instance, the year in which the amounts were withheld
8	The type and amount of non-resident passive income and the amount of NRWT withheld
9	The tax rate applying to the non-resident passive income
10	The date on which NRWT was withheld, and if there is more than 1 instance, the year in which the amounts were withheld
11	The details of all financial arrangements under which interest has been paid, including any number used to identify the financial arrangement
12	Other information required by the Commissioner

Schedule 4

Reporting of employment income information

ss 3, 23C, 23D, 23J, 23K, 23L, 23M, 47,
227C

Table 1—Employment income information for reporting on payday basis

Row	Items
1	The name of the employer
2	The tax file number of the employer
3	The date of the applicable payday
4	Particulars of the following for every person who is an employee of the employer and who receives a PAYE income payment or benefit under an employee share scheme:
a	the name
b	the tax file number, if supplied to the employer
c	the tax code for a PAYE income payment that is not an extra pay
d	the amount of gross earnings, including the value of a benefit arising under an employee share scheme
e	the name of every person who is an employee who receives an extra pay at a rate less than the rate set out in schedule 2, part B, table 1, row 2 of the Income Tax Act 2007
f	the total amount of tax withheld before any tax credits are taken into account
g	the amount of earnings not liable to the earner premium, including the value of a benefit arising under an employee share scheme
5	Particulars of the following amounts for every person who is an employee, as applicable:
a	the amount of any tax credit under section LD 4 of the Income Tax Act 2007
b	the amount of child support deductions
c	the amount of salary or wage deductions made under the Student Loan Scheme Act 2011
d	the amount of employer KiwiSaver contributions made under the KiwiSaver Act 2006, part 3, subpart 3 less ESCT
e	the amount of employee KiwiSaver contribution deductions under the KiwiSaver Act 2006, part 3, subpart 1
6	The amount of ESCT payable
7	Particulars of the following for every former employee who receives a benefit under an employee share scheme when the employer has chosen under section

Row	Items
	RD 7B of the Income Tax Act 2007 to withhold an amount of tax for the benefit:
a	the name of the employee
b	the tax file number, if supplied to the employer
c	the value of the benefit
d	the amount of tax withheld
8	Other particulars as the Commissioner requires

Table 2—Information about new employees

Row	Items
1	The name of the employer
2	The tax file number of the employer
3	The contact address of the employer, as required
4	The full name of the employee
5	The contact address of the employee, as required
6	The date of birth of the employee, if supplied to the employer
7	The date on which the employee starts being an employee of the employer
8	The tax file number of the employee, if supplied to the employer
9	The tax code supplied by the employee
10	The KiwiSaver status of the employee under section 22 of the KiwiSaver Act 2006

Table 3—Information about departing employees

Row	Items
1	The name of the employer
2	The tax file number of the employer
3	The contact address of the employer
4	The name of the employee
5	The date on which the employee stops being an employee of the employer
6	The tax file number of the employee, if supplied to the employer

Schedule 5 Certain tax codes and rates

ss 3, 24B to 24IB

Part A PAYE tax codes for general use

1 Tax codes generally

- (1) The basic tax rates for PAYE income payments are set out in schedule 2 of the Income Tax Act 2007.
- (2) The table in clause 4 lists the tax codes from which an employee must choose the code that applies to their circumstances unless they have a special tax code under part B, clauses 1 to 3.
- (3) An employee who receives a PAYE income payment of an income-tested benefit and a PAYE income payment that does not consist of an income-tested benefit may choose, for their non-benefit income, a secondary tax code set out in the table in clause 4, rows 3 to 6, that applies to their circumstances.
- (4) If another Act requires an employer to withhold the amount of tax for a PAYE income payment to an employee and pay the amount to the Commissioner, the tax code may be combined with another code applying under that Act.

2 Changes to tax codes

- (1) An employee must inform their employer of a change in their tax code, including in the information, their name and tax file number, unless the Commissioner has provided a code to the employer under clause 3.
- (2) If an employee finds it difficult or impractical to inform their employer of a change in their tax code, they may notify the Commissioner who must then notify the employer of the employee's new tax code.
- (3) The employee's new tax code under subclause (1) or (2) applies to a PAYE income payment that the employer pays to the employee from—
 - (a) the first day of a pay period to which the payment relates until the date on which the employee is no longer entitled to use the tax code if—
 - (i) the employer has no earlier tax code for the employee; or
 - (ii) the change to the tax code is provided before the date on which the employer calculates their payroll for the period;
 - (b) the first day of the pay period following that to which the payment relates if the change to the tax code is provided after the date on which the employer calculates their payroll for the period.

3 Use of incorrect tax codes

- (1) If the Commissioner considers that an employer or PAYE intermediary has used an incorrect tax code in relation to a PAYE income payment made to an employee, the Commissioner may—
 - (a) notify the employee of the incorrect tax code; and
 - (b) notify the employer or PAYE intermediary of the incorrect code; and
 - (c) provide the tax code that should apply to the PAYE income payment.
- (2) The employer or PAYE intermediary must use the tax code provided by the Commissioner after being notified. However, the tax code does not apply if the employee notifies their employer that their circumstances have changed and, as a result, a different tax code should apply.

4 When entitlement to use tax code ends

- (1) If an employee is no longer entitled to use a particular tax code, they must notify their employer within 4 days after the date on which they become aware that they are no longer entitled to use the code. The employee must give the reason why the tax code no longer applies and the date on which their entitlement to use the tax code ended.
- (2) The tax code does not apply to a PAYE income payment made to the employee after the date on which the entitlement ends, unless the payment is salary or wages for a current pay period.
- (3) For the purposes of subclause (1), if the employee notifies the Commissioner that their entitlement has ended, they must similarly provide the reason and the date described in that subclause to the Commissioner.
- (4) If an employer has not received notice that the employee’s entitlement to use the tax code has ended, the employer is not required to change the amount of tax withheld from a payment made to an employee.

Tax code table

Row	Tax code	Circumstances for use of tax code
1	M	for primary employment earnings when the employee is not entitled to a tax credit under section LC 13 of the Income Tax Act 2007
2	ME	for primary employment earnings when the employee is entitled to a tax credit under section LC 13 of the Income Tax Act 2007
3	SB	for secondary employment earnings for an employee whose annual income is not more than \$14,000
4	S	for secondary employment earnings for an employee whose annual income is more than \$14,000 but not more than \$48,000

Row	Tax code	Circumstances for use of tax code
5	SH	for secondary employment earnings for an employee whose annual income is more than \$48,000 but not more than \$70,000
6	ST	for secondary employment earnings for an employee whose annual income is more than \$70,000
7	CAE	for salary or wages for employment as a casual agricultural employee
8	EDW	for salary or wages for employment as an election day worker
9	NSW	for salary or wages for employment as a non-resident seasonal worker

Part B

Special and particular tax codes

1 Special tax codes

- (1) On application by an employee, the Commissioner may provide a special tax code for either—
 - (a) their New Zealand superannuation income or veteran’s pension income; or
 - (b) their other employment income from 1 or more employers.
- (2) A special tax code may—
 - (a) set out a tax code for a payment of salary or wages to an employee by 1 or more of their employers for a stated period:
 - (b) require that no amount of tax is withheld from, or a particular rate of tax applies to, a proportion of a PAYE income payment of the employee, as if it were the whole payment.
- (3) The Commissioner must calculate, for the PAYE income payments and the period to which the tax code applies, the amount of tax for the payments or the rate of tax applying to them,—
 - (a) having regard to the amount of tax for the payments that would be required under sections RD 9 to RD 11 of the Income Tax Act 2007:
 - (b) disregarding an entitlement under the family scheme.
- (4) For a special tax code under subclause (1)(a), the Commissioner must, as soon as practicable, notify the responsible department of the special tax code together with the information described in subclauses (2) and (3). The department must use the special tax code for a PAYE income payment made to the employee after the date on which the department is notified, or if that payment has already been calculated, for the next payment.

- (5) A special tax code overrides the provisions of this Act and the Income Tax Act 2007 other than the employee's duties under sections RA 8, RA 10, and RD 4(2) of that Act and subclause (6) and part A, clauses 3 and 4.
- (6) The Commissioner may cancel a special tax code at any time, notifying the employee or responsible department, as applicable. Once notified, the employee must then notify their employer that their entitlement to use a special tax code has ended.

2 Tax codes for private domestic workers

An employee may notify the Commissioner that they wish to have a tax code for their employment as a private domestic worker.

3 Tax codes for non-resident seasonal workers

A non-resident seasonal worker under the recognised seasonal employer (RSE) instructions has a tax code set out in the table in part A, row 9, for the first month of a period of employment in New Zealand.

Part C

Rates of tax for schedular payments

1 Rates of tax for schedular payments

- (1) Clauses 2 to 7 apply to determine the rate of tax to be applied to a schedular payment to which sections RD 8 and RD 10B of the Income Tax Act 2007 apply. *See also* sections 24F, 24G, and 24H.
- (2) The rates of tax applying to schedular payments are—
 - (a) the standard rate:
 - (b) a payee's elected rate:
 - (c) a rate set by the Commissioner, applying in certain circumstances:
 - (d) a special rate provided by the Commissioner.
- (3) In this schedule,—
 - (a) a person who is making a schedular payment is referred to as the **payer**:
 - (b) a person who is entitled to receive a schedular payment is referred to as the **payee**.

2 Standard rates of tax

The standard rates of tax for schedular payments are set out in schedule 4 of the Income Tax Act 2007.

3 Elected rates of tax

- (1) A payee, other than a non-resident entertainer, may choose a rate of tax that is to apply to a schedular payment for the purposes of section RD 10B(2)(a) of the Income Tax Act 2007. The minimum rates that a payee may choose are—
 - (a) for a payee who is a non-resident or a holder of a temporary entry class visa as defined in section 4 of the Immigration Act 2009, 15%;
 - (b) for all other payees, 10%.
- (2) If a payee notifies a payer of 2 different rates of tax within a 12-month period, the last notified rate is the elected rate that must be applied to the payment. The payee may not change their rate of tax in relation to the same payer within a 12-month period unless both the payer and payee agree.
- (3) For the purposes of this clause, the rate of tax must be a percentage counted to no more than 1 decimal place.

4 Rates of tax or percentages set by Commissioner

- (1) If a payee has a liability under the Inland Revenue Acts that has not been met, the Commissioner may set a rate of tax to be applied to the payee's schedular payments by notifying the payer and, subject to subclause (7), the payee.
- (2) The payee may ask the Commissioner to cancel the rate referred to in subclause (1), and the Commissioner must cancel the rate and notify the payee of the cancellation, if—
 - (a) the Commissioner is satisfied that all the payee's liabilities under the Inland Revenue Acts have been met; and
 - (b) the Commissioner is reasonably satisfied that all the payee's liabilities under the Inland Revenue Acts will be met in the future.
- (3) In addition to setting a rate under subclause (1), the Commissioner may set a percentage of the amount of 1 or more schedular payments made by a payer to a payee, and the payer must—
 - (a) apply the percentage to the schedular payment; and
 - (b) subtract the amount that is the percentage from the schedular payment; and
 - (c) pay the amount to the Commissioner.
- (4) An amount paid to the Commissioner under subclause (3) is credited against the payee's liabilities under the Inland Revenue Acts and is not a tax credit under Part L of the Income Tax Act 2007.
- (5) The payee may ask the Commissioner to cancel the percentage set under subclause (3). The Commissioner must cancel the percentage and notify the payee of the cancellation if the Commissioner is satisfied that the payee has paid all tax that is due and payable by them.

(6) For a payee and a schedular payment, a rate of tax or percentage set under this section must not result in an amount that is more than 50% of the amount of the schedular payment.

(7) For the purposes of subclauses (1) and (3), the requirement to notify the payee does not have to be met if, after making reasonable inquiries, the Commissioner can find no contact address as described in section 14G for the payee.

5 Special rates of tax

(1) A payee, other than a non-resident entertainer, may apply to the Commissioner for a special rate of tax applying to some or all of a schedular payment, *see* section 24G.

(2) The Commissioner may cancel the payee's entitlement to use a special rate at any time. The Commissioner must notify the payee of the cancellation.

6 Exempt schedular payments

(1) The Commissioner may notify a payee, in relation to 1 or more schedular payments, that they are entitled to receive payment for which no amount of tax is to be withheld, *see* section 24H.

(2) Subclause (1) does not apply in relation to—

(a) a payment made to a non-resident entertainer:

(b) a payment referred to in schedule 4, part J of the Income Tax Act 2007 made to a payee who is a New Zealand resident.

(3) The Commissioner may revoke the exemption at any time. The Commissioner must notify the payee of the revocation.

7 Use of incorrect rates of tax

(1) If the Commissioner considers that a payer has used an incorrect rate of tax for a schedular payment made to a payee, the Commissioner may—

(a) notify the payee of the incorrect rate; and

(b) notify the payer of the incorrect rate; and

(c) provide the rate that should apply to the schedular payment.

(2) After being notified, the payer must use the rate provided by the Commissioner. However, the rate does not apply if the payee notifies the payer that their circumstances have changed and, as a result, a different rate should apply.

Schedule 6

Reporting of investment income information

ss 3, 22AAB, 25B to 25R, 57B, 227E

Table 1—Reporting of investment income information

Row	Items
1	The name of the payer
2	The tax file number of the payer
3	The contact address of the payer
4	The name of the investor
5	The tax file number of the investor, if held by the payer
6	The contact address of the investor
7	The date of birth of the investor, if held by the payer
8	The amount and type of income of the investor for the period
9	The tax withheld on behalf of, or approved issuer levy paid in relation to, the investor for the period
10	The date on which or period in which the tax was withheld or levy paid
11	The tax rate of the investor for the period as notified to the payer, if applicable
12	The notified investor rate of the investor, if applicable
13	Whether the PIE is a superannuation fund or a retirement savings scheme or not
14	The imputation credits attached, if applicable
15	The Maori authority credits attached, if applicable
16	The names, tax file numbers, dates of birth, and contact addresses of persons who are joint owners, if held by the payer
17	The number of shares for which the dividend is declared, or in the case of a dividend that is a bonus issue, the number of shares included in the bonus issue
18	The date on which the dividend is declared and the payment date of the dividend
19	In the case of a dividend that is a bonus issue, the amount of the bonus issue as determined under section CD 7 or CD 8 of the Income Tax Act 2007
20	If the dividend is paid in Australian currency by an Australian ICA company, the exchange rate between the NZ dollar and the Australian dollar that was used to calculate the imputation ratio
21	The total amounts of income, tax withheld, credits, imputation ratio, and Maori authority ratio, as applicable, for the items in rows 8, 9, 14, 15, and 19

Row	Items
22	Further information as required by the Commissioner

Reprints notes

1 *General*

This is a reprint of the Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 that incorporates all the amendments to that Act as at the date of the last amendment to it.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020 (2020 No 5): section 272

Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5): sections 335–354